



STREET TRADING POLICY

STATEMENT OF STREET TRADING POLICY 2013



STRATEGIC CONTEXT & OVERVIEW

About this policy

This statement of street trading policy sets out the council's approach to street licensing and its standards for those engaged in street trading either from an isolated pitch or within one of Westminster's street markets. This is the first time the council, in consultation with street traders and major stakeholders has produced a street trading policy document which consolidates and develops the raft of earlier policies, decisions and resolutions that have been made to regulate and improve street trading.

The purpose of this policy is to provide a single set of basic rules which will be used to inform the various decision making processes for street trading. The application of this policy will be consistent with the City of Westminster Act 1999 and other relevant statutory duties including the need for Planning permission, where relevant. Planning permission is however entirely a matter for the planning authority and should be seen as separate from the licensing process.

Why do we have street trading?

Street trading has always formed part of the fabric of urban life, and many historic towns throughout the world owe their very origins to the existence of open air markets. Thriving markets add to the variety and vibrancy of city life, the diversity of shopping opportunities, and the character of the neighbourhoods in which they are located.

Street trading provides valuable employment opportunities for local people as well as a seedbed of entrepreneurship, allowing new entrants to test their business skills and ideas in an environment which has low start-up costs, minimal overheads and existing customer footfall.

Goods on sale in the street provide convenient access to hot and cold drinks, fresh fruit and vegetables, household goods and other services for local communities, those travelling to work, and visitors to Westminster.

But truly successful street markets can offer more than mere convenience: they can become destinations in their own right, drawing visitors from a wide and sometimes even an international catchment. Markets of this type positively reinforce the economic strength of the areas in which they are located, increasing footfall and drawing in custom for conventional retailers, restaurants and other local businesses.

What does successful street trading look like?

As a commercial enterprise, street trading obviously needs all the conventional attributes of successful retailing if it is to thrive. The conventional measures of commercial success in retailing – such as sales turnover and profit – are not visible to the licensing authority. But we can get a clear picture of whether street trading is commercially successful through a number of indicators:

- Markets and stalls that are fully subscribed;
- Number of start-up businesses including those that are part of Enterprise Schemes;
- Footfall in markets being maintained or improved;
- Markets and stalls continuously improving in terms of their appearance, quality of the goods on offer and their ability to meet local needs or particular demand;
- Markets with a range of goods on offer which serve local needs or, specialised markets and stalls which satisfy a particular demand; and
- Satisfied customers who make few complaints.

From the standpoint of the licensing authority, a further measure of commercial health is whether street trading is able to pay its own way, in the same way as any other business enterprise. It should not be subsidised by the public purse, so an additional criterion of success is whether the administration of an effective street trading regime (including the control of illegal street trading) can be operated at nil net cost to the council.

But 'success' in street trading is not to be judged solely in terms of the benefits which accrue to the traders and those who buy their goods. Street trading ought to comply with the same rules that regulate other comparable economic activities, in terms of fair dealing and impact on the local environment and community. Street trading occupies public highway and whether an individual stall or a busy market it should justify its privileged position by enhancing, rather than detracting from, the street in which it is located. It should not be unsightly, untidy or disorderly. Successful street trading is a good neighbour.

Historically, the question of whether street trading can ever be a good neighbour to conventional shops has been a vexed one. Shopkeepers can be wary of those traders who they perceive as poaching their custom, or 'lowering the tone' of the retail environment. So licensing authorities have adopted elaborate rules to govern the types of goods street traders are allowed to offer, in order to manage this tension between the interests of street traders and those of conventional retailing. Traditionally, such regimes have sought both to limit the goods on offer and to limit

direct competition between street traders and nearby shops – indeed, even to limit direct competition between adjacent street traders.

Rules of this sort are complicated and costly to administer, and their relevance to ‘success’, as described above, is not always obvious. Some very successful markets trade in the very same types of goods as their neighbouring shops, to their mutual benefit. And some are specialist markets, by definition concentrating on particular types of goods and encouraging comparison shopping between adjacent traders.

A ‘one size fits all’ approach to the regulation of goods is likely to be decreasingly relevant in the future, especially if innovation and/or greater specialisation are to be factors in street trading’s future success. We should continue to work for ‘neighbourly’ street trading, and to protect those things that are of acknowledged and lasting value, such as the distinctive character of established and successful shopping streets, and the quality of the local environment. But future regulation ought to be less prescriptive, and more open to innovation and imaginative new approaches, if it is to help secure true success.

How will we deliver successful street trading?

The licensing service not only issues licences for street trading but also regulates the majority of markets and stalls within the city. Recent trials at Tachbrook Street and Maida Hill have introduced the prospect of alternative models for managing street markets e.g. through a commercial market operator. The council considers itself provider neutral and as part of a more strategic approach to street trading, we are examining the advantages that could be gained from alternative delivery models including:

- Strategic development of specific markets – growing markets, increasing occupancy, improving layouts, seeing an uplift in the quality of goods on offer and developing specialised markets where demand exists;
- Alternative commercial models (such as those trialled at Tachbrook Street and Maida Hill) where the responsibility for implementing elements of these policies will be that of the 3rd party provider;
- Clusters of street trading pitches / mini-markets; and
- Seasonal/special interest markets in suitable locations (such as Rupert Street).

This street trading policy provides for the council to develop detailed strategies for each market and similarly for isolated pitches with a view to increasing occupancy, interest and footfall. These strategies, which are being drawn up separately, detail the intended future direction for

individual markets and stalls in terms of their offerings, layout and appearance as well as tactics to maximise occupancy. The future delivery model to be adopted for each location will also form a key part of these strategies. The development of the strategies will take into account:

- Responses received from consultations;
- Findings of surveys and market research;
- The existing retail offer from nearby premises;
- Evidence of particular consumer demand or a need for particular goods; and
- Known local sensitivities or complaints received.

Why do we need a street trading policy?

Whatever the strategic direction of individual markets and stalls, there is still a need for a common set of rules that should apply to all markets and stalls. Like all other kinds of business, they should not cause nuisance or inconvenience to their neighbours or to the community within which they are located. Hence, policy for street trading should describe what is expected in terms of the responsible management of stalls, the disposal of waste, not obstructing the highway etc. In these ways a street trading policy does no more than ensure that traders operate within the same general constraints that apply to any other business, requiring that they comply with the law of the land and meet the same minimum standards than any responsible business should observe.

The policy also aims to give clarity and transparency to traders in explaining how 'the rules' will be applied, in order to minimise uncertainty and wasteful disputes.

Beyond this, the policy aims to put in place controls that are sufficient to protect established local interests of acknowledged importance (and in particular the nature of the local retail offer), so helping to create the conditions for profitable trade for everyone; and to prevent the sale of goods which are clearly inappropriate to the location. The policy does not aim to 'second guess' market forces, only to create the conditions in which they can operate to maximum community benefit.

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FOREWORD

A break from tradition

Street trading and markets across central London present major opportunities and large amounts of additional, affordable space for hundreds of businesses to get off the ground and grow every year.

Here at Westminster City Council, with five markets and over 170 isolated pitches city-wide, we have great experience in regulating street markets and are now keen to work with partners to promote them.

We will continue to take bold steps and work with the private sector to bring in the entrepreneurs and business-minded people needed to run, manage and facilitate the important growth across all our markets and street trading areas.

It is these managers who will know better than any authority what will work in certain areas and what will attract large amounts of customers. Their successes can not only revitalise a market or pitch, but can also help to regenerate whole areas of our city.

We want the next wave of entrepreneurs in Britain to come from the streets of Westminster. To do so, I am focused on cutting red tape, providing discounts and opportunities for students, apprentices and entrepreneurs and above all, giving the breathing room for business to grow.

This is the first time the council has produced an official street trading policy and our aim is to begin raising the minimum standards of appearance, facilities and choice across all of our sites. Every effort has been made to ensure this policy is as comprehensive and current as possible. However, street trading and the law governing it is occasionally subject to change. This policy will be reviewed periodically and whenever changes in practice, law, etc. need to be reflected.

I regard markets and street traders as a hugely important part of a vibrant city economy – they add to the atmosphere and character and are a reason for people to come and visit.

Working with street traders and local businesses, we want to make sure that street trading in Westminster continues to offer a wide choice of high quality products and services.

As a regulating authority we also have to ensure that trading on the street is well managed and complements other businesses. It should blend well with the fabric of the city, meet consumer

demands and enhance local communities. At the same time it should contribute to the local economy and provide meaningful employment opportunities.

In this way, we hope street trading will continue to be valued by those who live, work and visit the City of Westminster.

Councillor Daniel Astaire
Cabinet Member for Business

I. INTRODUCTION

1 Commerce on the street

1(1) Street Trading is big business in Westminster. There are five designated street markets, comprising more than 300 trading pitches. See figure 1A for details. There are more than 170 designated isolated pitches and up to 650 individual stands at two art exhibitions on Bayswater Road and Piccadilly. In addition, the authority licences portrait artists in the Leicester Square area and premises with licensed outside tables and chairs, throughout the city. This policy does not cover portrait artists or tables and chairs licensing.



- 1(2) Street trading can provide good value, alternative, retail offers which enliven the city for residents, workers and visitors, providing variety and diversity amongst conventional retail offers from shops. Street markets and well-placed isolated pitches should contribute positively to the public realm by satisfying demand due to insufficient or insufficiently convenient outlets, by providing a unique or unusual service or goods and/or by adding to the diversity of the local economy. They provide valuable services to low-income households and more convenient and accessible shopping for the elderly and less mobile. In other situations street trading provides tickets, refreshments and souvenirs for tourists whilst making convenient shopping available for those travelling to and from work.
- 1(3) The ability to trade in the street also provides important employment opportunities and an excellent, low-risk first step for entrepreneurial individuals who want to start up a business or test the market. Starting a business on a street trading pitch in Westminster means fewer barriers to entry, lower overheads and excellent business opportunities in one of the world's busiest cities.
- 1(4) Attractive, well managed markets and isolated pitches can add to the vibrancy of an area, adding interest, character and function to shopping streets and other areas of the city. Destination markets are a draw for Londoners and tourists and can bring a wider variety of stalls, commodities and cultures. Street trading activities can also deliver additional benefits by displacing undesirable or criminal activities in streets.
- 1(5) Conversely, if poorly managed, street trading can have a negative effect on an area, leading to obstruction to pedestrians, a visually unappealing and untidy street scene and a poor selection of goods on offer which do not meet local needs. Poorly managed markets can result in a reduction in customer numbers and stall holders, leading to the eventual decline of the market.
- 1(6) Street trading in Westminster is regulated under the City of Westminster Act 1999 though it is recognised that street trading activities may also be regulated by other legislation. Amongst the most important of these are the Town and Country Planning Act 1990, the Highways Act 1980 and the Traffic Management Act 2004. In order to achieve consensus across disciplines, this policy has been developed with colleagues across all relevant council services including Licensing, Planning and Highways. Those engaged in street trading, as well as their representative organisations, have also been consulted about the contents of this policy.

2 Summary & purpose

The chief changes that this policy will bring, together with the reasons for bringing them about, are outlined below:

- 2(1) Provision of detailed **criteria and guidance on the design of stalls** to provide traders with a clear understanding of what is expected in order that they may continue to trade and grow with confidence;
- 2(2) Reinforcement of the restrictions on **advertising** and setting of new criteria for the use of **barriers** (screens) to ensure that street trading does not become unsightly or oversized;
- 2(3) Advertising of **vacancies** as they become available, abolishing the need for lengthy and ineffective waiting lists. Stripping back of guidelines for filling vacancies to allow greater flexibility and enhance the vibrancy of street trading through maximising occupancy and the selection of the right trader;
- 2(4) Introducing new flexible and cheaper arrangements for start-up businesses and students/apprentices who would like to trial the running of a market stall as part of an **enterprise scheme**;
- 2(5) Provision for the council to temporarily **re-let pitches** that have been vacated by permanent licence holders in order to maximise the use of trading pitches in the city;
- 2(6) Provision of a framework for **designation and de-designation** of street trading pitches and the option of **clustering small numbers of pitches** to better manage the number and location of trading pitches throughout the city whilst continuing to provide viable trading locations for traders;
- 2(7) Making the rules for **temporary relocation** of traders clearer including the extent to which the licensing service will go to relocate traders in order to make provision for displaced traders and limit the costs of this process;
- 2(8) Aligning the **hours of trading** with other retail outlets where possible but setting restrictions where trading hours may assist the reduction of crime and disorder, public nuisance and improve public safety;

- 2(9) Relaxation of **permitted goods** for markets; allowing traders to apply to sell anything subject to certain conditions. This will allow traders to more readily adapt their offer to match consumer demand with greater agility. Provision is also made for the control of goods on sale in areas covered by development strategies;
- 2(10) Scrapping of medical **waivers** and setting out clear rules for waivers under other circumstances;
- 2(11) Simplification of the rules around **personal attendance** and clarification of what is meant by exceptional circumstances and the means by which these may be claimed; and
- 2(12) Establishing clear rules for **electricity supplies** whereby the council can charge for the provision and management of electricity in order to maintain existing services and provide scope for more market stalls and isolated pitches to have a supply where appropriate.

II. POLICIES

Summary of policies



The policies

These policies are intended to help street traders by setting out considerations and expectations that they should have in mind when applying for street trading licences, operating under any licence or changing the way in which they trade. The policies apply to all street traders trading including street markets (including persons registered to trade on a temporary basis), isolated street trading pitches and exhibitions, unless expressly stated otherwise. Each policy is broken down in the following sections:

Policy	- short policy statement
Criteria	- detailed breakdown of policy
Reasons for policy	- principles on which the policy is based

The licensing authority will apply the policy in the course of its duties, always assessing each case on its merits. Therefore if, in an individual case and for whatever reason, the licensing authority decides to grant an application which deviates from any of these policies, such a decision should not be taken to create any kind of precedent in respect of future applications.

The right stall...

1 Stall design - POLICY ST1

Only those stalls approved by an authorised officer of the licensing authority shall be used by the licence holder (in accordance with standard condition 10¹). Stalls must be visually appealing, be of sound construction, easy to maintain, adequate for the purposes intended and must meet with all of the licence conditions as well as the following criteria. The Westminster Way Catalogue² provides details of stalls likely to be considered suitable and unsuitable for street trading.

Criteria

Street markets

- 1(1) In the case of markets, stalls of traditional timber barrows, stalls of a metal frame construction, gazebos or umbrellas will be preferred. Stalls consistent with the majority of others in a particular market will be preferred in order to promote a co-ordinated appearance. All stalls should comprise protection from the rain and sun as well as tables or other suitable devices for displaying goods off the floor. Stalls may be of a walk-up or walk-in design but must have a valance between the table top and the ground to enclose stock, equipment and waste containers. Examples of suitable types of stalls are shown in the Westminster Way Catalogue.
- 1(2) Market stalls and ancillary equipment and stock must be contained within the pitch markings. The licensing authority may vary the pitch dimensions of the entire market or any individual stall in line with the relevant statutory procedures.

¹ Standard conditions applicable to street trading licences (effective 15 March 1999) & Conditions applicable to temporary street trading licences (effective 01 August 2007)

² The Westminster Way catalogue will be updated periodically. Please check that you have the current version.

- 1(3) Canopies, awnings and tarpaulins with traditional stripes are preferred. These should consist of a bold traditional stripe on a white or cream background or solid colour. Canopies, awnings and tarpaulins must be secured to the support structures neatly and securely, with adequate tension and no sharp projections.
- 1(4) Trading from vehicles will not usually be permitted. Generally, trading from vehicles will only be allowed from the pitches at the ends of the markets or from within a zone of a market designated for the purpose (for example, a cluster of food stalls). The vehicles should be appropriate for their prominent position in the market. Similarly, trading from trailers or caravans will not usually be permitted. If trailers are to be approved in locations such as those for vehicles, their visual appearance should not be damaging to their surroundings.
- 1(5) The licensing authority will consider applications for placing tables and chairs within a market area where these are associated with a food or drink offer, either from a licensed market trader or nearby catering premises.

Isolated pitches (semi-permanent)

- 1(6) Planning permission will be required for all stalls not removed at night. Stalls that meet the following descriptions will be likely to be considered acceptable in design terms in suitable locations.
- 1(7) The traditional *Heritage Kiosk* will be the minimum standard acceptable to the licensing authority but may not be appropriate in areas of the highest townscape quality.
- 1(8) Where licensed traders wish to trade from stalls other than the Heritage Kiosk, preference will be given to stalls shown in the Westminster Way Catalogue and which meet the description given in 1(9), below. Other designs of kiosk would need special consideration and would only be approved if they are considered an improvement and suitable for the locality.
- 1(9) Semi-permanent stalls on isolated pitches should be:
- (a) Well designed pavilion style with a high-quality finish. Colours should be chosen that are suitable for the surroundings but typically plain dark green, bronze or black will be acceptable, and in some places amongst trees, a combination of sage green, mushroom and other accent colours may be acceptable.
 - (b) In some exceptional places, a modern or unique structure making a bold, architectural statement may be acceptable. , In some locations it may be appropriate to cluster several activities or traders in a specially designed structure or grouping. Such projects will be carefully managed to an agreed design brief.

- (c) Suitable not only for their appearance and function when open for business, but also when closed at night. They should be soundly made and able to withstand abuse and be easily repairable if damaged. Unless specifically designed for a fixed base, they should normally be founded on an adjustable foundation frame that is capable of being levelled on ground that slopes.
- (d) Of a size that does not exceed the size of the designated pitch.
- (e) Provided with a shallow pitched roof. Eaves, roof overhangs or integrated awnings may be acceptable where they are within the permitted pitch dimensions and comply with the necessary clearances. Canopies, awnings or other similar overhangs which extend beyond the pitch dimensions will be subject to approval.
- (f) Able to integrate power and other services intakes within the structure, including ventilation and cooling plant.
- (g) Designed with adequate security features to prevent theft, vandalism or threats from concealed devices.
- (h) Provided with adequate storage for refuse/recycling, security/shutters and any other ancillary equipment required for the operation of the stall. These must at all times be stored within the unit. No equipment other than that expressly permitted by condition (such as chairs and tables) may be stored outside the structure.
- (i) Easily removable, for example capable of lifting by a simple crane operation in whole or in parts, or of speedy dismantling in the event of a need to move the structure.
- (j) Carefully located in the street and consideration must be given to the passage of people and be appropriately sized and styled for their setting and relationship to heritage assets.

Isolated pitches (removable)

- 1(10) In the case of isolated pitches which must be removed each evening, stalls which meet the following description will be preferred. Examples of suitable stalls are shown in the Westminster Way Catalogue.
- 1(11) Removable stalls on isolated pitches should be:
- (a) Well designed and of a high-quality finish. Colours should be chosen which are suitable for the surroundings but typically dark and plain green, maroon, black or blue will be acceptable.

- (b) Of an appropriate design for the location and one that facilitates timely and efficient removal i.e. Readily disassembled or removable on a daily basis.
- (c) Of sufficiently robust construction and materials so that the daily removal will not result in the rapid deterioration in the appearance of the unit.
- (d) Stalls and ancillary equipment and stock must be contained within the pitch markings. The licensing authority may vary the pitch dimensions of any individual stall in line with the relevant statutory procedures.
- (e) Able to contain towing apparatus, gas cylinders, power and other service intakes or storage (e.g. batteries or water tanks) within the unit, including any extract ventilation and cooling plant.
- (f) Stalls or kiosks that remain in place overnight and any new area of highway used for trading will need planning permission. Where a structure is left on the street overnight and does not have permission, the licensing authority will arrange for removal under s149 of the Highways Act 1980 (Removal of things so deposited on highways as to be a nuisance etc.)
- (g) Trading from vehicles, caravans or simple box-like structures is generally discouraged by the licensing authority.

General

- 1(12) In every case it is expected that design, construction and maintenance of stalls will be of a high standard. Designs, materials, signs and finishes should be appropriate for the surroundings. Modern or unique designs may not be acceptable in traditional areas but will be considered in places where the surroundings are outside the areas designated as places of architectural or historic interest.
- 1(13) A simple, coherent and traditional colour scheme is required, avoiding the use of bright or garish colours. For example plain, darker colours including green, maroon, black or blue combined with white or cream will be acceptable.
- 1(14) Small canopies/awnings, are permitted only for the purpose of weather protection. Minimum height restrictions set out in the standard conditions apply. In certain locations the use of canopies/awnings may not be acceptable. Such canopies/awnings must be specifically set out in the documentation submitted for stall approval. No goods or unauthorised signage shall be displayed on the canopy or awning.
- 1(15) Stalls should not be used to display stock on the outside surfaces of the stall (including the roof and awnings) unless such display equipment has been specifically

included within the stall's approval. The use of gaudy or luminous colours for any permitted sign or branding is not acceptable.

- 1(16) Branding: The branding of removable kiosks by the operator to support the retail offer, appeal and appearance of the stall is acceptable in principle. Successful retail frequently communicates a clear branding strategy which is consistent with the good and services sold. This type of branding is to be supported; however, advertising should be within the rules as specified in policy ST2 – Barriers & Advertisements.
- 1(17) Merchandising: Consideration should be given to the merchandising of goods. Use of racking, baskets, displays and other equipment should support the overall brand image and complement the overall appearance of the unit. Use of third party branded equipment or make-shift equipment (such as commercial fridges or metal baths displaying canned drinks or plastic buckets for goods), will not normally be acceptable.
- 1(18) Lighting: Consideration should be given to the appropriate lighting of both the commodities and how these are merchandised. Excessive lighting or inappropriate lighting is unlikely to assist trade. Licence holders should consider how their stall appears both during the day and evening when operational. Large halogen lights are inefficient and inappropriate, often causing glare. Backlit menus, price lists or video displays should be avoided.
- 1(19) Neon, animated, flashing lights, LEDs etc, including their use to make up words or graphics, will not normally be permitted. However where a particular lighting solution plays an integral part on the overall design and branding of the stall and goods, then consideration for an exception to this rule may be undertaken. Pin spots, halo lighting and in some circumstances feature lighting may be acceptable.
- 1(20) Appropriate festive lighting for holidays or special events is acceptable, particularly in the darker winter months. This would be permitted during the winter festival season.
- 1(21) Prior to any licence being issued or in cases where a licensed trader wishes to change the stall, prior approval must always be sought from the licensing service . Proposals must include all display equipment and any attached, projecting or free standing elements.
- 1(22) Stalls and structures that are allowed to remain in place overnight and any new area of highway used for street trading will need planning permission. Where a structure is left on the street overnight and does not have this permission, proceedings may be taken for a breach of the licence and/or for highway obstruction. Consideration will also be given to seeking a revocation of the licence for a persistent failure to remove the stall or structure.

- 1(23) The licensing authority will entertain applications for placing tables and chairs on a street market or an isolated street trading pitch. In all cases the tables and chairs must be within the dimensions of the designated pitch and be associated with a food or drink offer. The tables and chairs may be associated with an individual licensed street trader, a cluster of these or nearby catering premises. The licensing authority may also consider licensing a larger street trading pitch to accommodate tables and chairs, particularly in cases where stalls are moved further back into side streets to accommodate this. Separate guidance for tables & chairs will also apply.

Reason for policy

- 1(24) The approval of stalls is referred to in the standard conditions applicable to street trading³. Previously, stalls have been approved on an individual basis and on individual merits. This document now sets out the City Council's policy as what would comprise suitable stalls with a view towards improving the visual characteristics of street trading to ensure they complement their surroundings and provide an appealing offer for customers. These aims are consistent with those detailed in the *Westminster's Local Development Framework* and the *Westminster Way*.
- 1(25) It is important that stalls within markets or on isolated pitches are attractive and blend well with their surroundings. Stalls must be able to justify their place on the street so that street trading complements or improves the public realm, rather than being a detriment to it. Attractive stalls are also much more appealing to customers and nearby residents. As such, the council would like to see improvements in the standard of stalls for street trading.
- 1(26) Vehicles and trailers may be suitable for special events. They are generally unsuitable for street markets because they break up the regularity of more traditional market stalls and are unpopular with local residents due to problems with noise and fumes from cooking or running diesel engines.

³ Standard conditions applicable to street trading licences (effective 15 March 1999) & Conditions applicable to temporary street trading licences (effective 01 August 2007)

2 Barriers & advertisements - POLICY ST2

- (i) Advertisements displayed on the licensed pitch will be permitted subject to the following criteria.
- (ii) Barriers erected within licensed pitches will be permitted subject to the following criteria.

Criteria

Advertisements

- 2(1) Advertisements shall only be displayed on the licensed pitch which relate to goods, commodities or services offered for sale or provided on that pitch. Third party advertisements are prohibited.
- 2(2) The licence holder may advertise the name of the stall and the goods on offer. Such advertisements must be restricted to a frieze or similar designed place, equivalent to a fascia sign on a shop front, at high level on any kiosk or mobile stall. It will not be permitted to increase the fascia area by additional board. Where the roof is a gazebo, tensioned stall roof or umbrella with a valance, the name may be located on the valance or on a board inside the stall.
- 2(3) Advertisements should occupy no more than 10% of the surface area of each side of the stall.
- 2(4) Licensed stalls should be free from advertisements comprising three-dimensional representations of products – such as a replica ice cream cones, coffee cups or chocolate bars). Stalls shall not contain nor display third party advertising.
- 2(5) It is not permitted to illuminate any advertisement on the outside of the stall or kiosk without express consent⁴.
- 2(6) A-boards or other free-standing advertisements located within the pitch area must be included in the documentation relating to receptacle approval. Free-standing advertisements outside the pitch area are not permitted under any circumstances.

⁴ A separate, express consent is required for illuminated advertisements under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

- 2(7) Advertisements on low screens that enclose a trading area should be the minimum size necessary and not be used as banner advertisements. A discrete logo or name on a screen, apron or valance below table top level and occupying no more than 10% of each panel is considered acceptable. Advertising will not be permitted to be added on side screens or wind / rain screens or on the sides, rear or opening reveals of kiosks unless specifically set out in the documentation for stalls approval. This does not apply to market pitches.
- 2(8) This policy replaces any previous rule, condition, exemption or agreement with respect to the placing, size and content of advertisements.

Barriers

- 2(9) Barriers will only be allowed on a licensed pitch where they have been specifically included within the stall's approval. Barriers are only permitted to enclose the outer perimeter of the pitch or to enclose the outer perimeter of a seating area within the pitch (or, in the case of markets, any other such area as agreed with the licensing authority).
- 2(10) Any barrier erected on a pitch should be constructed of posts or stanchions joined by textile panels. All such barriers should stand on the ground and be removable. Socket systems are generally undesirable in the public highway but may be employed in the public realm of privately owned and maintained estates provided they do not create a trip hazard when the post is removed and the socket can be capped or secured. All feet and supports should be within the defined pitch area.
- 2(11) Screens set between posts are subject to the advertising controls set out above. Any advertisement displayed on screens may also be subject to the Control of Advertisements Regulations, as well as being part of the receptacle approval as part of the licence. All graphics and branding must be shown in plans submitted for the receptacle approval as part of the licence.

Reason for policy

- 2(12) Advertisements can damage the character of some sensitive locations and the council expects a high quality appearance in street trading locations, as it does for retail premises. Licence holders will naturally be able to advertise the products and services available from their stalls but are not permitted to exploit licensed pitches to earn income from advertisements which are excessive in size or are not representative of the items sold.
- 2(13) Provision has been made for the use of screens in limited circumstances – predominantly to facilitate the placement of tables and chairs for stalls offering food or

refreshments. The same rules for premises also apply to street trading - unnecessary, obstructive or unsightly barriers will not be permitted.

3 Filling vacancies - POLICY ST3

The licensing service will fill vacancies according to the following criteria to maximise the occupancy of street trading pitches and provide opportunities for start-up businesses and those part of Enterprise Schemes.

Criteria

- 3(1) The licensing authority will advertise all vacancies for street market pitches and isolated trading pitches on the council's website and select the most suitable applicant from those applications received.
- 3(2) The licensing authority will not consider any application received before the date upon which the vacancy was advertised.
- 3(3) The licensing authority will take into account the following matters when selecting the most suitable applicant.
 - (a) The mandatory and discretionary grounds of refusal set out in sections 12 and 13 of the City of Westminster Act 1999.
 - (b) Policy ST8 – Guidelines for goods on sale (below).
 - (c) Any relevant strategy or plan which has been adopted by the licensing authority.
 - (d) The days for which the applicant has applied. Preference will be given to applicants applying for a greater number of trading days, particularly where market occupancy is lower on certain days of the week.
- 3(4) Where a street market or other street trading pitch is subject to improvement plans, development strategies, public realm/infrastructure works or other restrictions, the licensing authority may refuse to grant permanent licences until the completion of such works or the lifting of such restrictions.
- 3(5) Applications will be considered from owners/operators of adjacent retail premises who wish to extend their offer out onto an existing designated pitch.

- 3(6) Applications will be encouraged from students, apprentices or entrepreneurs wishing to start up a market business or who are part of an enterprise scheme. The licensing service will make special provisions for such individuals including discounted fees and charges.
- 3(7) The licensing authority may, at its discretion, issue licences to market operators or other such bodies, to manage a group of licensed pitches or operate markets, fairs and seasonal events at street markets.
- 3(8) Applications may not be granted where:
- (a) Enforcement action is pending, or has previously been taken, against the licence holder/applicant. Enforcement action includes points issued under the Penalty Point Scheme;
 - (b) The licence holder is currently in arrears with any charges.

Reason for policy

- 3(9) A new system of advertising vacancies has been established. This system replaces previous waiting lists (or expressions of interest lists) in order that the licensing authority may select the most suitable applicants for vacant pitches, taking into account the breadth of considerations set out. This policy removes the need for lengthy waiting lists and provides applicants with a much greater degree of clarity over what is on offer when it becomes available.
- 3(10) The council also considers it important to support young entrepreneurial traders and start-up business, particularly as part of enterprise schemes, so special provision has been made.
- 3(11) In many circumstances the licensing authority is the organisation that operates markets however, provision is made for the council to enlist third party operators in suitable circumstances. In this sort of arrangement the licensing authority regulates all the pitches that have been designated and which operate pursuant to a street trading licence whilst a third party operator is given a temporary licence which enables them to hire out individual pitches or stalls to traders who are not themselves licensed.

4 Re-letting of unused pitches - POLICY ST4

The licensing authority will licence street trading pitches on a temporary basis where licence holders do not intend to exercise their rights under the licence for the time being⁵.

Criteria

- 4(1) Nothing in this policy is intended to conflict with or exempt any licence holder from the requirements set out in Policy ST10 – Attendance and use of licensed pitches. Licence holders are not permitted to sub-let their own pitches under any circumstances.
- 4(2) Licensed street traders shall notify the licensing authority in circumstances where, and for whatever reason, they do not intend to make use of their licence. Notification should be made in advance.
- 4(3) Licence holders should inform the licensing authority of the date upon which they intend to resume trading, where possible. In circumstances where this date is not known, licence holders must give the licensing authority appropriate notice⁶ of their intention to resume trading.
- 4(4) Where no prior notification has been received and in circumstances where the licensing authority is satisfied that the licence holder is not making use of the licence it may re-let the street trading pitch to another trader on a temporary basis. In the case of street markets, paragraph 7(2) shall apply. In the case of isolated pitches, the licensing authority must be satisfied that the licence holder has not been making use of the licence for three weeks or more.
- 4(5) This policy shall not apply where a semi-permanent stall is in place on that particular pitch.

⁵ City of Westminster Act 1999, s.21(3)

⁶ Pursuant to sections 21(5) of the City of Westminster Act 1999, appropriate notice means 24 hours notice or seven days notice where a temporary licence has been granted for longer than 24 hours.

Reason for policy

- 4(6) Empty street trading pitches are a lost opportunity for traders, for the council and for those who benefit from goods for sale in the street. This policy aims to make sure that full use is made of all pitches to maximise business opportunities for traders and ensure continuous service provision for customers. Re-letting pitches in this way will also boost revenue to the street trading account, helping to reduce any deficit.
- 4(7) Sub-letting of pitches by licence holders is not permitted because street traders are required, as a matter of law, to make full personal use of their licences. Sub-letting also undermines the application process and creates a greater potential for abuse. The licensing authority takes great care to ensure that those that hold licences are suitable to do so. There is also a much greater chance of rules being broken by people who are not licensed directly and may not understand the rules and conditions attached to the licence.

In the right place...

5 Designation & de-designation - POLICY ST5

- (i) The licensing authority will designate specific locations for licensed street trading.
- (ii) The licensing authority may de-designate pitches that are no longer suitable for licensed street trading.
- (iii) The licensing authority will not designate any new isolated street trading pitches, apart from in exceptional circumstances.

Criteria

- 5(1) The licensing authority will maintain an up-to-date record of all designated street trading pitches including those which are currently vacant. A separate list will be maintained of those other locations suitable for street trading on only a temporary basis. These pitches will be used if it is necessary to relocate traders for a temporary period.
- 5(2) The licensing authority may, subject to the appropriate consultation and notification procedures, de-designate street trading pitches where, in the opinion of the licensing authority, they are no longer suitable for street trading. The circumstances under which a location may be considered no longer suitable include:
- (a) It has not been used for trading for a period of greater than six months;
 - (b) There are altered circumstances due to increased pedestrian footfall resulting from altered highway layouts, public realm improvements or construction projects;
 - (c) Where new development and the siting and operation of the trading pitch would adversely affect local pedestrian flow or cause congestion, including close to transport stops and stations.
- 5(3) The licensing authority's decision will not be prejudiced by any argument that the pitch has previously been used for street trading or previously judged as suitable.

- 5(4) The licensing authority may, in partnership with Planning and Highways colleagues, the Police, the licence holder and other interested parties identify a new site for designation as a pitch suitable for permanent street trading where an existing permanent licence holder has been displaced from his usual pitch due to there no longer being enough space for trading or due to the pitch being de-designated for whatever reason.
- 5(5) The licensing authority may, in partnership with Planning and Highways colleagues, the Police, the licence holder and other interested parties, identify new sites for designation as pitches suitable for temporary street trading where there are insufficient such pitches for the number of temporary relocations that are necessary. Such pitches will be maintained on a separate list only for the purposes of temporary relocation.
- 5(6) The licensing authority may, in partnership with Planning and Highways colleagues, identify sites for designation that are suitable for a cluster of street trading pitches. This may also comprise areas for seating. Existing isolated street trading pitches may be re-sited and/or re-shaped and/or re-orientated to allow for the addition of seating areas and improvements to the public realm (such as pedestrian flow, important historic views or the better use of the space/highway).
- 5(7) Alterations to a pitch could include increasing its size to better accommodate its operational needs (chairs and tables) and allow the ability to have sufficient space for refuse, storage etc.
- 5(8) Where a public realm scheme is proposed consideration should be had to the best way to accommodate any existing street traders in that location. Where a scheme is approved and implemented which includes the relocation, reorientation or increase/decrease in pitch size, this will initiate the formal licensing process to make the necessary changes to the pitch in question in order to facilitate the approved scheme. Changes to existing pitches will be subject to consultation.

Reason for policy

- 5(9) In accordance with the City of Westminster Act 1999, the licensing authority will designate and de-designate street trading pitches to ensure that street trading is carried on in suitable locations and not carried on in unsuitable locations.
- 5(10) Regular maintenance of a list of all currently designated street trading pitches will ensure that decent trading pitches continue to be available for traders. To achieve this, disused pitches or those that have become unsuitable will be de-designated and removed from the list.
- 5(11) In order to ensure that there are sufficient numbers of pitches in the event of the need for temporary relocation, the licensing authority will also maintain a list of sites suitable for this purpose.

6 Temporary relocation - POLICY ST6

- (i) When a designated pitch becomes unsuitable, the licensing authority will relocate licence holders where suitable alternative street trading pitches exist.
- (ii) The licensing authority may consult with the Highway Authority to identify suitable alternative temporary pitches for the purposes of relocating a displaced street trader.

Criteria

- 6(1) In circumstances where a street trading pitch becomes temporarily unsuitable for street trading purposes the licensing authority may agree to minor changes to the pitch in order to avoid displacing a trader e.g. changes to orientation or minor shifts within the immediate vicinity of the original pitch. Any such changes must be made with the agreement of Highways colleagues and will only be for a temporary period.
- 6(2) In circumstances where a street trading pitch becomes temporarily unsuitable for street trading purposes and alterations such as those described at 6(1) are not possible, the licensing authority will offer any available vacant pitch on the list of designated pitches to a displaced trader. Displaced traders may also be offered pitches identified as being suitable for temporary street trading or any vacant pitch within one of the street markets.
- 6(3) There shall be no requirement on the licensing authority to ensure that the alternative pitch is equivalent to the pitch which has become temporarily unsuitable, in terms of trading conditions, footfall etc.
- 6(4) Where a trader accepts one of the available pitches for the purposes of temporary relocation, the licensing authority may waive fees, modify goods or other trading conditions as it sees fit under the circumstances.
- 6(5) Where a trader rejects a pitch offered by the licensing authority, there shall be no requirement on the licensing authority to identify or designate any further alternative pitch location and it will not accept any request to do so.
- 6(6) If it is not possible to identify a suitable site for relocation or the licensed trader does not move to an alternative pitch, they will be expected to suspend trading activity whilst the original pitch remains unsuitable. In such cases, the licence holder will be entitled to a waiver of charges (see policy ST9 – Fees & Waivers).

6(7) Where the licence holder does not suspend trading and the stall is not removed, the licence holder will be in breach of the conditions of his street trading licence. The licensing authority may then arrange for the removal of the stall to a place of storage in accordance with its powers under section 149 of the Highways Act 1980. In such circumstances the stall will not be returned to the licence holder until the costs of removal and storage are met in full.

Reason for policy

6(8) From time to time road or construction projects mean that designated street trading pitches are unavailable or unsuitable for trading. This is also true when access is needed to underground cables, pipes and sewers for replacement or repair. Special events also occasionally require clearance for the duration of the event.

6(9) A current record of available temporary pitches should provide enough scope for the temporary relocation of traders. Identifying, evaluating and temporarily designating alternative locations is a costly and time-consuming task and the cost of which must be charged back to all street traders as part of the fees and charges. In the interests of keeping the fees and charges as low as possible, this policy seeks to streamline the process, avoid unnecessary costs and provide greater certainty to traders that are required to be relocated temporarily.

7 Hours of trading - POLICY ST7

The licensing authority will allow licence holders to operate subject to the following operating hours criteria.

Criteria

7(1) In the case of street markets, permanent traders shall have arrived at their pitches, put their stalls in position and started setting up by the following times:-

- Church Street 09:00
- Berwick Street 10:00
- Rupert Street 10:00
- Strutton Ground 11:00
- Tachbrook Street 10:00

7(2) If the market pitch is not utilised by the licensed trader by the above time without the prior approval of the Council or its representative, the Council may at its discretion re-let the pitch for that day.

7(3) All market traders shall have commenced trading, with all goods contained within the pitch area within one hour after the time shown above and in the case of Strutton Ground all traders' vehicles shall be out of the market by 11:30.

7(4) Traders shall not commence setting up their pitches before 07:00, except Sundays, when it shall be 08:00.

7(5) Trading hours for other types of street trading covered by this policy will be set on the basis of promoting the following purposes:

- (a) Preventing crime, disorder and anti-social behaviour
- (b) Avoiding public nuisance
- (c) Protecting public safety
- (d) Preventing obstruction of the highway
- (e) Location and neighbouring hours of business activity

7(6) Licences will not be granted or varied beyond the hours of 08.00 to 23.00 unless there are exceptional circumstances and to do so would promote the purposes set out in 7(5), above.

7(7) Where an applicant seeks a start or end time outside these hours, this will be decided by the licensing service. In the event of a dispute, the matter will be referred to the

Licensing Sub-Committee or Licensing Officer Panel for determination. The Police and Environmental Health will be consulted.

- 7(8) Licences may be granted or varied for shorter periods within these times where, as it appears to the licensing authority, to do so would promote the purposes of 7(5), above. Hours of trading may be variable depending upon the day of the week, for the promotion of the same purposes. This does not apply to street markets or exhibitions.
- 7(9) Subject to 7(5) and 7(6) above, licences will generally be granted having regard to the operating hours of other retail outlets in the vicinity.
- 7(10) Other factors to be taken into account when granting or varying hours of trading pertaining to any licence include:
- (a) The ability to service the pitch (to stock and re-stock)
 - (b) Time needed to set up and take down the street trading stall
- 7(11) Specific arrangements relating to time allowed for set-up and take-down of stalls by permanent traders, as well as those for temporary traders are detailed in the conditions pertaining to street trading licences. Permitted times for vehicular access are specific to each market and some isolated pitches.

Reason for policy

- 7(12) In general, street trading activity should cease in line with other retail activity in the same vicinity and in any case no later than 23.00 unless there are exceptional reasons not to do so. In this way, the rules for street trading are maintained in line with those for other retail premises and nuisance to local residents is kept to a minimum.
- 7(13) Advice from the Police is that trading from street kiosks late at night should be discouraged. Open kiosks tend to encourage people to loiter which can lead to public order offences and crimes such as pick-pocketing. It is a specific objective of the council to prevent the gathering of crowds in the streets after 23.00⁷ due to the propensity of crime and disorder as well as additional noise and disturbance associated with late night uses which may have an adverse impact upon local residents. Furthermore, consumption of food can lead to food waste and litter on pavements, frustrating the efforts of the council's cleansing services.

⁷ Late night refreshment after 23.00 hours is a licensable activity under the provisions of the Licensing Act 2003

Selling the right goods...

8 Guidelines for goods on sale - POLICY ST8

Licence holders will be permitted to sell any goods, or any combination of goods subject to the following criteria. Applications to change the goods sold by a licence holder will generally be granted unless one or more of the following criteria apply. Goods listed in appendix A will not be permitted.

Criteria

- 8(1) Licence holders must apply to the licensing authority, clearly stating the nature of the proposed good(s) and proposed method of selling either at the stage of first application or for any subsequent change to the goods and services sold on the stall. Applications will be granted subject the criteria below. Fees and charges apply.
- (a) Where the market, street or area is subject to a development strategy that details specific controls on the goods sold within the market.
 - (b) The goods are classed as prohibited (see Appendix A).
 - (c) The goods or method of sale applied for may cause or contribute to covenant breaches for landowners or an unacceptable degree of nuisance including cooking odours, smoke, noise, litter and additional cleansing requirements;
 - (d) The goods applied for may cause or contribute to crime and disorder;
 - (e) An upheld complaint or complaints have been received by the licensing authority about the sale of the same or similar goods;
 - (f) The goods on sale on neighbouring pitches and the suitability of the proposed goods in relation to these;
 - (g) The goods on sale at neighbouring retail outlets and the suitability of the proposed goods in relation to these.

- 8(2) The licensing authority may, at its own discretion, vary street trading licences if necessary to promote the criteria set out in 8(1)(a)-(h)
- 8(3) The licensing authority will maintain information about the goods and services currently licensed for each market and isolated pitch. This information will be made available for traders and potential traders to help them make an informed decision about which goods and services may be viable and which market or pitch is suitable for them. It will also be used to help manage licensed pitches and the goods they sell.
- 8(4) The council may vary street trading licences, subject to section 16 of the City of Westminster Act 1999, in order to promote any development strategy which may be in place. This may involve adding to or amending the list of prohibited goods. This may also involve the making of specifying resolutions in respect of isolated pitches where this is considered appropriate.

Reason for policy

- 8(5) The restrictions relating to goods sold on the street are being relaxed to allow licence holders to match their offer to consumer demand. The intention is to provide street traders with much more flexibility in order that they may respond to demand with greater agility. We do not want to turn traders away, so sharing information about existing goods on offer will help street traders – existing and new – to make informed judgements about their own offer. The licensing service will continue to require applications for changes to the goods on sale to enable the service to manage licensed pitches and the goods they sell.
- 8(6) Naturally, there are certain goods that the licensing authority considers unsuitable for street trading – such as pets or second-hand electrical goods - and traders will not be permitted to sell such items. There are also goods that may generate unacceptable levels of noise, odours, other nuisances, safety concerns or criminal behaviour. In a limited range of circumstances it may be unsuitable for different types of stalls to be close together – for example a hot food stand next to a clothing stall.
- 8(7) The licensing authority will also publish detailed strategies for the development and continuous improvement of markets and isolated pitches. These strategies will take into account the views of stakeholders, local knowledge and the findings of market research. Changes to goods on sale may be needed to deliver these strategies, so it will be important for traders to read them to decide how best to shape their continuing offer.

That is properly supported and managed...

9 Fees & Waivers - POLICY ST9

- (i) The licensing authority will set fees and charges. It will also grant waivers subject to the criteria set out below.
- (ii) It is the licensing authority's policy not to waive fees and charges on medical grounds.

Criteria

Fees

- 9(1) Fees and charges are set by the licensing authority under section 22 of the City of Westminster Act 1999 and in consultation with licence holders, their representative organisations and other key stakeholders. Fees and charges are reviewed periodically and in setting them, the licensing authority will only recover its reasonable costs associated with granting, administering and enforcing the licence. A copy of the current fee structure is shown at Appendix B.
- 9(2) The licensing authority may set higher fees for trading that takes place on certain days of the week, on certain markets and in respect of trading in certain goods. Fees for isolated street trading may also be set independently of those for street markets and also depending upon the location of the isolated street trading pitch.
- 9(3) The preferred method for payment of fees and charges is direct debit. Licensed traders electing to pay by this method will be granted a 5% discount to their fees and charges.
- 9(4) Licensed traders who do not elect to pay by direct debit will be required to pay an upfront deposit to the licensing authority which is equivalent to their normal fees and charges for a period of two months. This deposit is only refundable on surrender of the street trading licence and where the relevant account is in credit. The deposit will only be applied to the account once the licence is surrendered or after it has been revoked. The deposit is not part of the fees and charges and cannot be used by traders in place of any payment.

9(5) Licensed traders who are called before the Licensing Officer Panel for non-payment of fees and charges may be given the option of paying all future fees and charges by direct debit instead of having their licence revoked.

Waivers

9(6) Waivers for absences as a result of sickness or ill-health will not be granted.

9(7) In many circumstances minor adjustments to the trading pitch, its location, the placement of stalls, the style of trading, etc can allow licence holders to trade without the need for fee waivers. Licence holders must take all reasonable steps to facilitate trading, including contacting the licensing authority for advice, before applying for a waiver of fees and charges. If minor adjustments are feasible and will result in a situation where trading can continue (whether partially restricted or not), the licence holder will not be entitled to a full waiver.

9(8) Where a licence holder has been prevented from trading for any of the reasons set out below the licensing authority may, at its absolute discretion, award a full pro-rata waiver for the relevant period.

- (a) Damage to the designated trading pitch, not caused by any act or omission or recklessness, of the trader to the extent where the licence holder is prevented from trading; or
- (b) Repairs that must be carried out to the surface of the street trading pitch or to utilities and services underneath it which prevent the licence holder from trading; or
- (c) Public realm or infrastructure improvement works affecting the location of the street trading pitch or its immediate vicinity to the extent where the licence holder is prevented from trading;
- (d) Special events taking place on or nearby the street trading pitch; or
- (e) Obstruction of the pitch which cannot be removed to the extent where the licence holder is prevented from trading.

9(9) In such circumstances suitable alternative pitches may be offered to displaced traders.

9(10) Where a licence holder has been relocated from their licensed pitch to another due to any of the reasons given at 9(8) above, the licensing authority may, at its absolute discretion, allow such temporary adjustments to the goods, trading hours and/or other trading conditions that apply to the licence, as it sees fit in order to help mitigate the licence holder's loss of income at the new location.

- 9(11) Where a licence holder has been relocated from their licensed pitch to another due to any of the reasons given at 9(8) above, the licensing authority may, at its absolute discretion, award a partial pro-rata waiver for the relevant period. A partial pro-rata waiver may be a discount of up to 50% of the usual fees on production of certified accounts or other similar evidence which demonstrates a reduction in revenue.
- 9(12) Street licensing fees and charges for charitable or community events may be waived or reduced at the discretion of the licensing authority. The licensing authority will bear the costs of such waivers.
- 9(13) At the discretion of the licensing authority, street licensing fees and charges may be reduced for students, apprentices or entrepreneurs wishing to start-up a market business or who are part of an enterprise scheme. The licensing authority will bear the costs of such waivers.

Reason for policy

- 9(14) The licensing authority recognises that there are circumstances when licence holders are unable to trade due to no fault of their own. This may be damage to or repairs that are necessary to the highway, maintenance to underground services or utilities, or as a result of major redevelopments, public realm or infrastructure works or obstructions such as vehicles. In these circumstances the licensing authority has made provision for waivers
- 9(15) Fee waivers were previously granted for days on which licence holders were unable to trade due to sickness. Whilst the council is sympathetic and supportive towards sickness, a high number of waivers on medical grounds has resulted in the costs of this being passed on to all traders. The new policy now abolishes medical waivers however, certificated absences will not be held against licence holders for the purpose of attendance policy compliance (please refer to Policy ST10 – Attendance and use of licensed pitches).

10 Attendance and use of licensed pitches

- POLICY ST10

- (i) Licensed street traders must make full personal use of their licences⁸. The licensing authority will assess whether a licence holder has made full personal use of his licence.
- (ii) A licence holder or an assistant registered in accordance with the standard conditions shall be present on the pitch whenever it is in operation.
- (iii) Licensed pitches must be used on each day they are authorised to be used by the licence subject to the criteria below.

Criteria

- 10(1) Personal use of the licence can be demonstrated by personal attendance at the pitch.
- 10(2) Licence holders can have up to three workers registered to work on a particular licensed pitch. Workers must apply to the licensing service for registration to work on a licensed pitch.
- 10(3) Registered workers will be subject to the same statutory provisions and licence conditions as licence holders.
- 10(4) Licence holders and registered workers will be able to show their own photocard licences or registration cards at all times.
- 10(5) Licence holders may from time to time be required to provide documentary evidence to demonstrate that they are making full personal use of their licence.
- 10(6) In circumstances where licence holders have been found not to be making full personal use of their licences, the licensing authority will invite them to surrender their

⁸ Where the licence holder is a partnership, unincorporated association or company, it must avail itself fully of the licence.

licence or exercise succession rights prior to calling them before the Licensing Officer Panel. This does not apply to temporary licences.

- 10(7) This standard will generally be followed unless the licence holder can demonstrate that exceptional circumstances apply. In such cases the licence holder should inform the licensing authority as soon as possible and in any case within 24 hours of the absence. Where relevant, medical certificates should be sent by first class post on the day of issue.
- 10(8) Exceptional circumstances include, but are not limited to, any of the following circumstances:
- (a) Certificated sickness absence up to a limit of eight days in any 365 days
 - (b) Critical or terminal illness
 - (c) Serious accident or victim of crime
 - (d) Death or serious illness of a close family member
- 10(9) Other business commitments, holidays and family or social engagements will not be considered exceptional circumstances. In these circumstances the licence holder may employ a registered worker to operate the stall subject to approval by the licensing authority and the terms of this policy.

Reason for policy

- 10(10) In line with the City of Westminster Act 1999, the licensing authority wishes to encourage personal responsibility for the management and operation of all street trading pitches. However in view of the way street trading pitches are operated we accept that on occasions the licence holder cannot be present. Registered workers will be allowed to operate stalls in place of the licence holder.
- 10(11) It is important to maintain market occupancy to maintain vibrant markets which add something to the local retail environment. The council also wishes to avoid closed kiosks on semi-permanent pitches. Vacant pitches make markets appear fragmented and mean that the full benefits of the licences offered by the council are not being realised. They also represent denied opportunities for start-up businesses and entrepreneurs.
- 10(12) This policy will also help to avoid problems caused by absentee licence holders and prevent the sub-letting of licences by licence holders by ensuring that those supposed to be running the stall are in fact running it. The council needs to ensure that those operating licensed pitches are known to the council and accountable for the operations and activities of the stall.

10(13) It is not permitted for licence holders to sub-let their pitches and any evidence of sub-letting will be taken as the licensed trader not making full personal use of the licence.

11 Electricity and other services - POLICY ST11

- (i) The licensing authority may provide electricity from a supply point in the vicinity of a licensed pitch subject to the criteria below.
- (ii) Licence holders may make alternative arrangements for electricity provision subject to the criteria below.
- (iii) Other services and utilities may be provided at street trading pitches subject to the criteria below.

Criteria

Electricity supply points

- 11(1) All electrical supply points for markets and isolated pitches remain the property and responsibility of the council, whether these are new or existing installations.
- 11(2) Licence holders should take good care when using or working nearby an electrical supply point. Individual licence holders may be invoiced for any damage that results from reckless behaviour or deliberate misuse.
- 11(3) Electrical supplies to isolated pitches should generally be provided with individual meters in order for the licence holder to make arrangements to pay the charges directly with the electricity supplier.
- 11(4) Where electricity supply points have been installed, the licensing authority will make arrangements for maintenance work and periodical inspection and testing of the supply equipment. Fees to cover this work, as well as for the eventual replacement of the electrical supply at the end of its lifespan, will be levied and added to the charges for the licence.
- 11(5) Electrical supplies to markets will be subject to charges to cover the installation costs and eventual replacement of the supply point and connections, maintenance work, periodical inspection and testing. Fees may also be levied for the use of the electricity itself where direct arrangements between licence holders and the electricity provider do not exist. . Installation and maintenance charges will be made on a pro-rata basis (dependent upon the number of trading days) and added to the fees and charges for the licence.

- 11(6) The licensing service will set the charges taking into account costs associated with capital replacement costs, installation, maintenance, inspection, testing and energy charges.
- 11(7) Licence holders must ensure that any equipment connected to the electrical supply does not either individually or in combination, exceed the rating (maximum amperage) of the supply point.
- 11(8) All electrical connections should comply with the current edition of the IEE Wiring Regulations. Licence holders are responsible for any equipment connected to an electrical supply point and should ensure, through a system of regular checks and testing that it continues to be safe.

Alternative arrangements

- 11(9) Licence holders may make alternative arrangements for electricity where a supply has not been provided by the council. Such arrangements may involve taking a supply from nearby premises or the use of a generator. Electricity from renewable sources such as solar panels will be encouraged.
- 11(10) Licence holders will not be permitted to connect any equipment to lamp columns.
- 11(11) Supplies taken from nearby premises must be with the agreement the licensing authority as well as the energy bill payer for the premises. Supply lines should be overhead with clearance of at least 2.6m and should be securely installed and suitably protected from damage and water ingress. Trailing cables along the ground will not be permitted.
- 11(12) The use of generators is discouraged and will not be permitted where an electricity supply has been provided by the council. The use of generators must comply with the relevant conditions pertaining to the licence and generators must be located within the licensed pitch. Generators must not cause an unacceptable degree of noise or other nuisance. Petroleum powered generators are discouraged.
- 11(13) Fuel must be stored in containers that comply with The Petroleum Spirit (Plastic Containers) Regulations 1982. No more than five litres may be stored.
- 11(14) All electrical connections should comply with the current edition of the IEE Wiring Regulations. Licence holders are responsible for any equipment connected to an electrical supply point and should ensure, through a system of regular checks and testing that it continues to be safe.

Other utilities and services

11(15) The provision of individual water, wastewater services, gas, telephone, broadband connections or other services will not normally be provided by the licensing authority. However, should any trader wish to have such services installed at a particular pitch, the licensing authority will enter into discussions about how this might be facilitated if, in the view of the licensing authority, it is appropriate.

Reason for policy

11(16) This policy has been established to standardise, simplify and improve the way electricity is delivered to traders and charged for by the licensing authority. The policy makes provision for charges to be made to licence holders for the supply of electricity as well as management costs to ensure that supplies are not made dangerous or cut off due to lack of maintenance.

11(17) The licensing authority takes the view that for a trader to install their own power bollard in the street, planning permission would have been necessary. Without such documentation it is asserted that the equipment would have been erected using the council's powers to install such equipment using its 'permitted development' powers. Any payment made in the past, either through the council or directly to the power company will be regarded as a payment to cover the cost or negate the need to incur cost at the time. The licensing authority now expects to recover the costs of creating and maintaining the installations in all locations. Where individual traders have covered the initial capital outlay, the only costs levied thereafter will be to cover testing, maintenance, repairs and a charge to cover eventual replacement.

11(18) The policy also covers situations where electricity is provided by means other than a supply point, recognising that electricity has not yet been provided to every street trading location. The rules set out in the policy are to ensure that safe use can be made of electricity and that its use does not cause safety hazards or a nuisance to anyone nearby.

11(19) Whilst the licensing authority does not currently intend to provide other services and utilities at street trading pitches, it is open to discussions about the installation of these in appropriate circumstances.

III. CONDITIONS, MANAGEMENT & ENFORCEMENT

1 General

1(1) Street trading licences are issued with a number of conditions governing trading operations, conduct and payment of fees. Compliance with these conditions is important to ensure the efficient operation of street trading throughout the city and fair, consistent trading conditions for all traders. Enforcement is an important part of any regulatory function, including licensing. The primary aim of enforcement is to promote compliance and assist traders in achieving this. However, in line with the council's general enforcement policy, enforcement action will be taken against those who commit serious breaches and/or consistently fail to comply with conditions.

2 Trading rules

2(1) All street trading licences are issued with certain restrictions relating to goods, permitted days and times of trading, attendance and the location of the trading pitch(es). Standard conditions⁹ are issued with each licence. These conditions, to which all traders must comply, cover matters such as size, position and nature of stalls, conduct and refuse. This policy provides further detail to a number of these conditions, where required. The City of Westminster Act 1999 also sets out provisions for the licensing authority to charge for licences and the conditions under which licences may be revoked or applications for licences may be refused. The Act also creates several offences for breaches of street trading licence conditions and unlicensed street trading.

3 Management and enforcement arrangements

3(1) The licensing authority, through a service level agreement with the council's Street Management service, has established the arrangements for street trading enforcement. Inspectors are responsible for identifying breaches and taking enforcement action against unlicensed street traders as well those holding licences. The arrangements for licensed traders include regular visits by inspectors to record attendance, check

⁹ Standard conditions applicable to street trading licences (effective 15 March 1999) & Conditions applicable to temporary street trading licences (effective 01 August 2007)

compliance with the relevant conditions and monitor the conduct of licensed traders. Street inspectors record their findings and report these to the Licensing Authority who maintain statistics on compliance levels. The licensing authority, together with the council's finance department, also monitors the payment of invoices for street trading charges.

- 3(2) Where discrepancies arise, inspectors will generally attempt to use informal means to secure compliance. Where informal measures fail or for serious or persistent breaches, inspectors may issue penalty points to traders in accordance with the established scheme¹⁰. In the event that a licensed trader reaches or exceeds 25 penalty points within a period of six months, the matter will be referred to the council's Licensing Officer Panel (or in more serious cases, the Licensing Sub-Committee) which will consider if additional conditions should be attached to the licence or whether the licence should be revoked. Incidents of gross misconduct or unacceptable behaviour may be referred immediately to a licensing hearing. In the case of temporary or casual traders, the licensing authority may refuse to issue further licences and/or remove the trader's name from the list of approved temporary traders.
- 3(3) Disputes about the number of points issued or the circumstances under which they were issued will be dealt with by the licensing service in the first instance. The final decision will rest with the Licensing Officer Panel. Where there is evidence that kiosks have been placed on the public highway without planning permission, enforcement action will be considered.

4 Licensing Officer Panel

- 4(1) The Licensing Officer Panel will be convened to decide any of the matters detailed in the *Rules of Procedure for hearings before the Licensing Officer Panel with effect from 13 December 2007*. Any other matters will be heard before the Licensing Sub-Committee.
- 4(2) Any matters not given under the terms of reference for the Licensing Officer Panel will be referred to the Licensing Sub-Committee. The Licensing Sub-Committee may also be convened to hear cases considered more serious, complex, sensitive or high profile including those concerning more unusual or innovative proposals for stalls. The Licensing Officer Panel may also refer matters to the Licensing Sub-Committee in circumstances it considers appropriate.

¹⁰ City of Westminster Penalty Point Scheme (effective from 19 April 2005)

IV. SCHEDULE OF RELEVANT DIRECTIVES, STATUTES & OTHER DOCUMENTS

- City of Westminster Act 1999
- Town and Country Planning Act 1990
- Highways Act 1980
- Traffic Management Act 2004
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Town & Country Planning (Control of Advertisements) (England) Regulations 2007
- Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market
- The Provision of Services Regulations 2009
- The Petroleum Spirit (Plastic Containers) Regulations 1982
- IEE Wiring Regulations (17th edition)(at time of publishing)
- Rules of Procedure for hearings before the Licensing Officer Panel with effect from 13 December 2007

GLOSSARY

Abbreviations used in this document

The Act	The City of Westminster Act 1999
The council	Westminster City Council
Designated pitch	A part of a street designated under section 5 and 6 of the City of Westminster Act 1999
Enterprise schemes	A scheme to provide a weekly allowance to an unemployed person who wishes to set up a business and is willing to invest a specified amount in it during its first year
The licensing authority	The licensing service operated by the council (the licensing service will frequently seek the advice of other relevant council services as part of its operations)
Licensed pitch	(or Street trading pitch) The area authorised by a street trading licence or a temporary licence for street trading purposes
LOP	Licensing Officer Panel
LSC	Licensing Sub-Committee
NMTF	National Market Traders Federation (whether it be acting as the licensing authority, the local planning authority, or the highways authority or agent for Transport for London in respect of major roads)
Stall	Includes a vehicle, trailer, or stall and any basket, bag, box, vessel, stand, easel, board tray or thing which is used whether or not constructed or adapted for such use) as a container for or for the display of any article or thing or equipment used in the provision of any service
WESTA	West End Street Trading Association

APPENDICES

Appendix A

List of prohibited goods and services

Some goods and services are not permitted to be sold from street trading pitches because they are unsuitable, dangerous and/or subject to additional licensing regimes

No.	Goods and services description
1.	Live animals
2.	Second-hand electrical goods
3.	Medicines or treatments
4.	Sex articles as defined by the Local Government (Miscellaneous Provisions) Act 1982
5.	Alcohol
6.	Cigarettes / tobacco
7.	Any form of gambling
8.	Firearms (including replicas) and ammunition
9.	Fireworks

Appendix B

Current fees and charges

STREET TRADING CHARGES/FEEES WITH EFFECT FROM 3 JULY 2006

MARKETS	CHARGE	CHARGE WITH DISCOUNT
For each pitch on the highway for which a licence is held:	£	£
A daily charge (Monday to Thursday) of:	10.61	10.08
For Friday a charge of:	20.16	19.15
For Saturday a charge of:	24.40	23.18
For Sunday a charge of:	26.52	25.19

ISOLATED PITCHES WITHIN W1 OR WC2 (IPW)

For each pitch on the highway for which a licence is held:		
A daily charge (Monday to Thursday) of: (per day)	24.72	23.48
For Friday a charge of:	45.32	43.05
For Saturday a charge of:	53.56	50.88
For Sunday a charge of:	57.68	54.80

ISOLATED PITCHES OUTSIDE W1 OR WC2 (IPO)

For each pitch on the highway for which a licence is held:

A daily charge (Monday to Thursday) of: (per day)	19.06	18.11
For Friday a charge of:	36.20	34.39
For Saturday a charge of:	43.83	41.64
For Sunday a charge of:	47.64	45.26

Note: Traders at isolated pitches selling commodities limited to ice cream or frozen confectionery are entitled to a 75% discount from October to March inclusive.

TRADERS IN 'ISOLATED' PITCHES LICENSED TO PROVIDE A SERVICE KNOWN AS SHOE SHINING

	CHARGE
	£
A daily charge of:	NIL

	CHARGE	CHARGE WITH DISCOUNT
	£	£
TEMPORARY LICENCES FOR CASUAL TRADERS		
A daily charge (Monday - Thursday) (per day)	19.44	N/A
For Friday a charge of:	28.50	N/A
For Saturday a charge of:	29.72	N/A
For Sunday a charge of:	31.73	N/A

BAYSWATER ROAD EXHIBITION

A daily charge per length of 30.5cm (Maximum pitch size 8.23m).	*	0.83 pence	
Standard Pitch (9 feet)		7.47	7.10

GREEN PARK EXHIBITION

A daily charge per length of 30.5cm (Maximum pitch size 10.97m except for the Saturday Exhibition).	*	0.83 pence	
Standard Pitch (9 feet)		7.47	7.10

**NB - Based on 50 weeks. Concession for 2 x wks
over Christmas**

LICENCES/APPLICATIONS

For a new full licence except that in respect of the Markets and Exhibitions when application is made simultaneously for more than one adjacent pitch the full fee be paid for the first licence and for each additional licence:		93.73	
		15.45	
Applications for Waiver of Standard Condition 28.		169.95	
Applications which breach commodity guidelines and where there is a need to report to Committee.		169.95	
Variations to reduce the number of commodities or to reduce the days or reduce the hours of trading.		17.51	
Other Variations/Applications.		55.11	
Duplicate licence.		15.45	
Fee for licence plate.		2.06	
Entry of name on Register of Approved Casual Traders		48.93	

