

# Extraordinary Shadow Executive (Cabinet)



<b>Title of Report:</b>	<b>Interim West Suffolk Street Trading and Vending Policy</b>		
<b>Report No:</b>	<b>EXC/SA/19/003</b>		
<b>Report to and date:</b>	<b>Extraordinary Shadow Executive (Cabinet)</b>	8 January 2019	
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<b>Purpose of report:</b>	To agree the interim West Suffolk Street Trading and Vending policy		
<b>Recommendations:</b>	<b>The Shadow Executive is <u>RECOMMENDED</u>:</b>  <b>(1) To adopt the harmonised interim Street Trading and Vending Policy for West Suffolk Council, as contained in Appendix A to Report No: EXC/SA/19/003; and</b>  <b>(2) that the West Suffolk Council reviews the Street Trading and Vending policy within two years to ensure there is a consistent approach to consent areas across West Suffolk.</b>		

<b>Key Decision:</b> <i>(Check the appropriate box and delete all those that <b>do not</b> apply.)</i>		<i>Is this a Key Decision and, if so, under which definition?</i> Yes, it is a Key Decision - <input type="checkbox"/> No, it is not a Key Decision - <input checked="" type="checkbox"/>	
<i>The decisions made as a result of this report will usually be published within <b>48 hours</b> and cannot be actioned until <b>five clear working days of the publication of the decision</b> have elapsed. This item is included on the Decisions Plan.</i>			
<b>Consultation:</b>		8 October to 19 November 2018	
<b>Alternative option(s):</b>		<ul style="list-style-type: none"> <li>• Adopt the draft policy for an indefinite period, with no review scheduled</li> <li>• Do not adopt a West Suffolk policy and rely on the current Forest heath and St Edmundsbury policies             <ul style="list-style-type: none"> <li>◦ This could cause confusion for stakeholders</li> </ul> </li> </ul>	
<b>Implications:</b>			
Are there any <b>financial</b> implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> •	
Are there any <b>staffing</b> implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> •	
Are there any <b>ICT</b> implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> •	
Are there any <b>legal and/or policy</b> implications? <i>If yes, please give details</i>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Local Government (Miscellaneous Provisions) Act 1982 sets out that local authorities can regulate street trading and vending, the conditions for which are set out in a policy  There are legal requirements on the Council to administer and enforce licensing. Enforcement of the conditions will be under the Council Enforcement Policy, with further specific guidance in the new policy.  It is proposed that a more fundamental policy review is carried out within 2 years	
Are there any <b>equality</b> implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<b>Risk/opportunity assessment:</b>		<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>	
<b>Risk area</b>	<b>Inherent level of risk</b> (before controls)	<b>Controls</b>	<b>Residual risk</b> (after controls)

Operational – failure to revise policy in line with the creation of a single council could lead to difficulty making licensing decisions as conditions will be inconsistent across the council area	Medium	Adopting a harmonised policy for Street Trading and Vending so conditions can be applied across West Suffolk	Low
Legal – failure to revise policy in line with the creation of a single council could lead to legal challenge	Medium	Adopting a harmonised policy for Street Trading and Vending that can be applied across West Suffolk	Low
Community and business – confusion around areas that do require a permit for street trading or vending activity (named consent areas) as the approach is different in Forest Heath and St Edmundsbury	Medium	Carrying out a wider policy review within 2 years to harmonise consent areas	Low
<b>Ward(s) affected:</b>		All Wards	
<b>Background papers:</b> <i>(all background papers are to be published on the website and a link included)</i>		None	
<b>Documents attached:</b>		<b>Appendix A:</b> Draft Street Trading and Vending Policy <b>Appendix B:</b> Summary of consent areas and conditions	

## **1. Street Trading and Vending Policy - Key issues and reasons for recommendations**

### **1.1 Background**

- 1.1.1 The rules and guidelines for street trading (selling goods on the street) and vending (serving at tables and chairs on the public highway) are set by local authorities.
- 1.1.2 In order to license this activity, part 3 of the 1982 Local Government Act requires a licensing authority to prepare and publish a statement of its policy for licensing street trading and vending. Such a policy must be published before the authority carries out any function in respect of individual applications and notices made under the terms set out in Schedule 4 of the Act.
- 1.1.3 The following activities are defined under that Act and set the scope for licensing street trading and vending:
- A “street” is defined as any road, highway, footway, beach or other area to which the public have access without payment. It will therefore include such areas as a car park of a public house to which the public have access without payment.
  - Certain streets in the West Suffolk Councils area have now been designated “consent streets”. These are streets in which street trading is prohibited without the consent of the council.
  - Areas where street trading is not allowed at any time are known as “prohibited streets”.
- 1.1.4 Street trading and street vending are licensed separately and involve the issuing of consents or permits respectively.
1. Street trading means the selling, or exposing or offering for sale, of any article (including living things and vehicles) in a street. A street trading consent will contain the specific terms under which it is granted. This includes specific location(s) or area(s) where the street trading may take place, the days and hours permitted, the goods that may be sold together and any other specific conditions that must be met.
  2. Street vending applicants apply for a pavement café permit. This is a basic permit that is consulted upon with highways, police and the town council and allows the applicant to serve food and drink to customers at tables and chairs only directly outside the premises complying with certain conditions.

### **1.2 Street Trading and Vending in West Suffolk**

- 1.2.1 The Councils recognise the importance of street trading businesses and value their contribution towards the local economy.

1.2.2 The aims of regulating street trading and vending are to create a street trading environment which:

- ensures fair trading between mobile premises in the area;
- protects the amenity of the residents by ensuring that licensed traders do not cause nuisance, damage, disturbance or annoyance;
- ensures the safety of the people using them;
- promotes diversity and consumer choice;
- provides applicants with advice and guidance on the approach to the administration of applications for street trading consents.

1.2.3 The Forest Heath Street Trading and Vending Policy was adopted in 2012 and the St Edmundsbury Street Trading and Vending conditions were adopted in 1999. The number of permits and consents currently issued by the Councils are set out below:

	<b>FHDC</b>	<b>SEBC</b>
Street trading consents	8	6
Street vending permits	-	8

It should be noted that no street vending permits are currently required for cafes in Forest Heath.

1.2.4 The street trading and vending policy is one of a number of policies being reviewed and harmonised in advance of the creation of a new West Suffolk Council on the 1 April 2019.

### 1.3 **Harmonising the Street Trading and Vending Policies**

1.3.1 As things stand, there are differences in the policies covering street trading and vending in Forest Heath and St Edmundsbury. The new proposed policy for the West Suffolk Council aims to align these differences where they are minor and can be changed without significant impact; but to retain the different approaches that currently apply in different geographical areas so as to minimise disruption until a more fundamental review can be carried out by the new Council.

1.3.2 The two Forest Heath and St Edmundsbury policies are significantly different in terms of structure and conditions for licensing. The interim policy approach combines the structure of both policies while minimising the impact on licensees. The table below summarises the changes to conditions required for a street trading consent or street vending permit:

<b>Policy area</b>	<b>Summary of proposal</b>
Application form documentation/ requirements	Additional information required as part of the application form, including more documents/certificates proving the details (such as food safety and gas certificates)
Specification of pitch on consent	Specify pitch on all permits (all licensees are required to inform the council of a change in pitch anyway)
Consent areas and prohibited streets	Retain current consent and prohibited streets (including all of Forest Heath area)

Further details about these differences are set out in Appendix B, including the current Forest Heath and St Edmundsbury policies.

- 1.3.3 It should be noted that all areas in Forest Heath are currently adopted as consent streets. By contrast, the consent areas in St Edmundsbury are named streets within Bury St Edmunds and Haverhill. It is proposed that these consent areas and streets are retained under this interim policy, but are subject to a more fundamental review in the first 2 years after the creation of West Suffolk Council.
- 1.3.4 Other Suffolk Local Authorities are interested in increasing consistency on street vending policy for cafes and restaurants so this could also be explored as part of the consent areas review.
- 1.3.5 In addition to consent areas, there are other aspects of Street Trading and Street Vending policy that should be reviewed within the first 2 years after the creation of the West Suffolk council. This could involve reviewing complex street vending licensing issues, such as:
- The regulation of 'A' boards
  - Buskers and street performers
  - Working towards a consistent approach for street vending across Suffolk

The other areas are considered to be opportunities and would fulfil some of our ambitions under the Better Business for All Programme: bringing businesses and regulators together to consider and change how local regulation is delivered and received. Any future review would need to involve close working with the town and parish councils, Suffolk County Council Highways team and West Suffolk Planning service.

- 1.3.6 Given the recent national drive to rejuvenate town centre high streets, street trading and vending could form a key part of these conversations. We propose that this future review allows additional elements to be considered to keep up with national trends, such as ensuring our policies support other activities, such as buskers and street entertainers.

## 1.4 **Consultation**

- 1.4.1 A public consultation was held between 8 October to 19 November 2018 and invited comments on the draft Interim West Suffolk Street Trading and

Vending policy. The consultation was also advertised on the West Suffolk Councils' website and existing licensees were written to for comment.

- 1.4.2 Licensing and Regulatory Committee Members were informed of the details of the interim policy changes and consultation and had the opportunity to provide ideas for the future policy review.

## 1.5 **Other Factors**

### 1.5.1 Equality Implications

It is not considered that any of the protected groups and characteristics will be affected more than any other.

### 1.5.2 Financial Implications

Proposals for harmonised licensing fee structures are being agreed through the budget setting process for 2019/20.

### 1.5.3 Legal Implications

The legislation creating the West Suffolk Council allows for a 2 year transitional period to harmonise policies. This interim policy reviews harmonises all conditions apart from the areas under which they apply, which will be addressed through the future review.

## 2. **Recommendations**

- 2.1 The recommendation to adopt a draft interim policy that harmonises the overall approach to street trading and vending in advance of a more fundamental revision represents a balance between the need for a single, consistently structured, West Suffolk policy from 1 April 2019 and the need for a more extensive review of the current rules and practice of street trading and vending across the area.