



Cabinet 2 September 2014

Revised Market Licence Regulations (May14/05)

1. Summary and reasons for recommendation

- 1.1 This report seeks the approval of amended Market Licence Regulations. These have been under review in consultation with market stallholders for a period of time and reflect new ways of working. This includes a greater emphasis on matters relating to food hygiene in markets which are increasingly given over to food retailing, and on health and safety.
- 1.2 The regulations also address management and operational issues including the allocation of pitches and the expected levels of conduct around interactions between markets staff, traders and the public. They also clarify the position regarding political parties and pressure groups at the markets.

2. Recommendation

- 2.1 It is **RECOMMENDED** that the Market Licence Regulations contained in Appendix A to Report F96, including the provisions being made for political parties and pressure groups to operate in the town centres set out at Section 4.4 of the Regulations, be approved.

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3. Strategic priorities

- 3.1 The recommendation meets the following, as contained within the West Suffolk Strategic Plan:
- (a) Increased opportunities for economic growth; and
 - (b) Resilient families and communities that are healthy and active

4. Key issues

Background

- 4.1 The markets operating in Bury St Edmunds and Haverhill are an integral part of the town centres, providing an essential community facility for residents and visitors and are intended to offer affordable business opportunities for traders. It is a key priority for St Edmundsbury Borough Council (the Council), that they continue to thrive and develop. The Council wishes to ensure that visitors receive an excellent standard of customer service, enjoy a positive experience and want to visit again.
- 4.2 With these goals in mind, the revised Market Licence Regulations attached as Appendix A to the report, set out the terms and conditions which must be adhered to by a trader granted a licence to trade in the Council's markets. These Regulations define the Council's rights as the market operator and the standards and obligations the Council is placing on the market trader who must agree to accept and abide by them.
- 4.3 These Regulations are intended to be fair and reasonable whilst providing sufficient flexibility to meet the potential future needs of the market's traders and customers.
- 4.4 These Regulations replace the Provision Market Regulations previously issued by the Council and include the Council's commitment to market traders to ensure:
- (a) a safe and welcoming environment in which to trade;
 - (b) the continuous development and promotion of the Markets and Market events to attract new shoppers and traders;
 - (c) a balanced Market offering with limited duplication of both core and competing secondary product lines;
 - (d) a fair and thorough application process for traders wishing to apply to trade or introduce a new product line;
 - (e) a right of appeal against suspension, termination or refusal to transfer a Licence with a defined process and time table; and
 - (f) open and two-way communication with all traders, either directly or through their nominated representatives.
- 4.5 The Health and Safety of traders, staff and the public is of paramount importance and the new Regulations have been comprehensively revised to reflect this for a modern market operation. This addresses vehicle movements, loading and unloading, fire safety, the use of Liquid Petroleum Gas (LPG), the use of electricity, the use of generators, stall structures, litter and waste as well as food safety and hygiene.
- 4.6 These proposed Market Licence Regulations have been prepared in consultation with market trader representatives. It should be noted that these individuals have given a significant portion of their own time to work with Officers in

developing a document that it is hoped reflects the needs of all parties with a stake in developing our markets.

Political Parties and Pressure Groups

- 4.7 Although there is precedent for allowing political parties and pressure groups to come onto our markets, both recently and in the past, policy has never been clear on this topic and it forms part of the review. The Council has received some comments about such groups. Consultation and comment on the matter indicates that there is a view that our markets should primarily be a concourse for buyers and sellers and not for those wishing to promote political views or ideas.
- 4.8 Until now, requests from political parties and pressure groups to operate on our markets has been a matter for officer discretion. The existing market regulations do not directly address the issue stating that:-

"4.3.1

The Markets Manager or Markets Supervisor will consider all applications for vacant stalls against criteria including (but not limited to):-

- *The need for the particular trade stated on the application and for preserving a proper balance of product lines;*
- *The conduct of the trader (if applicable), including any failure to comply with these regulations or any legislation or byelaws relating to the markets;*
- *Evidence of demand from shoppers for the continuation of the trade or product line concerned; and*
- *The quality of the product line being offered and its presentation."*

- 4.9 Although the use of words such as 'trader' and 'product line' implies that the stall will be selling something, this provides little in the way of support to Markets Officers in dealing with requests from political parties or pressure groups and is open to interpretation, thereby risking an inconsistent approach.
- 4.10 In researching our byelaws (15 August 1968) they appear more consistent with the approach set out in Section 4.4 of the proposed Market Licence Regulations:

"For Preservation of Order

8. *No person, other than an officer or servant of the Council in the proper execution of his duty, shall, except by way of sale, distribute or attempt to distribute to the public in the markets any leaflet, pamphlet or other literature."*

"Placards

28. *No person, other than an officer [etc as above] shall without the permission of the Markets Superintendent, post or display any bill, placard or poster other than a description of goods for sale in or on any stall in the market: provided that this Byelaw shall not apply to any name board as is required by Byelaw 26"*

4.11 Section 4.4 of the proposed Regulations clarifies the position by stating that political parties and pressure groups are not permitted to hire pitches at the markets.

4.12 Section 2 of the proposed regulations provides the following definitions:

Political Parties An official organisation of people who share the same views about the way power should be used in society (through Government policy making).

Pressure Groups A group of people who seek to exert pressure on legislators and public opinion in order to promote their own ideas or welfare.

In relation to hiring Council facilities, the activities of any such parties or groups also need to be consistent with the Council's own equality duties.

4.13 It is recognised that it is important for political parties and pressure groups to communicate with the public in our town centres. In order to provide opportunity for this to take place it is proposed that political parties and pressure groups operate in our town centres under Street Vending Permissions which are already issued to organisations by our Licensing team.

4.14 The current Street Vending Permissions allow for the use of tables and other forms of advertising through the street trading regime as follows:

"Street vending and street café permits are issued by St Edmundsbury Borough Council for all circumstances where amenities are provided on highways by persons other than the Council. To place tables, chairs or other temporary furniture on the pavement in England and Wales you require a licence from your local authority.

A person who wishes to place objects or structures on, in or over the highway, for:-

- i. A purpose which will result in the production of income;*
- ii. The purpose of providing a centre for advice or information; and*
- iii. The purpose of advertising."*

4.15 St Edmundsbury Borough Council currently has standing Street Vending Permissions in place for businesses and groups that wish to set up a pitch in our town centres. These cover the pedestrianised area of Cornhill between Poundland and Thorntons in Bury St Edmunds and the Market Square in Haverhill. These sites are available to political parties and pressure groups (and other parties) on days other than when the provision markets are operating for a nominal fee to cover administration.

4.16 Political parties and pressure groups can operate from a pitch in an area outside of the market on days when the market is operating. They can apply to do so by obtaining their own Street Trading Permission from our Licensing service.

4.17 We have a long standing policy not to accept bookings from political parties during formal election periods because this would fall foul of the prohibition on using our resources to promote political parties or candidates.

5. Other options considered

5.1 Continuing to function under the previous Provision Market Regulations is not considered appropriate given the developing nature of our markets and the expectations of traders, customers and the Council.

6. Community Impact

6.1 **Crime and disorder impact** *(including Section 17 of the Crime and Disorder Act 1998)*

6.1.1 Issues of conduct are contained in section 7 of the Regulations.

6.2 **Diversity and equality impact** *(including the findings of the Equality Impact Assessment)*

6.2.1 There are no human rights and diversity implications contained within this report

6.3 **Sustainability impact** *(including completing a Sustainability Impact Assessment)*

6.3.1 Sustainability of markets operations remain under periodic review. Past developments have included the introduction of a comprehensive waste recycling system for the market which has diverted significant tonnes from landfill since its inception.

6.4 **Other impact** *(any other impacts affecting this report)*

6.4.1 None

7. Consultation

7.1 In preparing the new Market Licence Regulations comprehensive consultation has been carried out with market trader representatives who have been generous with their time and extremely helpful with their input.

8. Financial and resource implication

8.1 There is no significant financial impact associated with this report. The setting of fees and charges for trading (other than those associated with obtaining a licence) is carried out separately.

9. Risks

Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
Regulations deter traders and diminish markets	Medium	Consult with traders and review regulations from elsewhere to gauge appropriateness	low
Regulations restrict trade and development of the markets	Medium	Regulations to remain under review through regular liaison meetings with traders	low

10. Legal and policy implications

10.1 The Market Licence Regulations replace the previous Provisions Market Regulations and act to support the current byelaws and the Market Charter (Bury St Edmunds).

11. Wards affected

11.1 All.

12. Background papers

12.1 None

13. Documents attached

Appendix A – Market Licence Regulations

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St Edmundsbury

BOROUGH COUNCIL

Market Licence Regulations

September 2014

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St Edmundsbury Borough Council

Market Licence Regulations

1. Introduction

The need for Market Licence Regulations

The markets operated in Bury St Edmunds and Haverhill provide an essential community facility to residents and visitors and are intended to offer affordable business opportunities for traders. They are an important part of our local communities and ensuring that they continue to thrive and develop is part of St Edmundsbury Borough Council's key economic development priority. The council intends to ensure that visitors receive an excellent standard of customer service, enjoy a positive experience and want to visit again.

With these goals in mind these regulations set out the terms and conditions which must be adhered to by a trader granted a licence to trade in the council's markets. These regulations define the council's rights as the market operator, and the standards and obligations the council is placing on the market trader.

Any trader who is granted a licence to trade in the council's markets must accept and agree unreservedly to abide by these regulations.

These regulations are intended to be fair and reasonable whilst providing the flexibility of the council's market operation to meet the potential future needs of the market's customers. These regulations also set out penalties for breach and include a fair and clearly defined process to appeal certain decisions taken by the council's Markets Management Team.

These regulations replace the Provision Market Regulations previously issued by the council.

The council's commitment to market traders

The council commits that it will administer the market operation in such a way as to ensure:

- a safe and welcoming environment in which to trade;
- the continuous development and promotion of the markets and market events to attract new shoppers and traders;
- a balanced market offering with limited duplication of both core and competing secondary product lines;
- a fair and thorough application process for traders wishing to apply to trade or introduce a new product line;
- a right of appeal against suspension, termination or refusal to transfer licence with a defined process and time table; and
- open and two-way communication with all traders, either directly or through their nominated representatives.

Future changes

St Edmundsbury Borough Council may change these regulations at any time in the future. Prior to changing these regulations the council will consult with traders for not less than four weeks and will then give four weeks' written notice before any change takes effect.

The daily operation of the market is the responsibility of the Market Supervisor (and his/her delegated market officer) who is entrusted and authorised to apply discretion and judgement in the interpretation of the regulations.

2. Definitions

- a) **Appeal process** means the process applied by the council for dealing with appeals submitted by market traders against decisions taken by the council's Markets Management Team.
- b) **Casual trader** means any trader granted a licence to trade and to pitch a stall in the market for a single day.
- c) **Council** means St Edmundsbury Borough Council.
- d) **Equipment** means portable rails and stands, generators, bins and other receptacles.
- e) **Exceptional circumstances** means circumstances that could not be reasonably foreseen and for which there was insufficient time to take the necessary action to resolve the situation arising from those circumstances.
- f) **Goods and services** include provisions, commodities, articles and services permitted by the council to be brought into the market for the purpose of sale.
- g) **Interim Trader** means any casual trader granted a special long term licence (maximum 17 markets a year) based on the permanent trader fee structure. An interim trader is not guaranteed a fixed pitch location.
- h) **Licence** means the licence issued to a trader in the form prescribed by the council which permits casual traders, interim traders and permanent traders to trade in the market in accordance with these regulations.
- i) **Market** means the provision markets held in Bury St Edmunds and Haverhill respectively.
- j) **Market day** means a day on which the markets are authorised by the council to open for trading as detailed in **Regulations 3.1**.
- k) **Market hours** means the hours of operation as detailed in **Clause 3.1** or subsequently revised by the council.
- l) **Markets Manager** means the officer responsible for the operation of the markets.
- m) **Market Shoppers Charter** means the Market Shoppers Charter approved by the council and which all traders agree to recognise and abide by.
- n) **Markets Supervisor** means the front line officer responsible for the operation of each market trading day.
- o) **Permanent trader** means any trader granted a licence to trade and pitch a stall in the market for a period of 12 consecutive calendar months.
- p) **Political Parties** means an official organisation of people who share the same views about the way power should be used in society (through Government policy making).
- q) **Pressure Groups** means a group of people who seek to exert pressure on legislators and public opinion in order to promote their own ideas or welfare.

- r) **Serious misconduct** means conduct on the part of the trader or of their staff which the council considers so unreasonable that it destroys the trust necessarily required for the continuance of the trader's Market Licence Agreement.
- s) **Site** means the place allocated by the Markets Management Team to the trader upon which the trader is permitted to pitch a stall.
- t) **Stall** includes a compartment, standing bench, table, vehicle, place, pitch or space in the market used or intended to be used for the sale of goods or services.
- u) **Street vending permissions** means street vending and street café permits which are issued by the council for all circumstances where amenities are provided on highways by persons other than the council. To place tables, chairs or other temporary furniture on the pavement in England and Wales you require a licence from your local authority. These are required for trading outside of the official council markets.
- v) **Trader** means a person or legal entity offering goods or services for sale granted a licence to trade from a stall on the market and includes casual traders, interim traders and permanent traders.
- w) **Byelaws** are rules made by a local authority for the regulation of its affairs or management of the area it governs.

3. General

3.1

The Market days are:

Bury St Edmunds – Wednesdays and Saturdays

Haverhill – Fridays and Saturdays

Market days may be varied in exceptional circumstances by the council, except that markets will not be held on Good Friday, Christmas Day, Boxing Day and New Year's Day. Market hours are 06.00 to 18.00. During this time traders are required to trade from **09.00 to 16.00, except for the Saturdays before Christmas, when traders will be required to trade from 09.00 to 16.30.**

3.2

Traders will be allocated a pitch for their stall to trade from. The size and position of the pitch will be the sole discretion of the Markets Manager, who reserves the right to change the location and size of a pitch in the event of exceptional circumstances. **The decision of the Markets Manager in this respect shall be final and is not subject to an appeal.** No pitch may be increased in size, nor exceed 12 feet in depth, without the permission of the Markets Manager or Markets Supervisor.

3.3

All permanent, casual and interim traders must sign a licence and sign to say they have read and agree to abide by the Market Licence Regulations and are not permitted to trade in the markets unless they do so.

3.4

All traders are required to provide proof of public liability insurance cover as required to the Markets Manager or Markets Supervisor by **Clause 6**.

3.5

Permanent traders wishing to leave the market must give a minimum of **four weeks** written notice of their intention to the Markets Manager or Markets Supervisor. Such notice period may be waived by the Markets Manager or Markets Supervisor at their sole discretion.

3.6

Nothing contained in these conditions is to be taken to relieve or excuse the trader from any existing legal duty. **Nothing herein shall be deemed to create the relationship of landlord and tenant between the council and the trader.**

3.7

All traders shall observe and comply with the byelaws and the Market Licence Agreement.

4. Licence

4.1 Nature, term, review and transfer of licence

4.1.1

Subject to **Clause 4.1.2**, the licence is non-transferable and traders may not sublet or share their pitch without the written consent of the Markets Manager.

For permanent traders the licence will run for **12 months** from the date it is awarded, and for interim traders the licence will run for a maximum of 17 markets a year from the date it is awarded. For permanent traders the licence will automatically be renewed for a further 12 months subject to the circumstances set out below.

A licence may be reviewed by the Markets Manager or Markets Supervisor at any time. The trader will be told that his/her licence is under review to allow him/her the right to respond before any decision is taken following the outcome of the review.

The criteria used to review a licence will include (but are not limited to) any outstanding fees due from the trader, the outcome of any complaints raised by customers, and evidence of customer demand for product lines to be added to or removed from the market.

In the event that, following a review, the Markets Manager decides not to renew a licence; the Markets Manager will in all cases give the trader 12 weeks notice. The trader has the right to appeal in writing to the Head of Service any decision not to renew their licence and the appeal will be dealt with in accordance with the procedure set out at **11.3** below.

4.1.2

During the term of the licence, a permanent trader (the transferring trader) may request the council to transfer the licence to a third party (the transferee). Such transfer is at the sole discretion of the Markets Manager or Markets Supervisor and the council is not obliged to agree to transfer the licence to the transferee. In the event that a transfer is refused, there is a right of appeal under **11.3** below. The Markets Manager or Markets Supervisor will in all cases satisfy themselves as to the suitability of the transferee to become a trader and will require the transferee to complete a trader application form and provide a satisfactory reference from a previous market where they have traded, or from a previous employer or equivalent, before allowing the transferee to trade under that licence.

4.1.3

Upon the death of a trader, the council will permit a husband, wife, civil partner, child, brother or sister who traded regularly with the deceased to take over the licence.

4.1.4

Whilst the council will undertake the administration of the licence transfer, the transferring trader will be responsible for managing the handover of their business to the transferee in a smooth and timely fashion. The council shall charge a reasonable administration fee to cover their costs arising from the administration of the licence (see Appendix 2).

4.2 Product lines and product line extensions

4.2.1

Traders may only sell the product line set out in the licence.

4.2.2

The Markets Manager or Markets Supervisor will allocate product lines to vacant stalls that it considers best for the market. The Markets Manager or Markets Supervisor may accept product lines that compete with existing traders. The Markets Manager or Markets Supervisor reserve the right to decline any application if he/she considers any particular trade or line will be over-represented on the market or if in the opinion of the Markets Manager or Markets Supervisor the stall or product is not of a standard that reflects the aspirations of the market.

4.2.3

Traders may only extend or change product lines with the agreement of the Markets Manager or Markets Supervisor (which shall not be unreasonably withheld).

4.2.4

The Markets Manager or Markets Supervisor undertake to respond in writing to requests by traders to change product lines within four weeks of receiving such written request. No new product line extensions will become effective until a revised licence has been signed by the trader and returned to the council. Licences not signed within seven days of issue will be withdrawn.

4.3 Applications for stalls and new stall allocations

4.3.1

Markets are primarily a concourse for buyers and sellers, not a forum for promotion of views, petitions or similar activities.

All applications for a permanent licence including those from existing traders who want an extra or alternative stall must be submitted in writing on the appropriate form. The council may impose a reasonable administration charge to cover the costs involved in processing such applications (see Appendix 2). New traders (other than casual traders) will be licensed as an interim trader.

4.3.2

The Markets Manager or Markets Supervisor will consider all applications for vacant stalls against criteria including (but not limited to):

- the need for the particular trade stated on the application and for preserving a proper balance of product lines;
- the conduct of the trader (if applicable), including any failure to comply with these regulations or any legislation, or byelaws relating to the markets;
- evidence of demand from shoppers for the continuation of the trade or product line concerned; and
- the quality of the product line being offered and its presentation.

4.3.3

Applications for new stalls or extensions to existing stalls will be subject to an appropriate current fee (see Appendix 2). Applications will not be considered for existing traders if they are in arrears with their stall payments.

4.3.4

All unsuccessful applicants for stalls or product line extensions will be advised in writing with reasons why their application has been unsuccessful.

4.4 Political parties and pressure groups

4.4.1

Political parties and pressure groups are not permitted to hire pitches at the markets which are reserved as a concourse for buyers and sellers and not for those wishing to promote political views or ideas.

4.4.2

The council has street vending permissions already in place in Bury (Cornhill pedestrian area) and Haverhill (Market Square) where space can be booked through the council and used by political parties and pressure groups at times other than market days for a nominal charge.

4.4.3

In exceptional circumstances, if space is not available or suitable at the locations identified in 4.4.2 above, political parties and pressure groups can make alternative arrangements through applying for their own Street Vending Permission at an alternative location.

4.4.4

To obtain a Street Vending Permission, any political party or pressure group's activities must be consistent with the council's relevant diversity and equality policies.

5. Payment and fees

5.1 Payment and charging of stall fees

5.1.1

Stall fees and other charges are determined by the council, and will be notified to traders in writing once approved by the council. Current charges are set out in Appendix 2 below.

5.1.2

The council reserves the right to revise the basis of charging. In such circumstances the council will consider representations from the traders.

5.1.3

Stall fees will normally be reviewed annually, but the council at its sole discretion may do so at different intervals.

5.1.4

Permanent traders shall pay only by monthly direct debit, which will be collected on the 25th of each month or the next banking day. Casual traders may pay by cash. Traders paying by direct debit will receive a discount of 15 pence per linear foot, and will be charged for **50 (fifty) weeks** a calendar year. The council will not accept payment by credit card or debit card.

5.1.5

Stall fees paid in cash will be collected by the Markets Manager or Markets Supervisor on the day of the market. In the event that a trader does not pay, they will not be allowed to trade on the market until the outstanding fee is paid, and may be subject to the disciplinary procedures detailed in **Clause 11**. The council will apply a charge for collecting unpaid stall fees, and such charge will be paid for each and every instance of non-payment.

5.1.6

All permanent traders must pay their stall fees irrespective of whether they attend the market. No credits will be given for non-attendance, except where the non-attendance occurs as part of the agreed markets credit schemes as set out in paragraph 5.2.1, or in the event of exceptional circumstances which prevent a trader from attending.

5.1.7

Notwithstanding Clause 11, failure to pay stall fees for eight consecutive market days shall result in the revocation of the trader's licence. There shall be no right to appeal in respect of revocation for non-payment of stall fees.

5.2 Markets credit scheme and absences

5.2.1

Permanent traders paying by direct debit and who have been trading on the markets for at least 12 months as a permanent trader, and who meet the conditions below, will be entitled to take up four weeks planned absence from the Market (Wednesdays and Fridays or Saturdays). If a trader does not wish to take advantage of this benefit and continues to attend the market, they will be charged for the full 50 weeks.

5.2.2

All permanent traders wishing to take advantage of their four weeks planned absence must provide the Markets Manager with **at least two weeks written notice** where practical of the dates they intend to be absent. This is required to allow the council sufficient time to plan for filling the space vacated by the permanent trader. During the time the trader is absent, the council may reallocate their pitch(es) to another trader.

5.2.3

For all other absences traders must advise the Markets Manager or Markets Supervisor as soon as is reasonably possible in advance of the trading day and no later than 07.30 on the trading day in question. **The council will provide all traders with a contact telephone number**

for them to ring the Markets Manager or Markets Supervisor and notify them. The council reserves the right to reallocate the pitch for that day to another trader. No 'like for like' product line will be allocated in place of the absent trader. Failure to attend without formally notifying the Markets Manager, **other than under exceptional circumstances, and after four unnotified absences** will be considered a disciplinary offence.

6. Insurance and liability

6.1 Insurance

6.1.1

Traders must provide evidence that they hold third party public liability insurance at the minimum level required by the council as notified to traders in writing from time to time by displaying their current policy of insurance or National Market Trader Federation (NMTF) membership on their Stall (NMTF members are insured for £5 million Third Party (Public) and Products Liability Insurance and £10m Employers Liability Insurance). The minimum requirement by the council is currently £5 million.

6.1.2

Where appropriate, traders who are responsible for employees must hold Employer's Liability Insurance. Under the Employer's Liability (Compulsory Insurance) Act 1969, all employers are required to have a minimum level of cover of £5 million. It is the responsibility of the trader to know and understand their legal liabilities under this Act, and in respect of all and any legislation regarding the employment of staff.

6.1.3

Traders not displaying evidence of insurance or, if they are members of the NMTF membership, their membership number, will not be permitted to trade. No rebate of the stall fee will be given in these circumstances.

6.1.4

Traders must notify the Markets Manager or Markets Supervisor of any changes in insurance and provide copies on request and on renewal.

6.2 Indemnity and cost of damage

6.2.1

Traders shall indemnify the council against all demands, claims, losses, costs and expenses made against or incurred by the council (including all direct, indirect and consequential loss in relation to but not limited to personal injury, property damage and/or loss or damage to third parties), or damage suffered by the council caused by or arising from the negligence of the trader in connection with the market or arising under or in connection with any facilities provided to the trader under the licence.

6.2.2

The council reserves the right to charge any trader the full cost of repair or renewal to any council property related to the markets where, in the reasonable opinion of the council, the trader or anyone working with the trader caused the damage.

7. Conduct

7.1

Traders are responsible for their own conduct and that of anyone working on or in connection with their stall at all times while they are on the market.

7.2

A breach of these regulations/terms and conditions by anyone working on or in connection with a trader's stall will be deemed to be a breach by the trader.

7.3

Traders are responsible for complying with all legislation and regulations that apply to the individuals they employ or engage.

7.4

Traders and those working with them **must not:**

- **7.4.1** – use abusive or foul language or intimidating behaviour;
- **7.4.2** – be abusive to any official of the council;
- **7.4.3** – discriminate against anyone on the grounds of age, gender, race, nationality, ethnic origin, sex or sexual orientation, disability, gender-reassignment, religion or belief;
- **7.4.4** – use or permit the use of illegal substances or alcohol within the footprint of any stall on the market;
- **7.4.5** – smoke within the footprint of any stall on the market;
- **7.4.6** – hawk or carry goods about for sale, except where they have express written permission from the Markets Manager to do so;
- **7.4.7** – sell animals on the market.
- **7.4.8** – cause or encourage anything that is considered by the Markets Manager or Markets Supervisor to be a nuisance or annoyance to the public or other traders or occupiers of property in the vicinity of the market;
- **7.4.9** – make any noise or play music that is considered by the Markets Manager or Markets Supervisor to be a nuisance or inconvenience to other traders, customers or occupiers of property in the vicinity of the market;
- **7.4.10** – cook on their stall except where this is part of the product line set out in their licence.

7.5

Traders' pets (other than assistance dogs) are not permitted on the stall without the prior written agreement of the Markets Manager or Markets Supervisor.

7.6

Payments to council staff (other than stall fees) or the giving of goods to council staff by traders is not permitted under any circumstances. Acceptance of such payment or goods by council staff will be considered gross misconduct and will render them liable to dismissal. Any trader found doing so will be given written notice by the council of immediate suspension from the market and termination of their licence.

In such event the trader will have the right to appeal such notice, but will not be allowed to trade whilst suspended.

The council reserves the right to notify the appropriate authorities if it believes that any trader has attempted to bribe any council official.

8. Market Operation

8.1 Hours of operation and attendance

8.1.1

Traders must not come onto the market before 06.00 and must vacate the market by no later than 18.00. Traders will remove from the market and access areas any vehicle (other than those used for display purposes as part of their pitch), by no later than 09.00 on any market day and no vehicle shall be brought back onto the market or access areas before 16.00 on any market day unless by consent of the Markets Manager or Markets Supervisor. Any vehicle remaining on the market area during the above hours shall not be moved unless ordered to be removed by a police officer or the Markets Manager or Markets Supervisor.

8.1.2

All traders must ensure that their stall is suitably staffed throughout the market hours of operation and is open for trade.

8.1.3

It is the responsibility of traders to notify the Markets Manager or Markets Supervisor of any delay in attending the market (for example, because of illness, vehicle breakdown or other reasonable cause beyond the trader's control). In the absence of doing so, traders who fail to attend their stall by 08.00 may not be permitted to trade on that market day. No refund of stall fees will be paid in these circumstances. The council may reallocate the stall to another trader in such circumstances.

8.1.4

With the exception of reasonable cause for non-attendance and the terms of the market credits scheme, as stipulated in Clause 5.1.6, a permanent trader must attend all markets they are licensed to attend, for a **minimum of 48 weeks** of the calendar year.

8.2 Closure and layout of the market

8.2.1

The Markets Manager shall have the right to close the market at their absolute discretion if they consider this to be necessary on the grounds of public safety. Furthermore, the Markets Manager or Markets Supervisor may close or alter the layout of the market or close and stop the sale of goods from any pitch at any time, without being liable for any loss sustained by the trader, directly or indirectly, if it is considered by the Markets Manager to be in the interest of the market or the public to do so.

8.3 Works affecting the market

Whenever possible, traders will be given prior notice of maintenance and other work on and around the market which could affect their trading activities. The council will not be liable for any direct or consequential loss arising from work affecting the market.

9. Health and Safety

9.1 General health and safety

9.1.1

All traders must comply with all requirements of the Health and Safety at Work Act 1974 and with directions issued from time to time by the council with a view to maintaining or improving the health and safety environment within the perimeter of the stall and in the market in general.

9.2 Vehicle movements

9.2.1

Traders are responsible for health and safety in respect of vehicular movement. Traders must ensure that any vehicle they bring on to the market is taxed and insured for business use.

9.2.2

Traders must drive carefully in the market and with regard to pedestrians and ensure that they observe a maximum vehicle speed of five miles per hour when on or in the vicinity of the markets and that vehicles display hazard warning lights. When reversing a vehicle traders should enlist the help of another person to help direct the vehicle and protect pedestrians.

9.3 Obstruction loading/unloading

9.3.1

When loading/unloading their vehicles, all traders shall cause as little obstruction and inconvenience as possible to the public, other traders or the council's employees and contractors.

9.3.2

In particular, traders must comply with such requirements to ensure emergency access as the Markets Manager deems necessary, including a standing requirement to park vehicles parallel to the emergency access so as not to compromise access.

9.4 Risk assessment

9.4.1

All trade stands are required to submit a suitable and sufficient risk assessment (templates are available from the Markets Supervisor) which should include the set-up, operation and breakdown of their site. The Markets Manager or Markets Supervisor reserves the right to refuse trading if the risk assessment is not submitted or if in the opinion of the Markets Manager or Markets Supervisor the risk assessment is not suitable and sufficient for purpose. Risk assessment templates and advice in completing them will be made available.

9.5 Fire

9.5.1

Exhibitors must provide fire extinguisher(s) suitable for the activities that they are undertaking (also see LPG). If electrical equipment is on the stand then a CO² extinguisher should be available. Fire extinguishers must be located within the stand be easily accessible and maintained in accordance with The Occupational Safety and Hazard Administration (OSHA).

9.5.2

The fire extinguisher must display an inspection label to show it has been inspected within the last 12 months.

9.5.3

Traders must provide a fire risk assessment for their stand and ensure that their staff/volunteers are aware of what to do in the event of a fire in the Fire Evacuation Procedure.

9.5.4

The trader shall avoid any action which would contribute to a fire risk, including overloading electrical supplies and inappropriate storage of combustible materials.

9.6 Liquid Petroleum Gas (LPG)

9.6.1

All traders using liquid petroleum gas (LPG) must conform to LPG Code of Practice 24 and have the current annual Gas Safety Inspection certificate **on site**.

9.6.2

All traders using LPG must provide a suitable, serviceable fire extinguisher which must be located near the appliance (also see Fire).

9.6.3

Suitable hazard signage must be displayed so as to comply with the Health and Safety (Safety Signs and Signals) Regulations 1996.

9.7 Electricity

9.7.1

Electricity is available on site by prior arrangement and should be booked direct with the Markets Manager or Markets Supervisor. The electricity supply is only to be used for appropriate lighting, scales and tills and other uses which are reasonable, in the opinion of the Markets Manager or Markets Supervisor.

9.7.2

Traders may only use electrical equipment that is in good condition, weatherproof and suitable for outside use. All electrical equipment must have a valid up to date Portable Appliance Test (PAT) certificate which must be available to the Markets Manager or Markets Supervisor upon request.

9.7.3

Traders are responsible for ensuring the electrical equipment used is inspected as laid down below.

A) By a competent person, which can be the stall holder:

- before use inspection – no written record required;
- six-month equipment formal inspection – as laid out in the Code of Practice for In-service Inspection and Testing of Electrical Equipment (4th Edition), written record required.

B) By a qualified PAT person:

- 12 month formal inspection and test – as laid out in the Code of Practice for In-service Inspection and Testing of Electrical Equipment (4th Edition), written record required.

9.7.4

Connections to the electricity supply must be made by a suitably competent person (using robust, moisture and tamper proof connections which are suitable for outside use). Suitable and sufficient earth-leakage protection must be installed and maintained as part of the fixed wiring installation.

9.7.5

Traders are required to provide cable mats (at their own expense), to ensure that trailing cables do not present trip hazards or any other hazard and are suitably protected.

9.7.6

Where safe and practical to do so and without interfering with other traders' ability to trade, traders must allow other traders to plug in to the power supply cables used by their stalls.

9.7.7

Under no circumstances is electricity to be used for heating purposes.

9.8 Generators

9.8.1

Silent running diesel generator only will be permitted on the market, with the prior written agreement and subject to such conditions as the Markets Manager may require.

9.8.2

Generators must be located so as not to be accessible to members of the public or other unauthorised persons.

9.8.3

No refuelling or storage of fuel is allowed on the markets.

9.8.4

If the Markets Manager or Markets Supervisor considers that a generator is too noisy, they may require that the generator be switched off immediately.

9.9 Temporary structures (stalls)

9.9.1

Any temporary structure erected as part of the market must be suitable for the purpose intended, of good condition and erected by competent persons.

9.9.2

Stalls will need to be suitably secured to prevent the risk of overturn or collapse; any fabric will need to be fire protected and meet The Furniture and Furnishings (Fire) (Safety) Regulations 1988.

9.10 Stalls

9.10.1

Traders must not place or cause any goods to be placed on any stall or space such that they encroach or extend beyond the boundaries of the stall unless they have the permission of the Markets Manager or Markets Supervisor. Consideration must be given at all times to ease of access for all users of the market. Any trader breaching this clause will be liable to suspension from the market.

9.10.2

Traders may only use A-boards if the boards are wholly contained within the boundary of the stall and subject to any requirements of the Markets Manager or Markets Supervisor.

9.10.3

Traders must not leave any goods, articles or equipment on the market outside market hours without the prior written consent of the Markets Manager or Markets Supervisor. Any trader's property left on the market outside market hours is at the individual trader's own risk.

9.11 Identity

9.11.1

The council, will allocate a unique licence number to each trader. Traders must display this licence number in a prominent and visible location on their stall, using a legible, well presented sign of a **minimum size** of 240mm x 300mm. This sign must also show their National Market Trader Federation membership number (if applicable). All traders selling prepared food will

also be required to display a sticker showing the rating awarded to them under the Food Standards Agency national food hygiene rating scheme.

Guidance will be issued separately to traders on to the size of typeface that is to be used on the sign, and what is acceptable regarding the positioning of the sign.

This sign must remain in position throughout the trading day. The Markets Manager and Markets Supervisor reserve the right to instruct traders to reposition the sign to a more visible position.

Traders will not be allowed to trade in the market without displaying a sign that meets the council's requirements. **Failure to display such a sign may render the trader liable to suspension for up to four market days. The Markets Manager will first issue a written notice of breach in accordance with Clause 11.1.**

The council will provide a display board to casual traders which must be returned at the end of the trading day. The council may at its discretion require a deposit of £10 to ensure the safe return of the board.

9.11.2

The council has a statutory responsibility under the National Fraud Initiative to provide detailed information about the traders licensed to trade in the markets. All traders must therefore register their current permanent address, dates of birth, National Insurance numbers and contact telephone number with the Markets Manager or Markets Supervisor, who must be notified of any changes. Two forms of documentary proof of identity and address must be supplied. Traders are required to update the Markets Manager or Markets Supervisor of changes in their details as they occur.

Traders who fail to provide this information will not be permitted to attend the market until this is rectified.

9.12 Litter and waste

Traders have a legal duty of care to maintain the health and safety of their employees, other traders and visitors to their stall. It is also the sole responsibility of traders to ensure the safe management of waste in and around their stall, which if not handled properly can cause surfaces to become hazardous for slips, trips and falls.

Council employees are not authorised to enter a trader's stall to collect waste, and it is solely the trader's responsibility to prepare all waste for collection by the council using the **appropriate wheelie bins allocated by the council.**

Traders are required to comply with the recognised cleansing standards, which has been adopted by the council.

9.12.1

The council will carry out the regular cleansing of the market areas as necessary to maintain their effective operation.

9.12.2

Traders must ensure that their stall and any adjoining passages, whether used by them or in conjunction with other traders, are properly swept from time to time and shall ensure that litter is not allowed to accumulate.

9.12.3

At the end of the market day, and at regular intervals throughout it, traders must ensure their stall and surrounding area is cleaned and clear of all refuse and waste, and the surfaces around their pitch left safe and without hazard to others.

9.12.4

Traders must remove waste from their stall and the council will provide and maintain adequate, hygienic and efficient refuse disposal facilities on the market at all times subject to breakdowns and other matters beyond its immediate control.

Traders must use these facilities for the disposal of waste only produced whilst attending the market.

9.12.5

Traders who produce food waste must dispose of it in the correct food waste receptacle as directed by the council.

9.12.6

Traders must flatten any cardboard waste they produce and dispose of it in the correct recycling cardboard container.

9.12.7

Traders must not put their trade waste in public litter bins and must only use the bags/container given to them by the Markets Manager or Markets Supervisor.

9.12.8

Traders providing containers for food or drink consumption on the market place shall make such additional arrangements for litter as the Markets Manager or Markets Supervisor shall deem necessary.

9.12.9

Traders must comply with any new initiatives introduced to improve the recycling of trade waste on the markets as advised in writing by the Markets Manager or Markets Supervisor from time to time.

9.13 Food stalls

9.13.1

All traders operating food stalls shall comply with any legislation relating to their business including (but not limited to) the provisions of the Food Safety and Hygiene (England) Regulations 2013 (or its equivalent) and with **Clause 13**. Traders must also display their food hygiene rating on the stall.

9.14 Amplified music

Amplified music and/or use of an amplified microphone will only be permitted with the written agreement of the Markets Manager or Market Supervisor and may be subject to conditions of use.

10. Market Shoppers Charter

10.1

All traders attending the market agree to abide by the terms and conditions of any Market Shoppers Charter adopted by the council.

11. Enforcement of regulations

11.1 Contravention of the licence

Any trader who contravenes these regulations or any byelaw relating to the market may have their licence suspended or terminated by the council or otherwise be refused permission to use a stall in the market. Ignorance of these regulations and byelaws will not be accepted as a defence.

If a trader does not comply with a suspension then the council reserves the right to terminate the trader's licence.

With the exception of those contraventions which are expressly identified as carrying immediate suspension or termination, the council will apply the following process in addressing contraventions:

- a) first offence by a trader or any member of their staff – a written notice of breach from the Markets Manager or Markets Supervisor. Traders will be reminded of their obligations and no further action taken;
- b) a repeat of the same offence by a trader or any other member of their staff – a written notice from the Markets Manager or Markets Supervisor giving notice of suspension;
- c) in the event that the trader decides to appeal suspension, the trader will be allowed to continue to trade whilst the appeal is heard.

A trader may appeal in writing against a decision to terminate or suspend their licence to the Head of Service.

11.2 Disciplinary Code of Practice

11.2.1

Having regard to Clause 11.1 which stipulates the process for addressing contraventions, traders will be liable to suspension as set out below.

- a) If they do not dispose of and/or remove trade waste in accordance with **Clause 9.12** they will be liable to the following sanctions/penalties:
 - cleaning of stall (**Clause 9.12.2**) – suspension from the market **for up to four market days**;
 - use of market facilities for the disposal of waste not generated in the market (**Clause 9.12.4**) – suspension from the Market **for up to eight market days**;
 - failure to dispose of waste in the container designated by the Markets Management Team (**Clause 9.12.4/5**) – suspension from the market **for up to four market days**;
 - failure to properly flatten cardboard waste and/or dispose of it in the container designated by the Markets Management Team (**Clause 9.12.6**) – suspension from the market **for up to two market days**;
 - disposal of trade waste in public litter bins (**Clause 9.12.7**) – suspension from the market **for up to two market days**.

In addition the council will charge the trader the full cost (see Appendix 2) and any reasonable administrative costs arising from the removal and disposal of the waste as required arising out of the breach of Clause 9 – current costs will be advised by the Markets Manager or Market Supervisor.

b) Unauthorised movement of vehicle on the market or failure to remove vehicle from the market **(Clause 9.2.1)** – suspension from the market **for up to four market days**.

c) Exceeding the allocated stall space **(Clause 3.2)** – suspension from the market **for up to four market days**.

d) Changing or extending product line(s) **(Clause 4.2.1)** without prior approval – suspension from the market **for up to four market days**.

e) Failure to notify the Markets Manager or Markets Supervisor of absence **(Clause 5.2.3)** – suspension from the Market **for up to four market days**.

11.2.2

Traders will be liable to immediate suspension and/or termination for breaches of the regulations arising out of their conduct by the Markets Manager which is considered by the council to be gross misconduct. In the event that a licence is terminated, the trader shall not be entitled to compensation from the council. The circumstances of the case will be considered by the Head of Service.

Examples of gross misconduct which will normally justify termination of a licence are outlined below.

- Dishonesty.
- Under the influence of alcohol or illegal substances.
- Assaulting a member of the public, council staff or another trader.
- Verbal abuse, the use of foul or abusive language, harassment, intimidation, discrimination or bullying towards a member of the public, council officers or other trader(s).
- Interfering in any way with the business of another trader.
- In the reasonable opinion of the Markets Manager or Markets Supervisor, the trader brings the market into disrepute.
- Failure to comply with the requirements of consumer protection legislation.
- Failure to comply with the requirements of food hygiene regulations.
- The trader has been convicted of selling counterfeit products or has received a formal caution, formal warning or such other similar measure from the Trading Standards Service or any other enforcement agency.
- The trader has persistently failed to make payment of the licence fee, within the time limit set.
- The trader has failed to comply with the health and safety legislation affecting the market sites or any health and safety requirements notified to the trader by the council.
- The trader consistently fails to honour a direct debit for the payment of stall fees.
- The trader fails to attend the market they are licensed to attend for 10 weeks or more during the course of a calendar year.
- The trader persistently infringes the Market Licence Regulations.

In the event that a trader's licence is suspended rather than terminated and there is no prescribed penalty, the length of suspension will be decided by the Head of Service.

11.2.3

Contravention of the regulations which the Markets Manager or Markets Supervisor considers not serious enough to warrant suspension will be dealt with by a formal written warning. Following the issue of such warning a trader who commits a subsequent breach shall be suspended from trading as specified by the **Clause (11.1)** or for a period **of up to four market days**, if the contravention is not covered by this clause.

11.3 Appeals procedure

11.3.1

A trader who has been suspended from the market or whose licence has been terminated, or has been refused permission to transfer their licence to another trader, may appeal in writing to the **Head of Service** within five working days from, but not including, the day the trader is notified of the decision against which they wish to appeal.

11.3.2

The trader is entitled to request a hearing to make representations to explain why the decision against which they wish to appeal should be overturned. Such request must be made at the time of submitting the written appeal.

11.3.3

The **Head of Service** will conduct the hearing of the appeal in person within 28 days of receipt of the written appeal.

11.3.4

In considering any appeal the **Head of Service** will have regard to any relevant documentation and may call to give evidence such person, including the trader in question, as he/she considers appropriate.

11.3.5

Traders attending an appeal will be entitled to bring with them a friend or colleague or, if they are a member of the National Market Traders Federation, a local representative of the NMTF who are allowed to speak on their behalf.

11.3.6

The written decision of the **Head of Service** will be sent to the trader within 14 days of the hearing to the registered address of the trader, and will include an explanation of the reasons for the decision. There shall be no further appeal from the decision of the **Head of Service**.

12. Allocation of occasional pitches to casual traders

12.1.1

Casual traders must report to the Markets Manager or Markets Supervisor before 08.00 on the intended day of trading. Failure to do so will mean that the casual trader is placed at the end of the list for that market day's allocation.

12.1.2

The Markets Manager or Markets Supervisor operate a rota of casual traders (the Allocation List). Interim traders will be given priority above all other casual traders. The order on which casual traders are placed on the allocation list can be altered at any time if this is considered to be in the interests of the market in the opinion of the Markets Manager or Markets Supervisor, whose decision will be final.

12.1.3

Casual traders will not be allocated pitches if the same or similar goods are sold by the absentee regular.

12.1.4

Casual Traders will not be placed next to a permanent trader selling the same or similar goods.

12.1.5

Casual traders may decide to wait for a particular pitch. If the pitch is claimed the casual trader's name will be placed at the foot of the allocation for that market day.

12.1.6

Casual traders missing three consecutive market days will have their names withdrawn from the Allocation List.

12.1.7

Casual traders may not transfer from one pitch to another without the permission of the Markets Manager or Markets Supervisor.

12.1.8

Casual traders who are allocated pitches on the market must produce, on request, a certificate of current membership of the National Market Traders Federation or a current public liability insurance cover. Failure to do so will mean that they will not be allocated a pitch on the market for that day and their name will be withdrawn from the Allocation List if the casual trader fails to produce a certificate within seven days of such request by the Markets Manager or Markets Supervisor.

12.1.9

Casual traders allocated a pitch in the market will be subject to these Market Licence Regulations a copy of which can be seen at the West Suffolk House, Western Way, Bury St Edmunds, Suffolk IP33 3YU.
Tel: 01284 763233

13. Food stalls

The following should be read in accordance with Clause 9.13

13.1

A first aid box must be provided by the trader and kept on the stall for any cuts and abrasions which must be covered by a blue waterproof dressing.

13.2

All food must be kept at least 18 inches above the ground and protected at all times from the risk of contamination.

13.3

Open or unwrapped food, other than fruit and vegetables, must only be sold from stalls or vehicles which are approved by the council for this purpose.

13.4

Traders selling pre-cooked food including (but not limited to) pies, cakes, pastries, cooked meat, poultry, dairy products (including cheeses), must be covered and must provide adequate refrigeration where applicable. Such produce must only be sold from stalls or vehicles which are approved by the Council for this purpose. Fish must be displayed with an adequate ice or ice water covering to ensure sufficient refrigeration.

13.5

Waste water from sinks, wash hand basins etc must be discharged in street drains as directed by the Markets Manager or Markets Supervisor.

13.6

Stall holders must not smoke behind or in the vicinity of the sales counters.

13.7

Food handlers must wear suitable, clean and where appropriate protective clothing and shall maintain a high degree of personal cleanliness.

13.8

No un-bagged refuse, waste or unfit food is to be allowed to accumulate on or about the stall. It must be bagged securely on a regular basis throughout the day.

13.9

Traders must have hand washing facilities with hot and cold water available on the stall, if they are handling high risk foods. See Appendix 1 for information about high risk foods.

13.10

Traders running a high risk food business must have available for inspection at the stall the appropriate Safer Food Better Business Pack.

13.11

All Council business where it makes use of food establishments, buffets and concessions at West Suffolk events should have a national food hygiene rating of at least '3' or preferably higher.

13.12

Traders must display a valid food hygiene rating on their stall.

14. Complaints

14.1

Any traders with a problem or complaint with regard to management of the market must first contact the Head of Service at the address below. The matter will be dealt with under the council's complaints procedure.

Head of Waste Management and Property Services
St Edmundsbury Borough Council
West Suffolk House
Western Way
Bury St Edmunds
IP33 3YS

If the Trader is still not satisfied he or she may refer the matter to the Local Government Ombudsman (LGO).

The LGO can be contacted at:

Web: www.lgo.org.uk

Regulation review dates

19 January 1987	Provisions Market Regulations
1 November 1988	Provisions Market Regulations
1 November 1990	Provisions Market Regulations
1 March 1996	Provisions Market Regulations
September 2013	Market Licence Regulations
September 2014	Market Licence Regulations

Appendix 1

Food hygiene

Some foods are classified as 'high risk' foods because they support the growth of bacteria and tend to be moist and high in protein. If bacteria are allowed to multiply in this food they will not be killed before the food is eaten. Foods containing salt, sugar or acid (for example, vinegar) discourage the growth of bacteria.

Please note that the following guidance is **not** exhaustive. It is the responsibility of the trader to be fully aware of **all** risks associated with the storage, preparation and cooking of food and to take all reasonable steps to minimise these risks.

Cooked meat and poultry

Cooked meat and products with cooked meat in them such as gravy, soup and stocks, are particularly rich in nutrients. Bacteria thrive on these nutrients and especially in warm conditions, even a small number of bacteria will multiply to become millions in a short time.

Dairy products and eggs

Products such as mayonnaise, custard and cream often cause food poisoning. This usually happens because they have been kept in warm conditions. Once you have opened the mayonnaise jar you **must** keep it in the fridge. Some cheeses are also considered to be high risk.

Shellfish

Shellfish may eat food that is contaminated and may also pick up bacteria and viruses from polluted water. Make sure you buy your shellfish – prawns, mussels, oysters, crabs, lobsters and so on – from a reputable source or supplier. There is more risk from eating raw shellfish such as oysters.

Cooked rice

Bacterial spores can be found in dry rice and then the spores become active again when water is added during the cooking process. Some of these bacterial spores can survive the cooking temperature of boiling water. Cooked rice should be eaten immediately or refrigerated; otherwise the bacteria will multiply and produce a toxin which may survive even if the rice is reheated before being eaten.

Appendix 2

Charges

- i. Fee for transfer of licence £25 (see 4.1.3).
- ii. Fee for permanent licence £25 (see 4.3.3).
- iii. Fee for collection of unpaid stall fees on each occasion £10 (see 5.1.5).
- iv. Fee for removal and disposal of waste is variable according to current wage/disposal costs – current costs will be advised by Waste Management (see 11.2.1).

