

LICENSING COMMITTEE

Thursday, 22nd February, 2018
6.30 pm





LICENSING COMMITTEE

BURNLEY TOWN HALL

Thursday, 22nd February, 2018 at 6.30 pm

This agenda gives notice of items to be considered in private as required by Regulations (4) and (5) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Members are reminded that if they have detailed questions on individual reports, they are advised to contact the report authors in advance of the meeting.

Members of the public may ask a question, make a statement, or present a petition relating to any agenda item or any matter falling within the remit of the committee.

Notice in writing of the subject matter must be given to the Chief Operating Officer three days before the meeting. Forms can be obtained for this purpose from the reception desk at Burnley Town Hall or the Contact Centre, Parker Lane, Burnley. Forms are also available on the Council's website www.burnley.gov.uk/meetings.

AGENDA

1) Apologies

To receive any apologies for absence.

2) Minutes

To approve as a correct record the Minutes of the last meeting as enclosed.

5 - 6

3) Additional Items of Business

To determine whether there are any additional items of business which, by reason of special circumstances, the Chair decides should be considered at the meeting as a matter of urgency

4) Declaration of Interest

5) Exclusion of the Public

To determine during which items, if any, the public are to be excluded from the meeting.

6) Public Question Time

To consider questions, statements or petitions from members of the public.

7) Local Government (Miscellaneous Provisions) Act 1982 - Amendments to Street Trading Consent Conditions 7 - 36

To consider the adoption of new conditions relating to hours of trading, duration of licence and DBS checks in relation to the grant of Street Trading Consents within the Borough under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. (report enclosed)

8) Minor Amendment to Taxi Licensing - Policy Guidelines to Fitness and Propriety Including Convictions and Other Relevant Information. 37 - 38

To consider a minor amendment to the existing policy guidelines. (report enclosed)

MEMBERSHIP OF COMMITTEE

Councillor Ann Royle (Chair)
Councillor Gary Frayling (Vice-Chair)
Councillor Gordon Birtwistle
Councillor Bill Brindle
Councillor Frank Cant
Councillor Ida Carmichael
Councillor Saeed Chaudhary
Councillor Jean Cunningham

Councillor Danny Fleming
Councillor Shah Hussain
Councillor Mohammed Ishtiaq
Councillor Anne Kelly
Councillor Sobia Malik
Councillor Elizabeth Monk
Councillor Christine White

PUBLISHED

Wednesday, 14 February 2018

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LICENSING COMMITTEE

BURNLEY TOWN HALL

Thursday, 26th October, 2017 at 6.30 pm

PRESENT

MEMBERS

Councillors A Royle (Chair), B Brindle, F Cant, I Carmichael, S Chaudhary, J Cunningham, D Fleming, M Ishtiaq, A Kelly, E Monk and C White

OFFICERS

Emma Barker	– Principal Legal Officer - Litigation & Regulation
Imelda Grady	– Democracy Officer
Peter Henderson	– Principal Licensing Officer

6. Apologies

Apologies were received from Councillor Sobia Malik.

7. Minutes

The minutes of the meeting held on 15th June 2017 were agreed as a correct record and signed by the Chair.

8. Additional Items of Business

In accordance with the provisions of Section 100(B)(4)(b) of the Local Government Act 1972 the Chair decided that the following item should be considered as item 8 on the agenda, the reason being to keep the Committee up to date with policy.

Item 8 – Minor amendment to Taxi Licensing Convictions Policy.

9. Taxi Licensing Fees 2018

Members considered the level of taxi licence fees to be effective from January 2018.

Legislation permits the Council to recover the cost of providing the taxi licence service through fees charged for driver, vehicle and operator licences but the fees cannot generate a profit for the Council.

The review of fees in 2017 showed that they were still in line with expenditure and that there was no need to vary the fees at this time.

Members noted that the taxi reserve generated by the private hire drivers' fees would continue to be used to provide a discount per private hire driver until December 2018 when it was anticipated the reserve will have been fully refunded.

It was agreed:

That the taxi licence fees for 2018 be maintained at the current level for the following licences:

Private Hire Driver, Hackney Carriage Driver, Private Hire Vehicle, Hackney Carriage Vehicle and Private Hire Operator.

10. Additional report for information - amendment to taxi licensing convictions policy

Members received for information a report which detailed a minor amendment to paragraph 2 of the Council's Taxi Licensing Convictions Policy which had been made by the Head of Governance Law Property and Regulation using delegated powers.

It was agreed:

That the minor amendment to paragraph 2 of the Council's Taxi Licensing Convictions Policy be noted.

REPORT TO LICENSING COMMITTEE



DATE	22nd February 2018
PORTFOLIO	Resources
REPORT AUTHOR	John Yardley
TEL NO	01143999067
EMAIL	jyardley@burnley.gov.uk

Local Government (Miscellaneous Provisions) Act 1982 - Amendments to Street Trading Consent Conditions

PURPOSE

1. To consider the adoption of new conditions relating to hours of trading, duration of consent and DBS checks in relation to the grant of Street Trading Consents within the Borough under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982

RECOMMENDATION

2. That Licensing Committee approves the following conditions for Street Trading Consents:
 - Amend permitted trading hours to between 0630hrs and 23.00hrs, with only street traders who hold a late night refreshment premises licence under the Licensing Act 2003 being permitted to trade beyond this time in accordance with that licence
 - Introduce consents in the circumstances, and for the durations outlined at Appendix A
 - Require a basic DBS disclosure, not less than one calendar month old, to accompany any new application for a consent. The applicant must also sign up to the DBS update service for the duration of the consent, and any subsequently renewed consent, so that the Council is able to monitor any change in circumstances. Where an applicant intends to employ any other person in the course of the business, then similar arrangements must be in place for each such employee.
 - Require all existing consent holders to meet the DBS requirements within 2 months of the conditions coming into effect
 - No person shall be permitted to hold a street trading consent, or be employed in a business to which the consent relates where they have unspent convictions for sexual, violence, dishonesty or drugs offences. See Appendix B.

That Licensing Committee delegates to the Head of Streetscene the power to revoke street trading consents where the conditions relating to DBS requirements are not met or where a licence holder has an unspent conviction for an offence involving dishonesty, indecency or violence or for an offence that is drugs-related

REASONS FOR RECOMMENDATION

- 3 Licensing Committee is delegated to determine policy in relation to the Street Trading Consent Scheme in accordance with the Scheme of Delegation Pt 3 para 1(b)3 . The proposals to amend conditions ensure that the regulation of street trading better reflects customer needs, is better aligned to current hours of trading particularly within the night time economy and supports strong safeguarding principles.

SUMMARY OF KEY POINTS

- 4 On the 19th March 1986 the Council resolved, to apply the provisions of Schedule 4 of The Local Government (Miscellaneous Provisions) Act 1982, throughout the Borough of Burnley with effect from 20th March 1986. This schedule of the Act deals with the regulation of Street Trading. Since that time the council has periodically reviewed street trading provisions, most recently in 2003. The conditions apply to all consents issued by the Council including those issued via tender within the town centre and parks.
- 5 The Licensing Act 2003 (LA03) came into force in 2005. LA03 resulted in the opening hours of alcohol licensed premises generally being extended particularly within the town centre. Street traders supporting the night time economy, in particular the food sector, extended their hours to reflect this.

Street traders who supply hot food or hot drinks to members of the public between 2300 hours and 0500hrs are required to hold a premises licence under the Licensing Act 2003 for the provision of late night refreshment. There are currently two long established traders who operate under the authority of a LA03 premises licence within the town centre in addition to holding a Street Trading Consent.

Current conditions permit street traders to operate between the hours of 0800hrs and midnight; it is proposed to change these hours to align them with the late night refreshment requirements of LA03. Trading hours under a Consent will be restricted to 0630hrs until 23.00hrs, with only street traders who hold a late night refreshment premises licence permitted to trade beyond this time. This change in hours better reflects customer needs within the food sector not only in respect of late night traders but established food traders who operate within the town at various locations, primarily on industrial estates. A portion of these traders commence trading before 0800hrs to service people on their way to work. Non-food traders generally trade during the daytime, the only exception being traders who cater for special events such for example Burnley FC home fixtures. 2300hrs is considered to be sufficiently late to cover events of this nature

- 6 Concerns have also been expressed within the trade that the current annual consent and annual fee has little flexibility and is unsuitable for some traders who do not wish to operate for a full year, for example ice cream vendors or traders who only wish to trade for a short period of time. It also involves officers in the administration of refunds when traders wish to surrender their annual consent. It is therefore proposed to amend the duration of consents to provide 12 month, six month and one month consents. Additionally it is proposed to introduce special event consents to accommodate traders who do not trade daily, for example at Burnley FC home fixtures. These traders consider themselves to be disadvantaged by having to pay for an annual consent despite y operating infrequently. The proposals for variable duration consents and pro-rata fees are appended at Appendix 'A' of this report. Should Licensing Committee agree to implement

variable duration consents then fees will be set under officer delegations by the Head of Finance in consultation with the Exec Member – Resources. The fees will recognise the additional administration requirements of short term consents.

- 7 The overriding aim of the Council is to protect the safety of the public. The Council is committed to ensure the safeguarding of children, young persons and vulnerable adults. With this in mind it is proposed that a basic DBS disclosure not less than one calendar month old must accompany any new application, and that the applicant must be signed up to the DBS update service for the duration of that or any subsequently renewed consent so that the Council is able to monitor any change in circumstances. Where an applicant intends to employ any other person in the course of the business, then similar arrangements must be in place for each such employee. [All existing consent holders will be required to comply with these requirements within 2 months of the conditions coming into effect.] DBS requirements will apply in all circumstances except where the Head of Streetscene is satisfied that the nature of the trading does not involve contact with children, young persons or vulnerable adults. Where the council exercises discretion and the nature of trading subsequently changes a DBS disclosure may be requested during the period of the Street Trading Consent.

Where any convictions are disclosed the Council will have regard to the Street Trading Convictions Policy at Appendix B in determining the application. Controversial matters will be placed before Licensing Committee. There is no statutory right of appeal in relation to refusal of a street trading consent and disputes would be resolved within the Council.

8. The Local Government (Miscellaneous Provisions) Act 1982 provides that
- the council may at any time vary the conditions of a street trading consent .
 - the council may charge such fees as they consider reasonable for the grant or renewal of a street trading consent, and
 - the council may determine different fees for different types of consent and may determine fees differing according to the duration of the consent.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

- 9 The flexibility relating to consent durations may reduce income in the short term but is hoped to be more attractive to potential traders looking to trade within the borough.

POLICY IMPLICATIONS

- 10 As outlined in the report

DETAILS OF CONSULTATION

- 11 Executive Member Resources – Cllr Mark Townsend
Chair Licensing Committee – Cllr Ann Royle
Vice-Chair Licensing – Cllr Gary Frayling

BACKGROUND PAPERS

FURTHER INFORMATION

PLEASE CONTACT:

Peter Henderson

ALSO:

Karen Davies

STREET TRADING CONSENT PERIOD OF CONSENT:

Type of Consent	Fee to be set under officer delegations
12 months	£775
6 months	£422.50
3 months	£246.50
1 month	£129.00
12 months special event consent #	£221
6 months special event consent #	£146
3 months special event consent #	£108
1 month special event consent #	£83

Special Event Consents – permitting up to 6 days trading in any calendar month



POLICY GUIDELINES TO BE CONSIDERED WHEN DETERMINING APPLICATIONS FOR STREET TRADING CONSENTS

NOTE: In the Council's view this statement and the guidelines that follow are compatible with the rights and freedoms under the European Convention on Human Rights.

This document aims to provide guidance to any person with an interest in street trading consents. In particular, but not exclusively:

- Applicants for street trading Consents
- Existing street trading consent holders that are being reviewed
- Licensing Officers

Street Trading Consent Applications should be accompanied by a basic DBS disclosure no older than 1 month. Applicants granted consents are required to sign up to the DBS update service and provide access details to the Licensing Authority for as long as a consent is held. The same requirements are made of those persons employed by a consent holder to work from the premises.

The Rehabilitation of Offenders Act will apply to any convictions the individual has received. Officers considering Applications for consents will utilise these guidelines for unspent convictions when determining whether to grant such Applications

Whilst Officers will have regard to the guidelines contained in the policy, each case will be considered on its Individual merits and, where the circumstances demand, the Officer may depart from the guidelines.

Background

1. In this Policy the following words have the following meanings:
 - a. "Consent" means a Consent issued under The Local Government (Miscellaneous Provisions) Act 1982 to operate as a street trader in the Borough of Burnley.
 - b. "Applicant" means a person applying for a Consent, an existing Consent holder applying for renewal of a Consent, or an existing Consent holder whose Consent is subject to a decision by the Council to revoke, suspend or take no further action
 - c. "Application" means an Application for a Consent, or an Application for renewal of a Consent.
 - d. "Conviction" means an unspent conviction, caution or formal warning
 - e. "Council" means Burnley Borough Council
 - f. "Individual" includes an existing Consent holder, an applicant for a new Consent, and an Applicant for the renewal of an existing Consent

- g. investigation where there has been no further action due to the criminal burden of proof will still be considered if the Council is satisfied that the incident occurred based on the balance of probabilities)
 - h. "Consent Holder" means the holder of a current valid street trading consent granted by the Council
2. Where this Policy refers to a period free of Conviction:
- (A) Subject to paragraph (B), that period is to be calculated as commencing on the later of –
- a) the date of the Conviction (or where the Conviction is appealed, the date on which the appeal is finally disposed of or withdrawn or fails for want of prosecution);
 - b) in the case of a consent Holder, the date the Conviction was reported to the Council;
 - c) in the case of a consent Holder, the date the Council became aware of the conviction from any other source;
 - d) the date any custodial sentence was completed; or
- and ending on the date of determination of the Application.
3. The Council is concerned to ensure:
- a. That a person is suitable to hold a Consent
 - b. The public are not exposed to persons with a history of dishonesty, indecency or violence.
 - c. The safeguarding of children and young persons and vulnerable adults.
4. When submitting an Application, Individuals are required to declare all unspent previous Convictions they may have. Individuals are also required to declare all unspent formal, and any matters of restorative justice, and to provide details of all criminal matters of which they are currently the subject of criminal investigation or prosecution. It is an offence for any person knowingly or recklessly making a false declaration or to omit any material particular in giving information required by the Application for a Consent. Where an Applicant has made a false statement or a false declaration on their Application for the grant or renewal of a Consent, the Consent will normally be refused.
5. The information given will be treated in confidence and will only be taken into account in relation to the relevant Application to assist the Council in determining their Application
6. The disclosure of a criminal Conviction or other relevant information relating to an Individual's conduct will not necessarily debar an Individual from being granted, retaining or renewing a Consent. It will depend on whether or not the Individual can satisfy the Council that they are a suitable person to hold such a Consent.
7. The Council has adopted the following guidelines relating to the relevance of Convictions to which it refers in determining Applications for Consents and when considering whether to take any action against an existing Consent Holder, and references to the grant of a Consent in these guidelines shall be construed accordingly.

8. The guidelines do not deal with every type of offence, and do not prevent the Council from taking into account offences not specifically addressed in the guidelines, or other conduct, which may be relevant to an Individual. If an Individual has a Conviction for an offence not covered by the guidelines regard will be had to the factors at paragraph 12 when deciding whether any action should be taken.
9. Offences described in the guidelines and similar offences, though differently entitled in any statutory provision, modification or re-enactment, will be taken into account in accordance with the guidelines.

GUIDELINES ON THE RELEVANCE OF PREVIOUS CONVICTIONS AND OTHER INFORMATION

General Policy

1. Each case will be decided on its own merits.
2. The Council has a duty to ensure so far as possible that applicants for, and holders of street collection consents are suitable persons. One aspect of that is the extent to which previous Convictions, including but not limited to unspent Convictions for offences against children and young persons, dishonesty, sexual offences, violence and drugs indicate that a person is not suitable.
3. The Council has a duty to take into account any complaints made to the Council, Police, or any other agency, breaches of Consent conditions and any intelligence received from other agencies (including circumstances which have not resulted in a criminal Conviction or other disposal, e.g.
 - a) incidents that have resulted in a police investigation where there has been no further action due to the criminal burden of proof will still be considered if the Council is satisfied that the incident occurred based on the balance of probabilities.
 - b) Incidents that have resulted in the refusal or revocation of a consent by another Council.
4. Restorative justice and other criminal disposals are increasingly used by the police as a less formal way of dealing with issues and as an alternative to the criminal court system. The Council recognises that restorative justice and other out of court disposals tend to be applied in less serious cases or for first time offenders, nevertheless all such disposals will be taken into account when determining if a person is a suitable person.
5. An Individual with a Conviction for a serious offence need not be automatically barred from obtaining a Consent, but would normally be expected to:
 - a. Remain free of Conviction for an appropriate period; and
 - b. Show adequate evidence that he or she is a suitable person to hold a Consent (the onus is on the Applicant to produce such evidence). A person with a Conviction for a single serious offence or a number of separate offences is not barred from applying for a Consent, but would normally be expected to remain free from Conviction for an appropriate period (which will depend on the nature of the offence.)
 - c. Simply remaining free of Conviction will not generally be regarded as adequate evidence that a person is suitable to hold a Consent.
6. Some discretion may be appropriate if the offence is an isolated one with mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour, which will be taken into account. (In any case which involves certain specified sexual offences, murder or manslaughter a Consent will normally be refused.)

7. Where new offences are created or existing offences are consolidated or re-enacted etc. they will be treated in a manner appropriate to their severity whether or not this guidance has been updated to reflect the changes.

8. The following examples afford a general guide on the action, which might be taken where Convictions are disclosed.

A. OFFENCE OF DISHONESTY

Applicants are expected to be persons of trust. It is comparatively easy for a dishonest person to defraud members of the public who use their services

Those persons may include especially vulnerable people and children.

For these reasons a serious view is taken of any Convictions involving dishonesty.

A Consent will not normally be granted if an Applicant has an unspent Conviction for a dishonesty offence.

Applicants that are found to have intentionally misled the council, or lied as part of the Application process, will not be issued with a Consent. In general, any unspent conviction for a dishonesty offence will of

Offences involving dishonesty include (but are not limited to);

- Theft
- Burglary
- Fraud
- Benefit fraud
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Obtaining money or property by deception
- Other deception
- Taking a vehicle without consent
- And any similar offences
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

B. VIOLENCE (OTHER THAN SEXUAL AND INDECENCY OFFENCES)

Street traders have close, regular contact with the public. A firm line is to be taken with those who have Convictions for offences involving violence.

An Application will normally be refused if the Applicant has an unspent Conviction for an offence of violence.

Offences of violence include but are not limited to:

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Terrorism offences
- Arson
- Malicious wounding
- Actual bodily harm which is racially aggravated
- Grievous bodily harm
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Common assault with racially aggravated
- Violent disorder
- Resisting arrest
- Racially-aggravated criminal damage
- Racially-aggravated offence
- Common assault
- Assault occasioning actual bodily harm
- Affray
- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S.4 Public Order Act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Obstruction
- Criminal damage
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

C. DRUGS

An Application will normally be refused where the Individual has an unspent Conviction for a drugs related offence

If any Applicant was an addict then they will normally be required to show evidence of 5 years free from drug taking after detoxification treatment as required by the Council.

D. SEXUAL AND INDECENCY OFFENCES

Street Traders often deal with unaccompanied vulnerable customers.

Applicants with unspent Convictions for sexual or indecency offences that involve a third party will normally be refused a Consent. Such offences include (but are not limited to);

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Trafficking for sexual exploitation
- Possession of indecent photographs, child pornography etc.
- Indecent exposure
- Soliciting (kerb crawling)
- Or any sex or indecency offence that was committed in the course of employment as a street trader

Any Individual currently on the sex offenders' register would not normally be granted a Consent.

Intelligence and other information which has not resulted in a criminal conviction

The Council will sometimes be made aware of other intelligence or low level information about an Individual which has not resulted in the conviction of that person but is relevant in relation to their character. Officers will give appropriate consideration to this information and will seek to consult with other appropriate agencies in order to ensure that they have a comprehensive understanding. Any additional information gathered through this process may then be taken into account.

BURNLEY BOROUGH COUNCIL



Guidance Notes

For

Street Traders

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1. INTRODUCTION

2. GENERAL INFORMATION

2.1 Definition of Street Trading

2.2 Designation of Streets

2.3 Conditions Applicable to all Consents

2.4 Special Conditions Relating to Ice-Cream Sales

2.5 Applying for a Consent, Fees and Refunds

3. FOOD SAFETY GUIDANCE

4. HEALTH & SAFETY GUIDANCE

5. BURNLEY TOWN CENTRE PLAN

1. INTRODUCTION

- 1.1. These notes are produced to indicate the practical requirements of the law in relation to the construction, fittings and operation, of vehicles and stall operated by mobile traders.

The notes have no statutory force and should not be regarded as a strict interpretation of the law. They are intended to indicate acceptable methods of construction and practice but not to rule out equally suitable methods.

Compliance with these notes or alternative methods approved by the Environmental Health Unit will however be expected of any mobile traders applying for a Street Trading Consent from Burnley Borough Council.

RELEVANT LEGISLATION

The Food Safety Act 1990

Food Hygiene (England) Regulations 2006

The Health and Safety at Work etc. Act 1974

2. GENERAL INFORMATION

2.1. DEFINITION OF STREET TRADING

2.1.1. Anyone intending to carry on street trading within the Borough of Burnley must first obtain the consent of the Council. The Local Government (Miscellaneous Provisions) Act 1982 defines street trading as: "the selling or offering for sale of any article (including a living thing) in a street". For the purposes of the Act the following are not classed as street trading:

- (a) trading under the authority of a Pedlars Certificate granted under the Pedlars Act 1981.
- (b) Trading in a market or fair.
- (c) Trading in a trunk road picnic area provided under Section 112 of the Highways Act 1980.
- (d) Mobile shops trading as roundsmen making deliveries to regular customers at home.
- (e) Trading at a petrol filling station.
- (f) Trading on a street adjoining a shop where the trading carried on is part of the business of that shop.
- (g) Trading as a news vendor where:
 - (i) the only articles sold or offered for sale are newspapers and periodicals; and
 - (ii) the stall or receptacle used (if one is used) is:
 - (a) no more than one metre in length or width and two metres in height.
 - (b) Exceed a ground area of 0.25 square metres
 - (c) Does not stand on the carriageway of a street

Prospective traders are recommended to seek advice before commencing trading from the Environmental Health Unit , telephone 01282 425011.

2.2. DESIGNATION OF STREETS

2.2.1. The Council has resolved that all streets within the Borough are either:

- (a) Prohibited Streets – where no street trading is allowed at all; or
- (b) Consent Streets – where street trading is allowed with the consent of the Council.

The Prohibited Streets are:

- (i) All streets within the area are bounded by the following streets:

Hargreaves Street, Grimshaw Street, Parker Lane, Red Lion Street, Croft Street, Yorkshire Street, Hall Street, Bridge Street, Kingsway, Parker Street, Curzon Street and Hammerton Street (with the exception of those streets forming the Burnley Town Centre Pedestrian Area – see plan at Appendix 1 for details).
- (ii) Springwood Road - for the whole length
- (iii) Burnley Road, Padiham - from the junction with Eccleshill Street to the Junction with Tattersall Street.
- (iv) Clitheroe Street, Padiham -from the junction with Sowerby Street to the junction with Ightenhill Street.
- (v) Darwen Street, Padiham - for the whole length.
- (vi) Eccleshill Street, Padiham -for the whole length.
- (vii) Ightenhill Street, Padiham -from the junction with Eccleshill Street to the Junction with Clitheroe Street.
- (viii) Mytton Street, Padiham - from the junction with Eccleshill Street to the Junction with Clitheroe Street.
- (ix) Sowerby Street, Padiham - for the whole length.

The remaining streets within the Borough are Consent Streets. However, in relation to the following:

- (a) All streets, ramps, malls and walkways within the Burnley Town Centre Pedestrianised area (see attached plan); and
- (b) The following streets within or adjacent to the following parks in the Borough;
 - (i) All streets within Towneley Park.
 - (ii) All streets within Thompson Park and those parts of Ormerod Road, Colne Road and Shorey Bank for a distance of ten metre from the entrance to Thompson Park.
 - (iii) All streets within Queens Park and those parts of Queen Victoria Road, Queens Park Road and Ormerod Road for a distance of ten metres from the entrance to Queens Park.
 - (iv) All streets within Scott Park and those parts of Fern Road, Manchester Road, Scott Park Road and Carr Road for a distance of ten metres from the entrance to Scott Park.
 - (v) All streets within Ightenhill Park and those parks of Avondale Avenue, Brassey Street, Ightenhill Park Lane, Ighten Road and Southern Avenue which are co-extensive with the boundary of Ightenhill Park (including the bowling green and tennis courts).
 - (vi) All streets within Memorial Park, Padiham and those parts of Blackburn Road, Bridge Street and Church Street for a distance of ten metres from the entrance to Memorial Park.

The Council will only issue Consents following a successful tender being submitted to the Council for the right to trade in these areas, further details can be obtained from Burnley Town Hall, telephone (01282) 425011.

2.3. CONDITIONS APPLICABLE TO ALL CONSENTS

- 2.3.1. The consent granted by the Council is personal to the consent holder and is not transferable. Where the consent holder is an employer the consent will apply to named employees who have been previously named and approved by the Council. The consent may only be transferred to another vehicle, container or stall with the prior consent of the Council.
- 2.3.2. A basic DBS disclosure, not less than one calendar month old, shall accompany any new application for a consent. The applicant must also sign up to the DBS update service for the duration of the consent, and for the duration of any subsequently renewed consent, so that the Council is able to monitor any change in circumstances. Where an applicant intends to employ any other person in the course of the business, then similar arrangements must be in place for each such employee. [This requirement must be met by existing consent-holders within 2 months of the condition coming into effect ie *DATE TO BE INSERTED*]
- 2.3.3. Only goods specified in the consent may be sold from the vehicle and only the streets specified in the consent to be used for trading.

- 2.3.4. Nuisance and/or annoyance shall not be caused by the consent holder or any of his employees to persons using the street or otherwise.
- 2.3.5. No obstruction of any street or right of way or danger to the public shall be caused by the consent holder or any of his employees.
- 2.3.6. The name and address of the consent holder shall be displayed conspicuously on the vehicle, container or stall to which it relates.
- 2.3.7. The consent holder shall comply with all the legislation relevant to the conduct of the business in which he is engaged and ensure that any vehicle used by him is in a roadworthy condition and where necessary taxed and insured.
- 2.3.8. The consent holder or any person employed by him shall not use any loud speaker, whistle, horn, bell or other audible method to attract custom. This provision shall not apply to the chimes of any ice-cream van during the permitted hours of twelve noon and seven pm.
- 2.3.9. The consent holder shall provide adequate receptacles for rubbish and shall, after trading has ceased, remove all rubbish and litter from the site.
- 2.3.10. The permitted hours of trading shall be between 06.30 hrs and 2300 hrs except street traders who hold a late night refreshment premises licence under the Licensing Act 2003 who will be permitted to trade beyond this time in accordance with that licence
- 2.3.10 The consent holder shall comply with any reasonable requirement of the Council or any of its Officers or of a Police Officer in relation to the siting and/or operation of his street trading business.
- 2.3.11 The Council may withdraw the consent if the holder shall without good cause fail to comply with any condition herein.
- 2.3.12 Any consent issued will only be valid in relation to a single vehicle, container or stall
- 2.3.13 The consent holder shall at the request of the Council present the vehicle, container or stall for inspection at such time and place as required by the Council.

2.4. SPECIAL CONDITIONS RELATING TO ICE-CREAM

- 2.4.1. The following special conditions apply to consents issued in relation to ice-cream sales:
 - 1. Chimes should not be sounded before twelve noon or after seven pm.
 - 2. Chimes should not cause nuisance or annoyance, in particular they should not be sounded:
 - (i) For longer than four seconds at a time.

- (ii) More often than once every three minutes
- (iii) When the vehicle is stationary.
- (iv) Exception on approach to a selling point.
- (v) Within sight of another vehicle which is trading.
- (vi) Within 50 metres of schools (during lunch hours), hospitals and places of worship (on Sundays or other recognised days of worship)
- (vii) More other than once every two hours in the same length of street.
- (viii) Louder than 80db(A) measured at a distance of 7.5 metres.
- (ix) As loudly in quiet streets or narrow streets as elsewhere.

2.5. **APPLYING FOR A CONSENT, FEES AND REFUNDS**

2.5.1. All traders must apply for and be granted a consent before commencing trading within the Borough. Application forms will be provided on request.

2.5.2. The appropriate fee, which can be found on the Councils website www.burnley.gov.uk, must accompany the application form which should be returned to **Burnley Borough Council Licensing Unit, Parker Lane, Burnley, BB11 2DP**. Where necessary an inspection of the stall or vehicle will be arranged at a mutually convenient time, and necessary works required to comply with the law will be explained and must be completed before a consent will be issued. Consents will be issued for the following durations:

Type of Consent
12 months
6 months
3 months
1 month
12 months special event consent #
6 months special event consent #
3 months special event consent #
1 month special event consent #

Special Event Consents – permit up to 6 days trading in any calendar month

Consents can be refunded where a trader decides to cease trading part way through a year.

The amount of refund will be calculated on the number of full months left minus a further £70.00 to cover the administration costs incurred.

3. **FOOD SAFETY GUIDANCE**

3.1. **CONSTRUCTION OF VEHICLE/STALL**

3.1.1. Floors should be fitted with non-slip impervious material, ideally joint free the edges should be sealed to assist cleaning.

- 3.1.2. Walls and ceiling must be smooth and impervious joints must be sealed and kept to a minimum. Walls may be clad with plastic or laminate material (stainless steel sheeting is encouraged adjacent to fridges or similar cooking appliances).
- 3.1.3. Dirt traps must be eliminated.
- 3.1.4. The general fabric if painted must enable thorough cleaning, if the vehicle cab forms part of a food room it must be kept clean and constructed as to facilitate cleaning.
- 3.1.5. Work surfaces and shelving should be impervious, non toxic and readily cleansable surfaces abutting onto the wall should be sealed.
- 3.1.6. The structure of any unit must not allow pest infestation. Any infestation must be dealt with immediately.

3.2. WASHING FACILITIES

- 3.2.1. Washing facilities must be separate for equipment and hand washing.
- 3.2.2. Plastic bowls and vacuum flasks of hot water may be acceptable for low risk food or raw foods for direct sale from the vehicle without further preparation (e.g. sale of fruit and vegetables or wet fish).
- 3.2.3. When open food for immediate consumption or further preparation on the vehicle is handled, these facilities should be separate and comprise.
 - 1. A sink
 - 2. A wash hand basin for hand washing only. This must be provided with an adequate supply of soap and hand drying facilities.
 - 3. Adequate supplies of hot and cold potable water should be provided to both sets of washing facilities.
 - 4. Waste water from washing facilities must be piped directly to sealed impervious containers. The waste water must be disposed of to foul drainage system and the containers thoroughly cleaned prior to re-use.

3.3. WATER SUPPLY

- 3.3.1. Adequate quantities of water must be carried on the vehicle. Any water used in the production of food must be potable.
- 3.3.2. Containers used to carry water must be cleaned/disinfected between use. Adequate quantities of water must be carried on the vehicle. (It is recommended that at least five gallons of cold water and three gallons of hot water should be available).

NB: Units are available for adaptation to vehicles which utilise heat from the engine to provide a hot water supply.

3.4. REFUSE STORAGE

- 3.4.1. Impervious, lidded containers of appropriate construction, kept in sound condition, easy to disinfect and with disposable liners should be provided for use inside the food unit.
- 3.4.2. All refuse generated by the business must be removed from the site and disposed of in a satisfactory manner.
- 3.4.3. Unnecessary accumulations of waste within the unit must be prevented.

3.5. EQUIPMENT

- 3.5.1. All articles, fittings and equipment must be capable of being cleaned and where necessary disinfected.
- 3.5.2. They must be kept in a good state of repair.
- 3.5.3. Articles which come in to contact with food must not contaminate it.
- 3.5.4. Equipment must be installed in such a manner which enables free access for cleaning the surrounding area.

3.6. VENTILATION

- 3.6.1. Ambient temperatures in mobile catering units tend to be high due to the construction and heat producing appliances. Adequate ventilation is therefore essential.
- 3.6.2. Care must be exercised to prevent the ingress of flies through ventilation inlets and outlets.

3.7. LIGHTING

- 3.7.1. Adequate lighting is required. A standard of 400 lux is recommended enabling good illumination for food preparation and assisting vision for cleaning.

3.8. FOOD CONTAMINATION

- 3.8.1. Food must be placed and protected so as to reduce the risk of contamination.
- 3.8.2. Effective separation must be maintained between raw and cooked foods, especially meat and poultry. Storage should be such as to avoid "drip" i.e. cooked food to be stored above raw food. This is more likely to occur in a refrigerator. (Separate refrigerator accommodation is recommended for raw and cooked foods. It is also recommended that separate utensils and chopping boards be provided for the preparation of raw and cooked foods).

- 3.8.3. All open foods must be covered (food storage in washable lidded containers is recommended).
- 3.8.4. Separation of food intended for use and waste food or refuse must be maintained. Waste food or refuse must be stored in secure labelled containers.
- 3.8.5. Under no circumstances are pets to be permitted on any vehicle, stall, etc.
- 3.8.6. Precautions must be taken against customer contamination from coughs, sneezes, etc.
- 3.8.7. Wrappings must be clean and stored in a clean environment. Newspaper wrapping is not acceptable.
- 3.8.8. No raw materials or ingredients should be carried on the food vehicle if they are known or suspected to be infested or contaminated or in such a condition which would render them unfit for human consumption.
- 3.8.9. Raw materials and ingredients stored on the vehicle must be kept in an appropriate condition which is designed to prevent harmful deterioration and protect them from contamination.

3.9. TEMPERATURE CONTROL

- 3.9.1. Adequate provision must be made to store any food which is likely to support the growth of harmful bacteria either cold at below 8°C or hot at above 63°C.
- 3.9.2. Temperatures of food stored on the vehicle should be checked regularly with an accurate thermometer to ensure that safe temperatures are being maintained.
- 3.9.3. Where it is necessary to cool food on the vehicle this should be carried out as quickly as possible under properly controlled conditions.

3.10. STOCK ROTATION

- 3.10.1. Stock rotation must be efficient. Attention must be given to “date coding” and any other specific storage requirements. It is an offence to sell food beyond its “Use by” date.

3.11. PERSONAL HYGIENE

- 3.11.1 All persons must be aware that they have an obligation to keep themselves and their protective over clothing (aprons, etc.) clean. Regular hand washing for staff handling food is essential.
- 3.11.2 The potential for the spread of infection from any person known or suspected to be suffering from food poisoning, diarrhoea, vomiting, skin infections etc. should be prevented. Direct or indirect contact with

food should be avoided.

- 3.11.3. Clean and washable protective overclothing must be worn by food handlers. The storage of outdoor clothing and/or footwear in a food room should be avoided.
- 3.11.4. Clean waterproof dressings must cover any cuts or abrasions on hands and forearms.
- 3.11.5 Smoking or any use of tobacco whilst handling open food or whilst in any area in which open food is present is prohibited, this includes the driver's cab if not separated.

3.12 GENERAL HYGIENE PROVISIONS

- 3.12.1 The name and address of the person carrying on the business must be displayed conspicuously and legibly. The address should be the full postal address. A card or board is acceptable, preferably at the sales point.
- 3.12.2 Cleaning in mobile catering units is of the utmost importance and must be regularly maintained.
- 3.12.3. Home based stalls may, on occasions necessitate some degree of home preparation and storage, in such instances the provisions of the Food Safety (General Food Hygiene) Regulations 1995 will apply. Liaison with the Environmental Health and Cleansing Services Unit as to the acceptability of domestic premises is very important.

Clearly by maximising the use of the mobile unit and by regularly purchasing food, the domestic activities can be lessened.
- 3.12.4 The vehicle/stall should be registered with the Local Authority responsible for the area in which it is kept. For new businesses registration should be carried out 28 days prior to opening. Registration is free and application forms are available from the relevant Local Authority.
- 3.12.5 It is a legal requirement that food handlers must be supervised and instructed and/or trained in food hygiene matters commensurate with their work activities.

3.13 HAZARD ANALYSIS

- 3.13.1. As the proprietor of a food business you must:-
 - 1. Identify any food safety hazards associated with the activities that you undertake.
 - 2. Know which steps in those activities are critical for food safety.
 - 3. Ensure safe controls are in place, maintained and reviewed regularly to reduce any risk arising out of those activities.

4. HEALTH AND SAFETY GUIDANCE

4.1. GENERAL

- 4.1.1. Employers have a legal duty to employees including the provision of safe systems of work, provision of training and supervision, safe handling and storage of substances and articles and a safe working environment.
- 4.1.2. Both employers and the self-employed have a duty to anyone who could be affected by work activities e.g. customers, visitors and contractors. Such persons should not be exposed to any risks to their health and safety.

Employees must safeguard themselves and their colleagues and co-operate with their employer in connection with the duties imposed upon them.

- 4.1.3. First-aid boxes and kits should always be adequately stocked. All vehicles/stalls will need at least one first-aid box which should contain a sufficient quantity of suitable first-aid materials. No medical products should be kept.

As a minimum it should normally contain:

- 1 guidance leaflet "First aid at Work" (IND 64)
- 20 individually wrapped sterile adhesive dressings (assorted sizes)
- 2 sterile eye pads with attachment
- 6 individually wrapped triangular bandages
- 6 safety pins
- 6 medium sized individually wrapped sterile unmedicated wound dressings (approx. 10cm x 8cm)
- 2 large sterile individually wrapped unmedicated wound dressings (approx. 13cm x 8cm)
- 3 extra large sterile individually wrapped unmedicated wound dressings (approx. 28cm x 12.5cm).

Where tap water is not readily available for eye washing, sterile water or sterile normal saline in sealed disposal containers should be provided. Each container should hold at least 300mls and at least 900mls should be provided.

4.2. L.P.G.

- 4.2.1. Increasing concern is being shown over the safety of Liquefied Petroleum Gas (L.P.G.) installations in catering vehicles used for cooking, water heating, etc. Precautions must be taken when fitting and/or using this type of installation.

The installation of gas appliances, fires, pipework valves, etc. must be undertaken by a competent person i.e. a CORGI (Council for Registered Gas Installers) registered contractor and comply fully with

Gas Safety (Installation and Use) Regulations 1994 and all relevant British Standards.

- 4.2.2. Every employer or self employed person must ensure the correct operation of each gas appliance, installation pipework and any fitted safety devices. Each appliance should be checked annually by a competent person who is a member of an organisation registered with CORGI.
- 4.2.3. A record of the dates of inspection in respect of the appliances checked, the defects identified and remedial action taken should be kept.
- 4.2.4. Containers or cylinders of L.P.G. and any manifold and change over valves must be positioned in the open air or in a separate ventilated housing forming part of the vehicle. The housing construction must be of gas tight to the interior and have an internal construction capable of 30 minutes fire resistance. Joints are to be bonded to prevent fire or hot gas spreading into the vehicle. Ventilation can be achieved by ventilating the base and/or the side away from the vehicle, using re-enforced mesh or similar strong supporting construction. It is important to provide ventilation at low level as L.P.G. is heavier than air and therefore any leaking gas will descend.
- 4.2.5. The location of the housing should be such to prevent damage to cylinders if subject to impact during a road traffic accident. Access should only be from outside and made secure to prevent tampering but containers must be readily accessible in emergencies.
- 4.2.6. Only the minimum of L.P.G. considered necessary should be carried and a notice affixed to the outside of the compartment indicating the presence of L.P.G. Sources of ignition must be prohibited within one metre of the storage compartment.
- 4.2.7 All persons working in mobile catering units must have adequate instruction, training and information on the hazards of L.P.G. and be aware of necessary action to be taken in the event of an emergency. Safe systems of work must be established particularly in the changing of cylinders and the safe use of appliances.

4.3. ELECTRICITY

- 4.3.1. All electrical systems including portable electrical equipment need to be maintained in a safe condition and comply fully with The Electricity at Work Regulations 1989. Equipment should only be used for the purpose it was intended and in the environment for which it was designed and constructed.
- 4.3.2. Checks on appliances can be made by any employer provided they are competent and have received training. However, all earthed equipment, leads and plugs connected to such equipment and extension leads should have an occasional combined inspection and test carried out by a competent person normally a qualified electrician.

4.3.3. It is recommended that a record of the dates of inspection in respect of the appliances checked, the defects identified and remedial action taken is kept.

4.3.4. Main electricity should be used where practicable where this is not available the use of generators is advised. Where mains electricity is used any cables should be positioned to prevent them being physically damaged and to avoid any tripping hazard

4.4 GENERATORS

EXPERT ADVICE MUST BE FOLLOWED REGARDING APPLICATION AND INSTALLATION.

4.4.1. Generators must be sited away from gas containers or appliances in a well-ventilated area to allow dissipation of exhaust fumes.

4.4.2. Generators must not be sited so that noise emitted gives rise to nuisance.

4.4.3. Where possible petrol should not be stored. If storage is absolutely necessary it is limited to not more than two gallons in an approved metal or plastic container. Containers must be stored away from combustible or ignitable materials or sources.

4.4.4. Generators must be used in accordance with the manufacturers operating instructions.

4.4.5. Appliances must be protected by a 30 mA/30 ms residual current device to minimise the risk of electric shock. Before such devices are fitted specialist advice must be sought, complication can arise due to location, weatherproofing, vibration, mechanical damage and the need to establish an adequate true earth.

4.5. OPERATOR SAFETY

4.5.1. All operators of electrical appliances should be instructed in its safe and correct use and told not to use damaged and/or defective items. Apparatus should be examined before use and if defective withdrawn from service and not returned to service until it has been repaired and checked by a competent person.

4.6. APPLICANCES

4.6.1. Appliances should be securely fixed and meet the relevant British Standard.

4.6.2. Flame failure devices are recommended to gas appliances in all cases, i.e. a device which shuts off the supply of gas if the flame becomes extinguished.

- 4.6.3. Gas appliances should not be lit whilst the vehicle is in motion except that L.P.G. fuelled refrigerators may be used on the road when:
- (a) A flame failure device is fitted.
 - (b) An adequate flue (not necessary in trailers) is provided.
 - (c) The unit is properly secured.
 - (d) The unit does not show a naked flame.
- 4.6.4. When used on the road an additional air intake with an effective area of not less than 13 sq. cm is recommended to be fitted in the floor of the vehicle below the refrigerator but must not cause a draught so as to extinguish the burner or pilot light.
- 4.6.5. The use of 12 Volt battery sources to run refrigerators and freezers is encouraged.
- 4.6.6. Flues should be fitted to all appliances where required and adequate ventilation must be provided in every vehicle compartment where L.P.G. fuelled appliances are used.
- 4.6.7. Frying ranges should be fitted with an automatic high temperature limit device capable of shutting off the main burner if the temperature exceeds 230°C.
- 4.6.8. In addition, an automatic temperature control device should be fitted to allow the frying medium a maximum temperature of 230°C. A visual temperature indicator should also be provided and should include an alarm mechanism if the temperature of the frying medium exceeds the maximum.

4.7. FIRE PRECAUTIONS

- 4.7.1. Clear written instructions must be displayed inside the vehicle detailing action to be taken in the event of fire or gas leakage.
- 4.7.2. A fire blanket should be provided especially where frying is undertaken.
- 4.7.3. A dry powder fire extinguisher of 4.5kg capacity should be a minimum provision and will be suitable for both L.P.G. and fat fires. Such equipment must be sited in a readily accessible position adjacent to an exit.
- 4.7.4. Access to and from the vehicle should be safe and free from any obstruction.
- 4.7.5. Where practicable cooking appliances and other sources of ignition must be sited away from the exit to allow staff to escape with passing through an area of risk.
- 4.7.6. Further advice on fire precautions can be obtained from the Fire Safety Officer, Burnley Fire Station, Belvedere Road, Telephone 423240.

4.8. SANITARY ACCOMMODATION

- 4.8.1. Where traders operate at a fixed site throughout the day arrangements will have to be made for access to toilet facilities either on the vehicle or at premises immediately adjoining the site.
- 4.8.2. Sanitary accommodation should include a sanitary appliance, wash hand basin with hot and cold water supply and should be ventilated directly to the external air.
- 4.8.3. If sited on the vehicle, the sanitary accommodation should be approachable only from the exterior or via an intervening ventilated lobby.

REPORT TO LICENSING COMMITTEE



DATE	22nd February 2018
PORTFOLIO	Resources
REPORT AUTHOR	Peter Henderson
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Minor Amendment to Taxi Licensing – Policy Guidelines to Fitness and Propriety Including Convictions and Other Relevant Information.

PURPOSE

1. To consider a minor amendment to the existing policy guidelines..

RECOMMENDATION

2. That Licensing Committee approves the amendment as set out in this report

REASONS FOR RECOMMENDATION

- 3 To set a tariff for those instances where applicants make false declarations on application forms.

SUMMARY OF KEY POINTS

- 4 The current policy provides guidance to any person with an interest in public and private hire licensing including:
 - Applicants for new licenses
 - Existing licensed holders whose licences are being reviewed or renewed
 - Licensing officers
 - Members of the licensing committee (or other relevant decision making body)
 - Magistrates hearing appeals against local authority decisions.

The convictions policy particularly helps Members and officers to be consistent when considering whether or not an applicant or an existing licence holder is a fit and proper person to hold a licence, and sets tariffs for particular offences and circumstances

5. Paragraph 7 of the guidance to the current policy states, "When submitting an Application, Individuals are required to declare all previous Convictions they may have. Individuals are also required to declare all formal/simple cautions, any matters of restorative justice and all fixed penalties and all endorsable fixed penalties they have received and to provide details of all criminal matters of which they are currently the subject of criminal investigation or prosecution. It is an offence for any person knowingly or recklessly making a false declaration or to omit any material particular in giving information required by the Application for a Licence. Where an Applicant has made a false statement or a false declaration on their Application for the grant or renewal of a Licence, the Licence will normally be refused."

It is proposed that the following words be added to the end of the above paragraph in order to provide clarity to applicants and decision makers should further applications be made by those persons previously refused.

"Further applications from the same person will not normally be granted within 6 months of the date of the initial refusal."

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

- 6 None

POLICY IMPLICATIONS

- 7 Determination of hackney carriage and private hire driver's and operator's licences is the responsibility of the Licensing Committee

DETAILS OF CONSULTATION

- 8 Members of the Taxi Task Group
David Talbot, Senior Solicitor.

BACKGROUND PAPERS

- 9 None

FURTHER INFORMATION

PLEASE CONTACT:

Peter Henderson

ALSO:

Karen Davies