



DRAFT REVISED

Street Trading

Statement of Practices,
Procedures & Policy

FOR CONSULTATION



Pre-Application Advice & Application Assistance

Take the headache out of your licensing applications with our NEW services

Cornwall Council’s Licensing Team now offer services to support street trading enquiries and applications.

Our aim is to assist you to ensure you only apply for the licences you need and to help mitigate any problems which may arise during the application process.

What service is provided with the PRE-APPLICATION ADVICE?

- ❖ We will provide advice so that you can determine which licence(s), if any, are required.
- ❖ We will provide advice to ensure you apply for the correct licence tailored to the needs of your business.
- ❖ We will provide advice on supplying the necessary information to accompany an application.

What service is provided with the APPLICATION ASSISTANCE?

- ❖ We will assist you with completion of the application forms.
- ❖ We will assist you with supplying the necessary information to accompany your application.

What are the benefits to you?

- ✓ **Save time:** applications can be delayed due to basic errors - avoid these delays by using our services.
- ✓ **Save money:** we will help ensure the process runs smoothly and we will consult with the relevant authorities as soon as your application is correctly completed.
- ✓ **Give peace of mind:** we will make sure your application is correctly completed, that you only apply for what you need and ensure your licence is fit for purpose.
- ✓ **Secure:** we will ensure your application is electronically submitted.

How much does it cost?

The fixed fees for this quality service include VAT, cover the cost of administration, delivery of the service and are not for profit:-

Pre-Application Advice	£40
Application Assistance	£30

Payment for [Licensing Direct](#) services is in addition to any relevant application fee (see page 14 for further information relating to fees).

Cornwall Council's Public Protection Service operate impartially and free from conflicts of interest. Businesses should be aware that it may be possible to obtain the same services as those offered by Cornwall Council Public Protection Service elsewhere. We encourage businesses to make their own investigations with alternative providers as to whether the services are available elsewhere and to obtain the best value for those services. Please note that businesses are not obligated to take up the services offered by Cornwall Council Public Protection Service.

For more information on business regulatory support services provided by Public Protection: <http://www.cornwall.gov.uk/publicprotection>

For further information or to take advantage of our [Licensing Direct](#) services please email licensing@cornwall.gov.uk or telephone the relevant Licensing Team:-

Central Licensing Team Cornwall Council Chy Trevail Beacon Technology Park Bodmin PL31 2FR	Tel 01726 223433
East Licensing Team Cornwall Council Chy Trevail Beacon Technology Park Bodmin PL31 2FR	Tel 01208 893346
West Licensing Team Cornwall Council Dolcoath Avenue CAMBORNE TR14 8SX	Tel 01209 615055

If you would like this document in another format please contact:

Cornwall Council
County Hall
Treyew Road
Truro TR1 3AY
Telephone: 0300 1234 100
Email: enquiries@cornwall.gov.uk
www.cornwall.gov.uk

Please consider the environment. Only print this document if it cannot be sent electronically.

Regulation of Street Trading

Street trading is regulated under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

The Act provides that a Local Authority may by resolution designate any street in their area as a prohibited, licence, or consent street.

Cornwall Council's Licensing Authority adopted the legislation on 16 February 2010 and resolved that street trading in Cornwall would be regulated by way of 'consent' or 'prohibited' streets.

On 1 July 2016, the Licensing Authority designated the whole of Cornwall as a street trading 'consent' area.

The Licensing Authority regulates street trading so that they can decide where to allow street trading and can properly manage the environmental and safety implications for example, obstructions, overcrowding in streets, escape from/access to premises causing public safety issues, nuisances such as smells, noise and litter.

The Licensing Authority will review its policy at least every 3-5 years

Definitions

'Street trading' means the selling or exposing or offering for sale of any article (including a living thing) in a street.

'Street' includes any road, footway, beach or other area to which the public have access without payment and a service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street.

Designations

Following public consultation, Cornwall Council's Licensing Authority has designated the whole of Cornwall, being the area regulated by the Council, as a street trading 'consent' area.

This means all street trading in Cornwall requires the Licensing Authority's consent apart from the legal and policy exemptions shown below.

Exemptions

Some types of trading are legally exempt from the need to obtain a Street Trading Consent, although other permissions may still be required.

Legal Exemptions include:-

Pedlars, who operate under the Pedlars Act 1871 and obtain a Pedlars Certificate from the Police, if required.

Pedlars are people who sell from place to place and cannot sell from a fixed pitch; they must move around and not wait for customers to come to them, they cannot stand in any one place for a considerable time nor can they exhort those passing to buy their goods. Pedlars can carry their goods and can use a wheeled trolley to transport them.

Charter Markets/fairs which are established by virtue of a grant, enactment or order – further information is available from the Licensing Service.

News vendors/selling periodicals e.g. Big Issue - selling or offering for sale newspapers or periodicals either with or without a stall does not require a consent, however if the stall stands on the carriageway of a street, it must be less than 1 metre in length and width, less than 2 metres high and occupy less than 0.25 square metres of ground. Stalls larger than this may require consent.

The use for **trading under the Highways Act 1980** of an object or structure placed on, in or over a highway (pavement cafes etc.)

Trunk road picnic areas - the operation of facilities for recreation or refreshment under the Highways Act 1980.

Petrol Filling Stations or Shops - where trading is carried out, e.g. on a forecourt adjoining such premises, so used as part of the business of the shop (and not by a third party), Street Trading Consent is not required from the Licensing Authority. However, any trading on the highway must not take place unless you have permission from the Highway Authority e.g. Tables and Chairs Consent.

Roundsman - Selling, offering or exposing for sale things as a roundsman does not require a consent. A roundsman has been defined as one who visits a 'round' of customers taking and delivering the orders of those customers.

Charity stalls - Street Trading Consent is not required but the charity will require a Street Collection Permit authorised by Regulations made under the Police, Factories etc. (Miscellaneous Provisions) Act 1916.

Service Providers, e.g. hair-braiding¹, face painting and henna tattoos, etc. The Act which governs street trading relates to the selling of articles and as such, it is the Licensing Authority's view, that people who provide a service e.g. hair-braiders, are not considered to be trading for the purposes of the legislation. However, if quantities of accessories used in hair braiding are also offered for sale then this may be street trading and may require consent.

Persons providing services in the street should take care not to cause any nuisance or obstruction as this could result in the Police or another authority taking action.

¹ Hair-braiding is regulated in St Ives only by way of a Byelaw – contact the West Licensing Team for further information.

Policy Exemptions

In addition to the legal exemptions, the Licensing Authority has determined that the following are also **exempt**² from requiring a Street Trading Consent:-

- Trading at fetes, carnivals or similar community based organised and operated events (subject to permission of event organiser)
- Car boot sales on private property.
- Goods from working farms sold within the curtilage of the farm where they were produced.
- Sales of articles by residential occupiers within the curtilage of their properties or land contiguous with it, for example honesty boxes.
- Trading at approved markets/events (e.g. approved by Cornwall Council, Town or Parish Council) with permission of market/event organiser. The Licensing Service must be satisfied that the market/event has been appropriately approved and evidence of approval may be required to be produced.
- Buskers who sell recordings of their own musical performances, which is ancillary to providing street entertainment.
- Trading on beaches (subject to permission from the beach owner).
- Trading on Cornwall Council owned Public Open Spaces/Pop-Up Sites³, Car Parks, and Harbours (subject to permission from relevant service within Cornwall Council).

² Please note, although the Licensing Authority has specified exemptions in this Policy, any concerns identified, e.g. in relation to public safety or any other matter, may be subject to further consideration by the appropriate Committee, to make the final decision as to whether the exemption applies.

In addition, although an exemption may apply, traders may still require permission from Cornwall Council or other relevant landowner(s) and/or event organiser(s) and pay a fee if required.

³ As an alternative to Street Trading Consent on the highway, there may be opportunities to trade on Council-owned land at one of the Council's Pop-Up Sites; for more information see the FAQs page or email popupsites@cornwall.gov.uk

- Privately owned land⁴ (subject to permission from the private land owner) which is more than 5 metres from the public highway⁵.
- Trading in residential areas/housing estates in a way that involves moving around (less than 20 minutes in each location) and not trading from a fixed pitch (e.g. ice-cream vans).

NB If not covered by one of the exemptions above, trading on privately owned land where the public has free access and which is less than 5 metres from designated streets, e.g. forecourts or other areas adjacent to designated streets, is **not** exempt and requires Street Trading Consent. This is to control a loophole for potential street traders to trade from privately owned areas immediately adjacent to regulated streets.

Motor Vehicles for sale on highway

Vehicles for sale on the roadside and grass verges can cause significant nuisance to local residents and take up valuable car parking spaces. Furthermore, these vehicles can often be a road safety hazard causing a distraction to motorists.

Exposing vehicles for sale on a road is therefore regulated under the Clean Neighbourhoods and Environment Act 2005, and a person exposing or advertising for sale, two or more motor vehicles, parked within 500 metres of each other on a road, is committing an offence.

A 'road' is defined as any length of highway or road to which the public has access and is not restricted to public rights of way. It includes the carriageway, footpath and the verge of the highway.

A person guilty of this offence may be issued a Fixed Penalty Notice or subject to a fine of up to £2,500. The offence is targeted at businesses, and any private individual who has two or more vehicles for sale on a road must be able to demonstrate they are not acting in a business capacity.

Vehicles exposed or advertised for sale, which are not regulated by the Clean Neighbourhoods and Environment Act 2005, are therefore now controlled through this Street Trading policy. This applies to individuals and businesses; the only exemption is residential occupiers who sell their own private vehicle within the curtilage of their own residential property or adjoining land (provided there is no road safety hazard).

⁴ Privately owned land does not include land owned by a Local Authority (i.e. Cornwall Council or Town/Parish Councils). Therefore trading on Town/Parish Council owned land requires Street Trading Consent from Cornwall Council's Licensing Authority.

⁵ Public highway is the area over which the public has free access to pass. This includes, but is not limited to: surfaced roads, surfaced footways, cycle-ways, verges, footpaths, bridleways and byways (exact limits of highway can be clarified through Land Searches).

European Union Services Directive

The European Union Services Directive 2006/123/EC (EUSD) is intended to make it easier for street traders to set up anywhere in the European Union.

In order to comply with the EUSD any prohibition on street trading authorisation must be justified by an “*overriding reason relating to the public interest*” (ORRPI).

Examples of ORRPI are public policy, public security, public safety, public health, protection of consumers, recipients of services and workers, combating fraud and the protection of the environment and the urban environment.

The refusal of a Street Trading Consent on the grounds that there are already enough traders in the street, trading from other shops, or that there are other traders selling similar products, is not compatible with the EUSD and should no longer be used as a ground for refusal.

Application Procedure

Applicants must be aged 17 years or over and provide proof of evidence of right to work in the UK as part of their application. The list of acceptable documents to prove right to work is available at the following link:- *[web-link to be inserted]*.

Application forms are available from the Licensing Team on request or the Council’s website: <http://www.cornwall.gov.uk/advice-and-benefits/licences-and-street-trading/street-trading-licence/>

The Licensing Team also offer services to support street trading enquiries and applications through our [Licensing Direct](#) services, which include Pre-Application Advice and/or Application Assistance. Our aim is to assist you to ensure you only apply for the licences you need and to help mitigate any problems which may arise during the application process. (Please refer to page 2 of this document for more information on these services).

The application process may take up to 8 weeks, as for each application received, the Licensing Team may consult with the Police, appropriate Town/Parish Council, Cornwall Councillor(s), Chamber of Commerce, local Business Improvement District (BID), relevant services within Cornwall Council such as Highways⁶, Planning, Licensing Compliance, Trading Standards, Environmental Health (Environmental Protection, Health & Safety and Food Safety), Fire & Rescue Service, Public Health, Harbour Authority, Environment Service, Parking Services, Street Works and any other relevant person/body.

⁶ Highways England are consulted on trading on the A30 and A38 trunk road laybys

Tacit consent does not apply as it is in the public interest that applications are processed before they can be granted.

If you are intending to sell food, you should seek advice from a Food Safety Officer in the Council's Public Protection Team: <http://www.cornwall.gov.uk/health-and-social-care/food-safety/>

When considering applications, the Council will have regard to any comments that have been received as part of the consultation process and will also take into account street trading and other relevant legislation, this Policy and the Conditions.

Should valid objections be received, applicants will be notified and applications may be referred to a Hearing of the Council's Street Trading Sub-Committee for them to make a decision on the application. All parties will be invited to attend. Alternatively, if all parties reach an agreement and also agree that a full Hearing can be dispensed with, the matter may be dealt with by a Hearing by Documentation procedure without the need to attend a Hearing.

Please note applications will be refused, without the requirement for a Hearing, if the granting of a Street Trading Consent would constitute an offence under the Highways Act.

Applicants who are refused Consent will be given a formal notice of refusal, giving reasons for the decision. There is no right of appeal but the decision can be challenged by way of a Judicial Review to the High Court.

Applicants who are granted Consent will be advised and once exact trading dates and appropriate fees are agreed, a Street Trading Consent will be issued.

Conditions

Standard conditions are attached to this document at Appendix 1 for information.

The Council can allow exemptions from the standard conditions within this policy where they deem it appropriate in the circumstances. Each application is considered on its merits and the Council can depart from the policy where appropriate to do so.

The Council may also attach such additional conditions as they consider reasonably necessary, including conditions to prevent any obstruction of the street or danger to persons using it, or any nuisance or annoyance to any person. The conditions may also stipulate what traders may sell, exactly where and when they may sell and the fee they must pay.

Street trading is controlled to avoid obstruction and protect public safety, for example overcrowding in streets affecting escape from and access to premises. It also prevents noise, smells and nuisance and ensures any litter from street trading is removed from the site.

A consent holder is responsible for ensuring conditions are strictly complied with at all times and may be held liable under the appropriate legislation.

Any contravention of conditions may lead to revocation or non-renewal of the Street Trading Consent and/or prosecution.

In addition, an individual trader working under the benefit of a consent holder's Street Trading Consent may be individually liable under the appropriate legislation.

A Street Trading Consent can be revoked at any time.

Single-use/non-recyclable plastic

Waste and recycling is a major concern with single use plastics creating unnecessary waste with negative impacts on our communities. Cornwall Council encourages a culture that supports the environment by reducing waste and utilising reusable and recyclable products. Traders are therefore encouraged to move away from using single-use/non-recyclable plastic.

Renewals

Street Trading Consents will be issued for a maximum period of 12 months or up to the end of the current year. Shorter term Consents may also be issued on a daily, weekly or monthly basis.

Subject to no substantiated complaints being received regarding the manner in which traders conduct their business, priority will be given to existing traders renewing Street Trading Consents.

Street Trading Consents are renewable annually before 31 December for the following year.

Reviews

The Council may review a Street Trading Consent if there are concerns or complaints after a Street Trading Consent has been granted. Consent holders will be notified and there may be a referral to a Hearing of the Council's Street Trading Sub-Committee for them to review the Consent. The Committee may take no action or they may issue a warning, vary the consent, amend conditions or revoke the Consent.

Fees & Charges

The licence 'Application Fee' must be received before your application can be processed. Payment should be made by debit or credit card.

Please note, if an application is formally refused (by officers under delegated authority or the Street Trading Sub-Committee) the application fee will be refunded.

If the application is approved, additional 'Trading Fees' are payable depending on number of days and months trading takes place. The Licensing Authority may agree that trading fees are paid by instalments, and if so, these must be paid in advance of trading and at least before the month of trading. Failure to do so may incur an additional fee.

For more information, including the schedule of fees, please refer to Appendix 2 (page 14) of this document.

Offences and Penalties

It is an offence to trade in a designated Consent street without having first obtained Consent, to breach certain conditions attached to a Consent or to make a false statement. Any person found guilty of these offences can be fined for each offence (level 3 on the standard scale).

The enforcement policy for Public Protection can be obtained from the Licensing Compliance Team (telephone 0300 1234 212) or is available on the Council's website at the following link:-

<http://www.cornwall.gov.uk/media/7465019/2013enforcementpolicyamended.pdf>

Further Information

Cornwall Council's Licensing Direct services:-

<http://www.publicprotectioncornwall.co.uk/services/business-advice/licensing-direct/>

Information and details of how to apply for Street Trading Consent are available on the Council's website:-

<http://www.cornwall.gov.uk/advice-and-benefits/licences-and-street-trading/street-trading-licence/>

Cornwall Council's Business Regulatory Support Service:-

<http://www.publicprotectioncornwall.co.uk/services/>

Local Government (Miscellaneous Provisions Act 1982 – Schedule 4:-

<http://www.legislation.gov.uk/ukpga/1982/30/schedule/4>

European Union Services Directive:-

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32006L0123:EN:HTML>

Licensing Act 2003 – alcohol and late night refreshment information:-

<http://www.cornwall.gov.uk/advice-and-benefits/licences-and-street-trading/alcohol-and-entertainment-licence/>

Food Registration:-

<http://www.cornwall.gov.uk/health-and-social-care/food-safety/>

Health matters: obesity and the food environment:-

<https://www.gov.uk/government/publications/health-matters-obesity-and-the-food-environment/health-matters-obesity-and-the-food-environment--2>

Healthy Eating:-

<https://www.healthycornwall.org.uk/>

Roads, Highways and Pavements:-

<http://www.cornwall.gov.uk/transport-and-streets/roads-highways-and-pavements/>

Clean Neighbourhoods and Environment Act 2005 – Offence of exposing vehicles for sale on a road:-

<http://www.legislation.gov.uk/ukpga/2005/16/section/3>

Cornwall Council Public Open Spaces – Pop-up Sites:-

<https://www.cornwall.gov.uk/environment-and-planning/parks-and-open-spaces/pop-up-sites/>

Highways England:-

<https://www.gov.uk/government/organisations/highways-england>

Disclaimer

The content of this document is provided as a statement of practices, procedures and policies in relation to street trading in Cornwall. It is not a full and authoritative statement of the law and is not issued as legal advice or intended to provide legal advice. The purpose of the document is to provide useful information in relation to the licensing of street trading in Cornwall. You should obtain your own independent legal advice where appropriate.

Street Trading Consent Conditions

1. This consent shall not be assigned, transferred or sub-let to any other person, firm or organisation.
2. Any employee of the consent holder should have written authorisation of the consent holder confirming his employment status, which should be produced on demand to an authorised officer of Cornwall Council or a Police Officer.
3. A copy of this consent must be displayed on the stall/vehicle (N.B. The consent holder's home address can be blanked out if required on the display copy).
4. *Any motor vehicle from which trading is permitted to take place shall be in a roadworthy condition and shall at all times be taxed, tested and insured, and a driver holding a full driving licence for the class of vehicle being used must be available within a reasonable period in the event that the vehicle is required to be moved.
5. Upon application the full details of any stall/vehicle shall be provided by the applicant to the Licensing Authority. Any change in the said stall/vehicle during the said licensing period shall be notified to the Licensing Authority in writing prior to any change in stall/vehicle being made.
6. The consent holder shall not contravene any Order made under the Road Traffic Regulations Act or the Town & Country Planning Acts and shall also comply with the provisions of the Highways Acts and any other relevant legislation.
7. *The consent holder must at all times comply in full with all relevant food hygiene legislation.
8. It is the responsibility of each individual street trader to ensure that all waste is disposed of in appropriate manner; i.e. liquid, oil, fat & food waste must not be disposed of in the street or into a public drain (storm or foul).
9. Where there is the need for power for the stall/vehicle they are operating and there is no alternative to supply power, other than a generator, then permission must be sought from Cornwall Council's Public Protection Team prior to the use of any such generator with the make, model and technical specifications being agreed by the Cornwall Council's Public Protection Team.
10. Prior to any mobile food business commencing operation the food operator should agree the proposed location and type of food and beverage with Cornwall Council's Public Protection Team.
11. The Consent Holder must stop music/noise making equipment or reduce volume to a specified level when requested to do so by an authorised Cornwall Council Officer.

12. The consent holder must possess for the purposes of trading, sufficient public liability insurance cover and produce it to an authorised Officer of Cornwall Council or a Police Officer, upon request. The minimum sum insured must be £10,000,000.
13. The consent holder must keep any stall/vehicle from which trading takes place together with the immediate vicinity of the stall/vehicle, in a clean and tidy condition and where required, the consent holder must provide sufficient litter bin(s) for use by customers.
14. Advertisements must not cause any danger, obstruction, nuisance or offence to customers or persons in the vicinity of the consent holders stall/vehicle.
15. This Street Trading Consent does not give any permission to any person or body to place posters, signs or any other advertising material within highway limits, or on street lighting columns, traffic signs and other street furniture. Street traders are advised that any material should not be sited or displayed in a manner which obscures any highway sign or creates a safety risk, hazard or obstruction to the use of the highway. Any material erected in contravention of these requirements is liable to be removed by the Highway Authority.
16. Any stall/vehicle used for the purposes of street trading shall not remain on site outside the hours stated on the consent.
17. The consent holder shall not cause any obstruction to persons using the public highway or wishing to enter the site upon which they are trading.
18. The consent holder shall not cause any obstruction or nuisance to persons using private or business premises.
19. The consent holder shall only use one mobile stall/vehicle for the purposes of street trading on each site, which must not exceed the size agreed in writing by the licensing authority.
20. The consent holder shall supply a copy of these street trading conditions to every person engaged in street trading on their behalf. For the avoidance of doubt, these street trading conditions will apply to a person engaged in street trading on behalf of the consent holder to the same extent as they apply to the consent holder.
21. The consent holder and any other persons engaged in street trading shall at all times offer full co-operation to an authorised officer of the council in their task of ensuring compliance with the above conditions.

** where applicable*

Licensing Direct Services	
Pre-Application Advice	£40 (including VAT)
Application Assistance	£30 (including VAT)

Application Fees		
New	£150	If applying for more than one location for the same unit/stall/vehicle, additional £40 payable for each location being applied for.
Renewal	£85	If applying for more than one location for the same unit/stall/vehicle, additional £40 payable for each location being applied for.
Variation	£85	If applying for more than one location for the same unit/stall/vehicle, additional £40 payable for each location being applied for.

Trading Fees	
Additional fee payable if application approved, depending on how many days of the week trading takes place and how many calendar months, as follows:-	
Occasional	£5 £10 per day
1 day a week	£40 per month
2 days a week	£50 per month
3 days a week	£60 per month
4 days a week	£70 per month
5 days a week	£80 per month
6 days a week	£90 per month
7 days a week	£100 per month
<p>5% discount given on trading fees for 9+ months trading and 10% discount given on trading fees for 12 months trading of the total monthly fee payable. Please note discounts do not apply if paying by instalments. Please also note, if paying by instalments, and payment is overdue by more than 28 days, an additional £10 is payable to cover administrative costs. NB Additional charge of £5 per day for any trader wishing to operate prior to the start of the 1st whole trading month.</p>	