

REPORT

To: CORPORATE SERVICES COMMITTEE		Subject: REVIEW OF LICENCE CONDITIONS – STREET TRADERS LICENCES
From: HEAD OF LEGAL SERVICES		
Date: 18 April 2008	Ref: AMK/AW	

1. PURPOSE OF REPORT

- 1.1. The purpose of the report is to advise the Committee of proposed changes to the licence conditions for street traders in the North Lanarkshire area.

2. BACKGROUND

- 2.1. In terms of the Civic Government (Scotland) Act 1982 the Licensing Authority is able to grant a licence subject to such reasonable conditions as it sees fit. The Council attaches standard conditions to street traders licences and a full scale review of these conditions has not taken place since November 1999.
- 2.2. In the time since the last review of these conditions, it has become apparent that some of the conditions have been somewhat problematic. Practical difficulties with the current conditions have been brought to the attention of the Council both from the Licensing Enforcement Officers and from members of the trade.

3. REPORT

- 3.1. Whilst a full review of the conditions has taken place, there have been few substantive changes to the conditions. The majority of changes have simply been to improve the language, clarity and enforceability of licence conditions.
- 3.2. The main change in the licence conditions relates to the interplay between employer's licences and employee's licences. As you will be aware, North Lanarkshire Council issues separate licences for employers (those who operate snack vans etc) and employees (those who simply work them). Currently employee licences restrict the licence holder to working for a particular employer on a particular van/vehicle etc. Members of the trade have highlighted that this involves a cost, often paid by the employer, every time an employee moves to a new employer. The nature of the work also results in a high turnover of staff.
- 3.3. As a result it has been decided that employee licences will no longer specify where the employee can work. The employee will therefore, upon becoming licensed, be able to work for any licensed employer without incurring any further costs. This will result in the employees whereabouts being unknown to the Council, but an appropriate condition has been added to the employer's licence to ensure adequate records of who has been employed, and when, are kept.

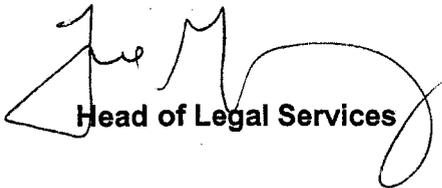
- 3.4. It is intended that the new licence conditions will apply only on the grant of a new licence or the renewal of an existing licence. As such, current licence holders will be subject to the new conditions only when their licence is renewed.
- 3.5. Each licence consists of the appropriate one of the first three pages attached (headed "CONDITIONS") together with the "SCHEDULE OF CONDITIONS".

4. **CORPORATE CONSIDERATIONS**

- 4.1. The proposed licence conditions should have no impact on the Council's wider policies.

5. **RECOMMENDATIONS**

- 5.1. The Committee are asked to agree (a) the terms of the street trader licence conditions contained in Appendix A; (b) that these conditions be applied immediately to all new grants of such licences; and (c) that the conditions are applied at the renewal stage of all current street traders licences.



Head of Legal Services

**CONDITIONS
(EMPLOYER)**

- a) The Street Trader shall be permitted to trade only in the following location / parts of the North Lanarkshire area, namely: [As per the attached plan (if static)]
- b) The Trader shall be permitted to trade between the hours of X and at no other times.
- c) The Trader is permitted to sell X and no other commodities.
- d) The Trader is permitted to use the following approved vehicle, kiosk or moveable stall namely:
- e) Type of Street Trader's Licence [i.e. static or mobile]:
- f) The Trader shall also adhere to the attached Schedule of Conditions.

Please note that a breach of any of the conditions on this page or the attached Schedule will entitle the licensing authority to consider suspension of the licence in terms of Paragraph 11 (1) (d) of Schedule 1 to the Civic Government (Scotland) Act 1982.

**CONDITIONS
(EMPLOYEE)**

a) The Trader shall adhere to the attached Schedule of Conditions.

Please note that a breach of any of the conditions on this page or the attached Schedule will entitle the licensing authority to consider suspension of the licence in terms of Paragraph 11 (1) (d) of Schedule 1 to the Civic Government (Scotland) Act 1982.

CONDITIONS
(EMPLOYER – POWER CLEANING SERVICES)

- a) The Street Trader shall be permitted to trade only in the following location / parts of the North Lanarkshire area, namely:
- b) The Trader shall be permitted to trade between the hours of X and at no other times.
- c) The Trader is permitted to trade in Power Cleaning Services (namely X) and no other commodities.
- d) The Trader is permitted to use the following approved vehicle, kiosk or moveable stall namely:
- e) Type of Street Trader's Licence [i.e. static or mobile]:
- f) The Trader shall ensure that waste washings from refuse containers are stored in the vehicle and are not allowed to enter the storm water drainage system or be deposited onto the public highway. A satisfactory means of collection and disposal of waste must therefore be provided. In addition all aspects of Scottish Water policy on wheeled bin cleaning must be complied with. A copy of the said policy is annexed and signed as relative hereto.
- g) The Trader shall also adhere to the attached Schedule of Conditions, together with relevant annex.

Please note that a breach of any of the conditions on this page or the attached Schedule will entitle the licensing authority to consider suspension of the licence in terms of Paragraph 11 (1) (d) of Schedule 1 to the Civic Government (Scotland) Act 1982.

NORTH LANARKSHIRE COUNCIL

SCHEDULE OF CONDITIONS APPLICABLE TO STREET TRADERS LICENCE

Conditions Applicable to ALL LICENCE HOLDERS:

1. On a licence being granted or renewed, an applicant shall be furnished by the Licensing Authority with a badge.
2. A street trader, when acting as such, shall wear the badge issued by the Licensing Authority and said badge shall be displayed conspicuously on his/her outer garments with the lettered side outermost, so that the whole lettering and photograph shall be distinctly visible, and must, when required, permit any person to inspect the same and to note the writing thereon.
3. The licence holder shall not lend or allow any other person to use his/her licence or badge.
4. The licence holder shall not in any way alter, erase or deface his/her licence or badge and shall, when reasonably required, produce it for examination by an authorised officer of the Council.
5. In the event of the badge being damaged or lost, a replacement badge may be issued on the production of the appropriate passport style photographs and the payment of the replacement fee.
6. The licence holder shall be bound to obtain a replacement badge on being notified by the Licensing Authority that the badge is considered to be defaced or illegible.
7. In the event of suspension by the Licensing Authority, or surrender or revocation of his/her licence, the licence holder shall forthwith return their badge to the Licensing Authority.
8. The licence holder shall on all occasions when street trading behave in a proper and civil manner, and shall not act in such a way as to cause a nuisance or annoyance to any person.
9. A licence holder whilst street trading shall always have with him/her his/her licence, which he/she shall keep at all times clean and legible and shall exhibit on demand to any Consumer Protection Officer or Inspector of Weights and Measures, Environmental Health Officer, Police Officer or such other officer as may be approved by the Licensing Authority in the licence from time to time on production by that Officer, Inspector, Police Officer (when not in uniform), or other officer of his/her badge of office or written evidence of his/her appointment to that office.
10. Every licence holder shall, at all times when street trading, keep himself/herself and his/her clothing clean and keep and maintain any vehicle, kiosk, moveable stall or other receptacle used for the purpose of street trading in a clean and proper condition to the satisfaction of the Executive Director, Environmental Services. On written notice, signed by the Executive Director, Environmental Services himself or by an Environmental Health Officer authorised by the Council to sign such notices, being given to any street trader that he/she has become unsuitable in respect of the unsatisfactory condition of his/her clothing or person, or that the vehicle, kiosk, moveable stall or receptacle is unsuitable, such street trader shall immediately cease to act as a street trader until he/she remedies the cause of complaint to the satisfaction of the Executive Director, Environmental Services or until the said notice is withdrawn; and such notices shall be recorded in a register kept for the purpose and

available during normal office hours for public inspection, and shall be reported to the Licensing Authority for information as soon as possible. For the avoidance of doubt, where the Vehicle, kiosk, moveable stall or receptacle has been deemed unsuitable, no licence holder shall be permitted to trade therefrom.

11. Notwithstanding the terms and conditions contained in his/her licence, every person engaged or employed in street trading within the North Lanarkshire area shall comply with any order or instruction given by any Police Officer for the prevention of obstruction or annoyance to the public or to the occupiers of any premises or in connection with any emergency or disturbance or on any occasion when such officer, in his/her discretion, considers it necessary in the public interest to give such order or instruction.
12. A licence holder who does not intend to act as a street trader for the un-expired period of this licence or whose licence has expired or been suspended by the Licensing Authority shall, within seven days thereafter, deliver his/her licence and badge to the Licensing Authority and shall be in contravention hereof if he/she fails to deliver both within said period of seven days without reasonable excuse.
13. A licence holder who changes his/her address shall within 14 days thereafter give notice thereof to the Licensing Authority and shall produce his/her licence to the Head of Legal Services who shall endorse thereon the particulars of such change of address.
14. The licence holder shall within 28 days of a criminal conviction or offence being recorded against him/her, intimate details of the conviction/offence to the Council's Head of Legal Services.

Further Conditions Applicable to STATIC EMPLOYERS:

15. The licence holder shall not trade from any place other than that specified in this licence, and shall not trade from any vehicle, kiosk or moveable stall other than that specified in this licence or any subsequent variation thereto.
16. The licence holder shall not employ for the purposes of street trading within the Licensing Authority area any person who does not hold a street trader's licence.
17. In every case where the holder of an employer's licence employs a licensed street trader, he shall cause to be exhibited to him and shall endorse as so exhibited the licence of such employee. The employer shall also keep an up to date list containing the names and addresses of all persons employed by him, as well as dates and times of said employment over the previous six months. Such list shall be produced on demand to a police officer or authorised officer of the Council.
18. The licence holder, when undertaking street trading including food business, shall provide and maintain in proper working order equipment necessary for the proper cleaning and sterilising of all utensils and vessels used in connection therewith and comply at all times with the requirements of Sections 16 and 26 of the Food Safety Act, 1990.
19. The licence holder shall ensure that there is placed in a public place a litter bin or other receptacle for the deposit of all litter associated with the licensed activity. The licence holder shall ensure that any litter associated with the licensed activity which may be produced or may accumulate in the course of trading is collected and removed and shall not place or deposit the same or allow the same to be placed or deposited on any street, foot-pavement, footway or adjoining property.

20. If the vehicle, kiosk or moveable stall is sited on the publicly maintained road it must not be positioned permanently or connected to mains services. Road gullies must not be used for drainage purposes.
21. The vehicle, kiosk or moveable stall must be situated such that customers do not stand on the carriageway while being served.
22. No licence holder is entitled to trade from private land or a private roadway without having received the prior consent of the owner or owners (including North Lanarkshire Council) of the land or roadway in question.
23. The licence holder will be supplied with a sign containing the licence details and confirming that the vehicle, kiosk or moveable stall is licensed. This sign must be displayed upon the vehicle, kiosk or moveable stall at all times when being used for street trading.
24. A licence holder making use of a vehicle, kiosk or moveable stall shall, on receiving the requisite notice in writing from the Licensing Authority, present his/her vehicle, kiosk or moveable stall for inspection as to its continued suitability at such time and places as may be reasonably required by the Licensing Authority.
25. The licence holder shall not at any time use for the purpose of advertising his/her presence, trade or business any loudspeaker, horn, whistle or other sound device as to give reasonable cause for annoyance to persons in the vicinity; and shall not between the hours of seven in the evening and noon the next day use, for the purpose of advertising his/her presence, trade or business, any loudspeaker, horn, whistle or other device.
26. The licence holder shall ensure that no associated advertising or directional signing is erected within the curtilage of the publicly maintained road without the approval of the relevant Planning and Roads Authority.
27. The licence holder, if not present on the licensed vehicle, kiosk or moveable stall, shall ensure that any employee does not act in such a way as to breach these conditions.
28. The licence holder shall ensure that any person employed by them acts in accordance with their licence conditions.

Further Conditions Applicable to MOBILE EMPLOYERS:

29. The licence holder shall not trade from any places other than those specified in this licence, and shall not trade from any vehicle other than that specified in this licence or any subsequent variation thereto.
30. A licence holder shall not employ for the purposes of street trading within the Licensing Authority area any person who does not hold a street trader's licence.
31. In every case where the holder of an employer's licence employs a licensed street trader, he shall cause to be exhibited to him and shall endorse as so exhibited the licence of such employee. The employer shall also keep an up to date list containing the names and addresses of all persons employed by him, as well as dates and times of said employment over the previous six months. Such list shall be produced on demand to a police officer or authorised officer of the Council.
32. The licence holder, when undertaking street trading including food business, shall provide and maintain in proper working order equipment necessary for the proper cleaning and sterilising of all utensils and vessels used in connection therewith and comply at all times with the requirements of Sections 16 and 26 of the Food Safety Act, 1990.

33. The licence holder shall, if trading from a particular location for a period exceeding five minutes, ensure that there is placed in a public place a litter bin or other receptacle for the deposit of all litter associated with the licensed activity. The licence holder shall ensure that any litter associated with the licensed activity which may be produced or may accumulate in the course of trading is collected and removed and shall not place or deposit the same or allow the same to be placed or deposited on any street, foot-pavement or footway or adjoining property.
34. When the vehicle, is sited on the publicly maintained road it must not be positioned permanently or connected to mains services. Road gullies must not be used for drainage purposes.
35. The licence holder shall not allow his vehicle to stand on or within a distance of 20 metres from any pelican or pedestrian crossing. The licence holder shall ensure that at all times the said vehicle can be speedily and easily removed from any location, that the said vehicle is in a safe, serviceable and clean condition, and shall not trade at any location considered unsuitable by the Licensing Authority provided that prior written notice has been served upon the street trader.
36. The vehicle must not contravene any traffic management measures (e.g. yellow lines etc.) or obscure road signs.
37. The location of the vehicle should be such that no customer is encouraged to contravene any traffic management measures (eg yellow lines etc) or to obscure road signs.
38. The vehicle must not stand on the footway.
39. The vehicle must be situated such that customers do not stand on the carriageway while being served, and the presence of the vehicle and its customers should not significantly reduce the capacity of the footway or carriageway.
40. Except as otherwise directed by the Licensing Authority as aforesaid, no licence holder shall engage in street trading within 100 metres of any establishment or premises in which are sold or offered for sale any goods or articles or service of the same or similar class and description as those to be sold or offered for sale by the licence holder. The Licensing Authority may, in their sole discretion, direct that the terms hereof shall not apply to a particular street trader in a particular street or locality or area.
41. If the licence holder remains at a particular location for 10 minutes without serving, he shall move on to a new location at least 50 metres away. The licence holder shall not return to a location he has previously stopped at for a period of at least two hours.
42. No licence holder is entitled to trade from private land or a private roadway without having received the prior consent of the owner or owners (including North Lanarkshire Council) of the land or roadway in question.
43. The licence holder will be supplied with a sign containing the licence details and confirming that the vehicle, kiosk or moveable stall is licensed. This sign must be displayed upon the vehicle, kiosk or moveable stall at all times when being used for street trading.
44. The licence holder shall, on receiving the requisite notice in writing from the Licensing Authority, present his vehicle for inspection as to its continued suitability at such time and places as may be reasonably required by the Licensing Authority.
45. The licence holder shall not at any time use for the purpose of advertising his/her presence, trade or business any loudspeaker, horn, whistle or other sound device as to give reasonable cause for annoyance to persons in the vicinity; and shall not between the

hours of seven in the evening and noon the next day use, for the purpose of advertising his/her presence, trade or business, any loudspeaker, horn, whistle or other device.

46. The licence holder shall ensure that no associated advertising or directional signing is erected within the curtilage of the publicly maintained road without the approval of the relevant Planning and Roads Authority.
47. The licence holder, if not present on the licensed vehicle, shall ensure that any employee does not act in such a way as to breach these conditions.
48. The licence holder shall ensure that any person employed by them acts in accordance with their licence conditions.

Further Conditions Applicable to EMPLOYEES:

49. The licence holder may only work from a vehicle, kiosk or moveable stall which is licensed by way of an employer's licence.
50. The licence holder shall not act in such a way that would constitute a breach of the employer's licence conditions if they were the holder of such a licence.