

Licensing Policy

Street Trading Policy



1 Introduction

- 1.1 The aim of the Council's street trading policy is to create a street trading environment which complements premises-based trading, is sensitive to the needs of residents and promotes their health and wellbeing, provides diversity and consumer choice, and seeks to enhance the character, ambience and safety of local environments. The Policy also seeks to ensure that activities do not cause nuisance or annoyance to the people of the Borough.
- 1.2 This Policy relates to all street trading activities within the Borough of Oldham.
- 1.3 While each application will be dealt with on its own merits, this Policy gives prospective applicants an early indication as to whether their application is likely to be granted or not. It also provides prospective applicants with details of what is expected of them should an application be granted.
- 1.4 Throughout this policy any reference to 'the Council' means Oldham Council.
- 1.5 This policy comes into effect on the 1st December 2021 and supersedes any previous policies.

2 Overview of Legislation

- 2.1 The controls relating to Street Trading are governed by Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
- 2.2 Paragraph 4 to Schedule 4 defines 'street trading' as the selling or exposing or offering for sale of any article (including a living thing) in a street but does not include the following:
 - a) trading as a pedlar under the authority of a 'Pedlars Certificate';
 - b) anything done in a market or fair the right to hold which was acquired by virtue of a grant, enactment or order;
 - c) trading in a trunk road 'picnic area';
 - d) trading as a news vendor;
 - e) trading at a petrol station;
 - f) selling things as a roundsman;
- 2.3 The reference to trading as a news vendor in 2.2 above is a reference trading where:-
 - a) the only articles sold or exposed or offered for sale are newspapers or periodicals; and
 - b) they are sold or exposed or offered for sale without a stall or receptacle for them or with a stall or receptacle for them which does not:-
 - i) exceed 1m in length or width or 2m in height;
 - ii) occupy a ground area exceeding 0.25 sq/m;
 - iii) stand on the carriageway of a street;
- 2.4 The term 'street' includes any road, footway or other area to which the public have access without payment. The holder of a street trading consent or licence may require the permission of the landowner or other person to trade

on any private land which constitutes a street for these purposes. In particular, the grant of a consent or licence does not confer the right to trade on any land owned or controlled by the Council without the specific permission of the Council.

3 Designation of Streets

3.1 The Act states a Local Authority can designate its streets in three ways, these are:-

- a) 'Consent Street' - which is a street in which street trading is prohibited without the consent of the local authority;
- b) 'Licence Street' - which is a street in which street trading is prohibited without a licence granted by the local authority;
- c) 'Prohibited Street' - which is a street in which street trading is prohibited;

3.2 While the Council has resolved that the vast majority of streets in the Borough of Oldham be designated as 'consent streets', a number of streets have been designated as 'licensed streets' or 'prohibited streets'.

3.3 The current list of 'licensed streets' and 'prohibited streets' is attached at Appendix I

3.4 The list of designated streets at Appendix I does not form part of this policy document, although they may be referred to within it. How a street is designated could be subject to change during the duration of this policy, but such amendments may not result in a review of this policy.

4 Trading at, or Near to Schools

4.1 The Council do not currently restrict street trading at or near to schools; however, conditions are attached to street trading consents and licences that stipulate, when trading at, or near to, a school, the consent / licence holder must park their vehicle or trailer on the same side of the road as the entrance or exit to that school.

4.2 Consent / licence holders must ensure that any stopping position does not infringe parking or traffic requirements; or cause obstruction of the highway; nor present a danger to other road users or pedestrians.

5 Sale of Alcohol

5.1 In order to sell alcohol, as well as having to hold a street trading consent / licence, authorisation under the Licensing Act 2003 would also be required. Where authorisation is granted under the Licensing Act 2003 additional conditions may be attached to the street trading consent / licence. These conditions may include but are not restricted to:-

- a) the trader adopting a challenge 25 policy;
- b) restrictions on the sale of alcohol in open containers;
- c) times at which alcohol may be sold;

5.2 Any street trader wishing to sell alcohol should contact the licensing team for further information.

6 Sale of Tobacco

- 6.1 The Children and Young Persons (Sale of Tobacco etc) Order 2007, amends previous legislation changing the legal age limit for the sale of tobacco from 16 to 18 years of age.
- 6.2 If you are permitted to sell tobacco you must display a notice in a prominent position readily visible at the point of sale of the tobacco stating:-

“IT IS ILLEGAL TO SELL TOBACCO PRODUCTS TO ANYONE UNDER THE AGE OF 18”

Failure to display such a notice may result in a fine of up to £1000.

- 6.3 The sale of tobacco to persons under 18 may result in a fine of up to £2500.
- 6.4 Cigarettes must be sold in their packs; retailers breaking a pack and selling cigarettes from it, to children or adults can be fined up £1000.

7 Special Events

- 7.1 For events such as Christmas Markets or Continental Street Markets, the Council will accept one application from the person organising the event. The application will require full details of each trader attending the event. Consent will be issued to each individual stall holder.
- 7.2 Any sale of alcohol will require a Temporary Event Notice to be served under the Licensing Act 2003.

8 Application Process

- 8.1 Any application for a street trading consent or licence must meet the following criteria:-
- the applicant must be over 17 years of age;
 - the application must be made using the prescribed form;
 - the name of the business must not be the same as, or similar to, that of an existing static retail business or another street trader;
 - the trading name of the vehicle must be included on the application form
 - the application must be accompanied by the relevant fee;
- 8.2 The application form must be completed in full, applicants should ask for assistance if they encounter difficulties in completing the application.
- 8.3 The address stated on the application form must be supported by documents containing the same address.
- 8.4 The application must also be accompanied by the following documents:-
- Public Liability Insurance – a current, original, insurance certificate; which must cover street trading to the value of £5 million;
 - Road Tax – details of the vehicles current road tax;

- c) The Current MOT Certificate for the Vehicle;
- d) The Log Book (V5) for the vehicle;
- e) Driving Licence (also for any assistants who may drive the vehicle);
- f) If handling food the applicant and any named assistants must provide a Basic Food Hygiene Certificate;
- g) Basic Disclosure – DBS (see Section 9 on how to apply);
- h) Two passport sized photographs; these are also required for any named assistants;
- i) Proof that the applicant, and any assistants, are entitled to work in the UK;
- j) The gas safety certificate for the trailer / vehicle being licensed (where applicable);
- k) A photograph of the vehicle/trailer to be licensed with every new application for where a vehicle/trailer is being changed.

8.5 The majority of the documents in 8.4 above need to be produced at every renewal. However, the DBS only needs to be renewed on a yearly basis; and the Food Hygiene Certificate need only be produced upon first application. New photographs will not be needed upon renewal unless the appearance of the consent / licence holders or any assistants has changed.

8.6 The documents in 8.4 above must relate to the vehicle you will be trading from. If you are trading from a trailer that is towed there by a vehicle you need not provide vehicle document for the towing vehicle.

8.7 Failure to follow the application procedure may result in your application being rejected or delayed.

8.8 Once the application is complete and has been accepted, the Council will either:

- a) grant the application as applied for;
- b) grant the application with conditions or a variation to application;
- c) refuse the application;

8.9 Please note, some of the information provided on the application form is published on a 'Public Register' which members of the public can view.

9 DBS Check

9.1 To apply for a Basic Disclosure (DBS) the applicant needs to contact Disclosure & Barring Service and follow their application procedures.

9.2 Any assistants named on the application form will also need to apply for a Basic Disclosure.

9.3 If any relevant convictions are recorded on the certificate, the application will be referred to the Trading Standards & Licensing Manager for determination.

9.4 Please refer to Section 17 for further information on the Council's convictions policy for Street Traders.

Contact details for DBS are:-

Website: www.gov.uk/request-copy-criminal-record
Telephone number: 03000 200 190
Email: dbsbasicenquiries@dbs.gov.uk

10 CCTV

10.1 All ice cream vans are recommended to install CCTV which the holder of the licence has control of. CCTV footage must be made available to an Authorised Council Officer or Police Officer upon request.

11 Duration of Licence/consent

- 11.1 Street trading licences are issued for a three month period; and are renewable on a quarterly basis.
- 11.2 Street trading consents are issued for a six or twelve month period, depending on the fee paid.
- 11.3 Street trading consents and licences are non-transferable. The holder may at any time surrender their consent or licence to the Council where it shall cease to be valid.

12 Renewal

- 12.1 It is the responsibility of the holder to ensure that they submit their application prior to the expiry of their consent / licence.
- 12.2 Consent / licence holders may submit their application to renew up to one month in advance. Failure to do so may result in a renewal not being granted.
- 12.3 Traders who continue to carry out their business without a licence may be liable to prosecution and/or their permission refused in line with the Council's enforcement policy.

13 Fees

- 13.1 The Council is entitled to charge fees in respect of the various licences it administers and legislation provides that the fees charged to applicants should cover the cost of application and administration.
- 13.2 For a list of the current fees relating to street trading please contact the licensing team.
- 13.3 Consents / licences surrendered prior to their may be eligible for a refund of the unexpired portion of the licence.
- 13.4 Fees are normally reviewed annually in accordance with Council policy.

14 Review of a Licence and / or Consent

- 14.1 Where the need arises, the Council may review a street trading consent or a street trading licence. Any such decision will be made in accordance with the Council's scheme of delegation.

15 Grounds for Refusal

15.1 Street trading licences may be refused on one or more of the following grounds:-

- a) there is not enough space in the street for the applicant to engage in the trading in which he desires to engage without causing undue interference or inconvenience to persons using the street;
- b) there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade;
- c) the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason;
- d) the applicant has at any time been granted a street trading licence by the council and has persistently refused or neglected to pay fees due to it for the collection of rubbish, cleansing of streets or other services rendered to the applicant in his capacity as licence holder;
- e) the applicant has at any time been granted a street trading consent and refused or neglected to pay fees for it;
- f) the applicant has without reasonable excuse failed to avail himself to a reasonable extent of a previous street trading licence. (This means that the applicant has held a previous street trading licence and has failed, without reasonable excuse, to make full use of that said licence).

15.2 Street trading consents may be refused on one or more of the following grounds:-

- a) The applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason;
- b) the applicant has at any time been granted a street trading licence by the council and has persistently refused or neglected to pay fees due to it for the collection of rubbish, cleansing of streets or other services rendered to the applicant in his capacity as licence holder;
- c) the applicant has at any time been granted a street trading consent and refused or neglected to pay fees for it.
- d) there are already enough traders trading in the street / area, from shops or otherwise, in the goods in which the applicant desires to trade;
- e) The power to grant a street trading consent is discretionary; and notwithstanding the generality of the grounds for refusal detailed in 14.2, the Council may refuse to grant a street trading consent if they deem it appropriate to do so. Such decisions will be made in accordance with the Council's scheme of delegation.

16 Conditions

16.1 The Council is permitted to impose such conditions, as it considers reasonably necessary, on street trading consents or licences. Appendix II sets out the conditions that will normally be attached to a street trading consent / licence.

16.2 The conditions at Appendix II do not form part of the policy document, although they may be referred to within it. These conditions could be subject to change during the duration of this policy, but such amendments may not result in a review of this policy.

- 16.3 Failure on the part of the holder (or any other person he employs to assist him in his trading) to comply with any of the conditions imposed may lead to the revocation of the consent / licence; or to the Council refusing to renew the consent / licence on its expiration.
- 16.4 Notwithstanding the issuing of a consent / licence, the holder is not authorized to trade at any time in contravention of any other statutory enactments or orders or Local Acts or Bylaws.
- 16.5 A street trading consent / licence does not in any way imply that:-
- a) planning approval is granted, you are advised to contact the Planning Department to ascertain if any approvals are required;
 - b) permission is granted to park on any land, highway, street or other place to trade;

17 Offences

- 17.1 A person commits an offence if they:-
- a) sell or expose for sale goods in a prohibited street;
 - b) sell or expose for sale goods in a licence street or a consent street without first obtaining authorisation from the Council;
- 17.2 A licence holder commits an offence if they:-
- a) contravene a principal term of the licence, (principal terms relate to the street in which a person can trade, the days and times in which a person can trade and the articles in which a person can trade);
- 17.3 A consent holder commits an offence if they:-
- b) sell or expose for sale goods in a street from a stationary van, cart, barrow, portable stall, or other vehicle without being granted permission to do so.
- 17.4 It is an offence to sound your chimes before 12.00 noon or after 7.00 pm. It is an offence to sound your chimes at any time in a way which gives reasonable cause for annoyance.
- 17.5 All offences and breaches will be considered in line with the Council's enforcement policy.

18 Convictions Policy

- 18.1 The Council's conviction policy relates to the relevance of convictions for:-
- a) applicants for the grant or renewal of a street trading consent;
 - b) persons who wish to be registered as an assistant to a holder of a street trading consent or to renew such registration; and
 - c) the holders of street trading consents and persons registered as an assistant to the holder of a street trading consent;
- 18.2 The purpose of considering an applicant's previous convictions is to enable the Council to assess whether:-

- a) an applicant for the grant or renewal of a street trading consent is a suitable person to hold, or to continue to hold, a street trading consent;
- b) a person who wishes to be registered as an assistant to a street trading consent holder, or to continue to be registered as an assistant to a street trading consent holder, is a suitable person to be registered as an assistant to a street trading consent holder;

18.3 Notwithstanding the existence of the convictions policy, each case will be decided on its own merits, and in making its decision the Council will consider the following:-

- a) whether the conviction is relevant;
- b) the seriousness of the offence;
- c) the length of time since the offence occurred;
- d) whether there is a pattern of offending behaviour;
- e) whether that person's circumstances have changed since the offence occurred;
- f) the circumstances surrounding the offence and the explanation offered by that person;

Applicants should refer to Appendix III for details of the general approach that will be taken to certain categories of offences.

Contacts

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Planning
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Website: www.oldham.gov.uk

Appendix I

1. Licensed Streets

- 1.1 For the purpose for this policy, the Council have designated the streets, or part thereof, detailed below as LICENSED STREETS and can only be used by licence holders (i.e. not consent holders) for street trading purposes.

CHADDERTON	
Andrew Street, Chadderton	Ash Walk, Chadderton
Burnley Street, Chadderton	Butterworth Street, Chadderton
Frederick Street, Chadderton	James Street, Chadderton
Lignum Avenue, Chadderton	Poplar Walk, Chadderton
Middleton Road, Chadderton (from its junction with Milne Street to Broadway)	

OLDHAM TOWN CENTRE	
Albion Street, Oldham	Cheapside, Oldham
Church Lane, Oldham	Church Street, Oldham
Church Terrace, Oldham	Curzon Street, Oldham
High Street, Oldham	Market Place, Oldham
Henshaw Street, Oldham (from its junction with St. Mary's way to West Street)	St. Mary's Way, Oldham (from its junction with Henshaw Street to Yorkshire Street).
Lord Street, Oldham (from its junction with High Street to St. Mary's Way)	Rock Street, Oldham (from its Junction with Lord Street, to St. Mary's Way)
Yorkshire Street, Oldham (from High Street to its junction with St May's Way).	

SHAW	
Collinge Street, Shaw	Kershaw Street East , Shaw
Market Street, Shaw	Regent Street, Shaw
Westway, Shaw	Crompton Way, Shaw (from its junction with High Street to its junction with Rochdale Road).
Farrow Street East , Shaw (from its junction with Market Street to its junction with Crompton Way).	Rochdale Road, Shaw (from its junction with Crompton Way to its junction with Market Street).

UPPERMILL	
High Street, Uppermill (including the Square) (from its junction with Church Road to its junction with Tame Street)	

2. Prohibited Streets

2.1 For the purpose for this policy, the Council have designated the streets, or part thereof, detailed below as PROHIBITED STREETS and cannot be used for street trading purposes:-

ALEXANDRA PARK	FAILSWORTH CEMETERY
Alexandra Road, Oldham	Cemetery Road, Failsworth
Queens Road, Oldham	Broome Grove; Waugh Avenue
Kings Road, Oldham	Laycock Crescent from Cemetery Road to its junction with Laycock Grove.

HOLLINWOOD CEMETERY	CROMPTON CEMETERY
Tiber Avenue	Blakelock Street and Alfred Street from Fraser Street to their junctions with Arthur Street.
Roman Road from its junction with Limeside Road to Montgomery Street	Fraser Street from its junction with Rochdale Road to Salts Street;
Limeside Road from Hollins Road to Pine Tree Road.	

GREENACRES CEMETERY	LEES CEMETERY
Top Street from Greenacres Road to Buller Street.	Thomas Street, Lees from West Street to Spring Lane
Greenacres Road from Esther Street to	Stanley Street, Lees.
Oberon Street	
Buttermere Road	

ROYTON	
Croft Head, Royton	King Street, Royton
Spring Garden Street, Royton	Park Street, Royton
Sandy Lane, Royton	Radcliffe Street, Royton (from its junction with Park Street to its junction with Sandy Lane)
Middleton Road, Royton (from its junction with Rochdale Road to its junction with Croft Head)	Rochdale Road, Royton (from its junction with Middleton Road to its junction with Whittaker Street).
ROYTON CEMETERY	
Cemetery Road	Nordek Drive

UPPERMILL	
Tame Street	Buckley Street
Chapel Street	Wade Row, Uppermill
High Street, Uppermill (from its junction with New Street to its junction with Church Road and from its junction with Tame Street to its junction with Buckley Street)	New Street, Uppermill (from its junction with High Street, to its junction with Church Road).
Church Road, Uppermill (from its junction with High Street to its junction with New Street)	

DOBCROSS	
Sugar Lane	Woods Lane
Platt Lane	Sandy Lane

GREENFIELD	
Bank Lane (road leading to Dovestones Reservoir)	

CHADDERTON	
Hunt Lane (from its junction with Broadway to its junction with Middleton Road)	Bay Tree Avenue (from its junction with Kensington Avenue to its junction with Laurel Avenue)
Crawley Street, Off Denton Lane	
CHADDERTON HALL PARK	
Chadderton Hall Road (from its junction with Mill Brow to its junction with Haigh Lane)	Kiln Hill Lane
Kiln Hill Close	Chadderton Fold
Chadderton Park Road (from its junction with Chadderton Hall Road to its junction with Rydal Avenue)	Nordens Drive
Haigh Lane (from its junction with Chadderton Hall Road to the entrance to the park)	Haigh Lane (B6195) (from its junction with Chadderton Hall Road to its junction with Kenilworth Avenue)
Irk Vale Drive (from its junction with Haigh Lane (B6195) to its junction with Rookwood)	

CHADDERTON CEMETERY	
Edward Street	Middleton Road (from its junction with Broadway to Daisy Street)
Fern Street	

3. Consent Streets.

3.1 For the purpose for this policy, the Council have designated that all other streets, or part thereof, that are not stated in the list for 'Licensed Streets' or 'Prohibited Streets' are classified as 'consent streets'.

Appendix II

1. Conditions

- 1.1 Dependant on the type of trading activity the following conditions will be normally attached to a street trading consent or licence:-
- a) sell only the goods authorised by the consent / licence and contained in the schedule;
 - b) prevent obstruction of any street or danger to persons using it;
 - c) prevent nuisance or annoyance (whether to persons using the street or otherwise);
 - d) affix in a prominent position on the vehicle used for street trading the identification discs issued by the council;
 - e) ensure that the identification disc referred to above, is maintained and kept in such condition that the information contained on the plate is clearly visible to public view at all times. In addition the Consent holder and any assistants must wear in a conspicuous position, the badge issued with the consent;
 - f) return the identification disc and badge(s) to the Council on the expiration of this Consent;
 - g) present the vehicle for inspection when required to do so by an authorised officer of the Council at the time and place designated by the authorised officer;
 - h) ensure that any person employed by him/her to assist him/her in his/her trading also complies with the aforesaid conditions;
 - i) ensure the vehicle insurance includes cover for the purpose of street trading;
 - j) the vehicle must be road worthy and have a valid Road Tax Licence and where applicable an MOT Certificate;
 - k) the driver must carry a valid driver's licence;
 - l) if there are any changes to staff you must inform this Department immediately;
 - m) Street trading can only be carried out from the stall or vehicle authorised under the conditions of the licence / consent. Any significant change to, or replacement of, the stall or vehicle must be approved by the licensing office;
 - n) if you or your assistant moves home or registered office, you shall write to the council giving details of new address within 7 days;
 - o) if you or your assistant are convicted of any offences, given a formal caution or have any fixed penalty notices, you shall give notice in writing to the Council within 7 days of the imposition of the offence, caution or fixed penalty notice;
 - p) you shall ensure that the area surrounding your site is kept free of litter, waste food, food spillage and grease staining originating from the business by the following means:-
 - i) cleaning the area as often as is necessary and at the end of each day; and

- ii) removing from the site at the end of trading on each day, all litter contained in the waste containers provided and collected from the area of the site and dispose of it in a lawful manner;
- p) you shall not place any tables, chairs or similar items on the highway;
- q) no animal shall be present on any stall or vehicle;
- r) the consent/licence holder shall provide suitable and sufficient receptacles within a radius of 5 metres from his/her vehicle, stall or container for the reception of refuse and shall, before departing from any site, ensure that all refuse within a radius of 5 metres from his vehicle, stall or container is collected and disposed of by him/her;
- s) the consent holder and/or persons assisting shall not trade either within 75 metres or within 150 metres line of sight from the main entrance of a static retail business or another street trader open for trading and traditionally selling goods of the same or similar nature;
- t) unless static i.e. burger vans, consent holders must move from position to position remaining for no longer than 5 minutes to initially attract customers and thereafter only long enough to serve customers present;
- u) when trading at or near to a school the consent holder must park their vehicle / trailer on the same side of the road as the entrance / exit of that school;
- v) consent holders must ensure that any stopping position does not infringe any parking or traffic requirements or cause obstruction of the highway, and does not present any danger to other road users or pedestrians;
- w) chimes and other audible signals should not be sounded:
 - for longer than 12 seconds at a time;
 - more often than once every 2 minutes;
 - more than once when the vehicle is stationary at a selling point;
 - except on approach to or at a selling point;
 - when in sight of another vehicle which is trading;
 - when within 50 metres of schools (during school hours), hospitals, and places of worship (on Sundays and other recognised days of worship);
 - more often than once every 2 hours in the same length of street;
 - louder than L_{Amax} 80dB at 7.5 metres;
 - as loudly in areas of low background noise or narrow streets as elsewhere.

- x) Licence and consent holders must comply with the Code of Practice on Noise from Ice-Cream Van Chimes Etc. in England 2013 which can be access at: <https://www.gov.uk/government/publications/code-of-practice-on-noise-from-ice-cream-van-chimes>
 - y) the identification disc referred to in Condition (4) of the consent will remain the property of the Council, and must be returned by the holder on the expiration of the consent. The Council will not grant a renewal of the Consent until the original identification disc is returned;
 - z) For food traders all packaging and utensils for use by customers shall be made of biodegradable or recyclable material
- 1.2 The consent / licence holder shall notify the Council in writing of any conviction, caution, fixed penalty, anti-social behaviour order or bind over against him/her immediately after the caution, fixed penalty, anti-social behaviour order or bind over has been issued or the conviction and sentence imposed and shall provide such further information as the Council may require.
- 1.3 The consent / licence holder shall give notice in writing to the Council of any change of his/her address during the period of the licence.
- 1.4 CCTV – the consent / licence holder must convey and CCTV footage from their vehicle(s) to an authorised officer or police officer upon request in the time requested.

Appendix III

1. Convictions Policy – Specific Offences

1.1 The following details the Council’s general approach when dealing with to certain categories of offences for street trading purposes:-

a) Dishonesty

The holders of a street trading consent and their assistants have to be persons who can be trusted. It is easy for a dishonest trader or assistant to take advantage of the public.

Members of the public using a street trading outlet expect the holder and his assistant to be honest and trustworthy.

For these reasons a serious view will be taken of any conviction involving dishonesty. In general, an applicant for the grant or renewal of a street trading consent is unlikely be granted a street trading consent where the application is made within 3 to 5 years of a conviction or the date of release from jail.

Similarly a person wishing to be registered as an assistant to a street trading consent holder is unlikely be to be registered where registration is sought within 3 to 5 years from the date of conviction or the date of release from jail.

b) Violence

As street traders and their assistants have close contact with the public, a firm line will be taken with applicants who have convictions for violence. In cases where the commission of an offence involves loss of life, a street trading consent or registration as an assistant to the holder of a street trading consent will normally be refused. In other cases, a period of 3 to 10 years free of conviction from the date of conviction or the date of release from jail where a custodial sentence has been imposed, depending upon the nature and seriousness of the offence(s), will generally be required before an application is likely to be considered favourably.

c) Drugs

Where an applicant has a conviction for an offence that relates to the supply or importation of drugs and the date of the conviction or the release from jail, where a custodial sentence has been imposed, is less than 5 to 10 years before the date of the application, an application will normally be refused. After 5 years from a conviction or the date of release from jail, where a custodial sentence has been imposed, the circumstances of the offence and any evidence which shows that a person is now a fit and proper person to hold a street trading consent or to be registered as an assistant to the holder of a street trading consent will be taken into consideration.

An application will normally be refused where the applicant has a conviction for an offence relating to the possession of drugs and the date of the conviction or the release from jail, where a custodial sentence for such an offence has been imposed, is within 3 to 5 years of the date of the application. After a period of three years from conviction or the date of release from jail where a custodial sentence has been imposed, consideration will be given to the circumstances of the offence and any evidence to show that an applicant is a suitable person to hold a street trading consent or to act as an assistant to the holder of a street trading consent.

An application will normally be refused where an applicant has more than one conviction for offences related to the possession of drugs and the last conviction or the date of release from jail, where a custodial sentence has been imposed, is less than 5 years before the date of the application.

d) Sexual and Indecency Offences

As the holders of street trading consents and their assistants, and in particular those who sell ice cream, have access to children, applicants who have convictions for rape, indecent assault, any sexual offence involving children and any conviction for an offence under the Sexual Offences Act 2003 will normally be refused a street trading consent or registration as an assistant to the holder of a street trading consent.

Where an applicant has a conviction for a sexual offence they will normally be refused a street trading consent or registration as an assistant to the holder of a street trading consent until they can show a substantial period usually between 5 and 10 years free of any such convictions from the date of conviction or the date of release from jail where a custodial sentence has been imposed.

After a period of 5 years from conviction or the date of release from jail, where a custodial sentence has been imposed, consideration will be given to the circumstances of the offence and any evidence to show that an applicant is a suitable person to hold a street trading consent or to be registered as an assistant to the holder of a street trading consent.

When considering applications, the Council may take into account any information of a sexual nature which does not amount to a criminal offence that is brought to its attention where that information may indicate that an applicant may not be a suitable person to hold a street trading consent or to be registered as an assistant to the holder of a street trading consent. In cases where the Council considers that information shows an applicant is not a suitable person, it will normally require a period of not less than 5 years free of such incidents from the date on which the incident occurred or, if more than one from the date of the last incident.

e) Motoring Convictions

In most cases, motoring offences are unlikely to be relevant when deciding if an applicant for a street trading consent or to be registered as an assistant to the holder of a street trading consent is a suitable person. However, there may be instances where the offences are of a very serious nature. In those cases, an applicants for a street trading consent or to be registered as an assistant to the holder of a street trading consent would be expected to show a period usually between 3 and 5 years free of any such convictions from the date of conviction or the date of release from jail, where a custodial sentence has been imposed.

f) Other Convictions

Schedule 4 Local Government (Miscellaneous Provisions) Act 1982 - The Council takes a serious view on applicants who have been convicted of offences under the 1982 Act. In particular, an applicant will normally be refused a licence if they have been convicted of an offence under the 1982 Act at any time during the 2 years preceding the application or have more than one conviction within the last 5 years preceding the date of the application.

g) Formal Cautions and Fixed Penalty Notices

For the purposes of these guidelines, the Council will treat Formal Cautions issued in accordance with Home Office guidance and fixed penalty notices as though they were a conviction before the courts.

