

## **MARKETS LICENSING POLICY**

### **1. Introduction**

The Council recognises the importance of markets in the local economy and the character of the area. They remain an important Council service and contribute in a number of ways to the local communities they serve.

The Council's markets are described in more detail in Section 2 of this policy and they represent an important investment by the Council in delivering economic regeneration and town centre vitality.

The Council is keen to maintain the balance of markets throughout its area and also ensure that there is consistency in the way that markets are organised. In this context the Council has decided to implement a markets policy which sets out the basis upon which markets are held and the process by which applications for new markets will be considered.

The Council recognises that there are many different types of market activities and the policy adopted by the Council is intended to cater for each type of market. In particular, the Council's policy distinguishes between commercial markets and those that are largely community-based with a strong charitable element. Section 5 of the markets policy deals with the different types of market and the Council's approach in considering applications in respect of such markets.

Prior to implementing this policy the Council has taken the opportunity of consulting with the following organisations:

In addition, the Council has consulted internally with the relevant Council sections responsible for licensing, economic regeneration, tourism and town centres.

The policy will be reviewed on an annual basis.

### **2. Markets**

Insert here a description of the markets operated by the Council and the powers under which they operate. There will need to be reference to a resolution confirming the relevant powers.

### **3. Market Rights**

The right to hold a market gives the owner of the right certain important powers, including the ability to control other markets held within 6<sup>2/3</sup> miles of the market owner's own market.

The Council, by virtue of its statutory powers, enjoys market rights throughout its area and is in a position to consider applications for market events. Section 5 of this policy sets out the basis on which applications will be dealt with by the Council.

This right has been exercisable for many years and the Council has taken into account relevant UK and European legislation in drawing up this markets policy.

### **4. What is a market event?**

The Council's markets policy is intended to cover all market events held within the Council's area. In order that potential market operators are fully aware of the Council's definition of a market the following guidelines are provided:

- a) the legal definition of a market is a “concourse of buyers and sellers” (this means that the public are entitled to attend market events to buy and sell).
- b) A market will comprise not less than five stalls, stands, vehicles, whether moveable or not or pitches from which articles are sold.
- c) There will be an operator of the market who will be responsible for the organisation and delivery of the event.
- d) The term “market event” includes car boot sales, antique and craft markets, general markets, farmers' markets and charity markets.
- e) A market may sometimes be held as an integral part of a special event and where this arises the market element will fall within the Council's markets policy.

The Council's markets policy differentiates between markets of a commercial nature and community-based markets which have a strong charitable element.

This markets policy does not cover street trading activities. Where this is the case the Council's licensing section should be consulted.

## **5. Licensing of markets under the Council's Markets Policy**

The Council's consent to a market event must be given before the market takes place. Markets will only be licensed once an application for a markets licence has been successfully pursued. Any market that takes place without such a licence is in breach of the Council's markets policy and will be subject to enforcement action as described in Section 10.

The Council will consider applications in respect of the following categories of market events:

- i) Commercial markets
- ii) Community-based markets with a strong charitable element

The criteria set out in Section 4 will be relevant in respect of both categories of market event.

### *i) Commercial markets*

A commercial market is one which is operated for profit and where the traders are engaged in a business activity of selling goods for their own purposes.

The Council will consider applications in respect of commercial markets having regard to the following requirements:

- a) No market will be authorised within 6<sup>23</sup> miles of an existing market unless it can be demonstrated that the new market will not undermine the existing market and not prejudice the overall market offer.
- b) In respect of any consent the operator must have adequate insurances, comply with trading standards guidelines, health and safety requirements and any other statutory provisions laid down by the Council.
- c) A fee will be paid in respect of any consent given by the Council and the fee will be based on the size of the market and the frequency of the market. Refer to Section 6 in respect of fees.
- d) The goods to be sold on the market will be approved by the Council.
- e) A licensing agreement will be entered into between the operator and the Council and such licensing agreement must be concluded before the market takes place.
- f) The Council will insist on such other requirements as are deemed appropriate to ensure consumer and public safety standards.

*ii) Community-Based Markets With A Strong Charitable Element*

Community-based markets are organised by local communities or organisations with the intention of raising funds for a specific charity or celebrating a special event

The Council will consider applications in respect of community-based markets having regard to the following requirements:

- a) the markets must be operated on a non-profit making basis to assist a charity or community event and the operator shall supply relevant information to the Council if requested. While it is acknowledged that some traders will be selling goods for their own purposes, the Council will look for the event to have a strong charitable element in the way the event is organised.
- b) In respect of any consent the operator must have adequate insurances, comply with trading standards guidelines, health and safety requirements and any other statutory provisions laid down by the Council.
- c) A licensing agreement will be entered into between the operator and the Council and such licensing agreement must be concluded before the market takes place.
- d) The Council will insist on such other requirements as are deemed appropriate to ensure consumer and public safety standards.

Applications in respect of both commercial markets and community-based markets should be made to the following:

PLEASE INSERT DETAILS

Information about the Council's markets policy can also be obtained online with the relevant application forms PLEASE INSERT DETAILS

The Council will endeavour to deal with applications for a markets licence within a period of twenty eight days. An operator of a market event is therefore urged to submit an application as early as possible to ensure that the Council has adequate time to consider the relevant matters in an appropriate way. In considering the application the Council will require sufficient information to deal with all the issues set out in the criteria listed above and also covered on the application form. Failure to provide such information is likely to lead to a delay in the Council coming to a decision.

If the Council decides to refuse an application it will set out the reasons for its decision and will advise the procedure for submitting an appeal in respect of the refusal. Normally any appeal must be submitted within fourteen days of the Council's written decision.

## 6. Fees

It is proposed that the fees in respect of commercial markets should be based on the following requirements:

Number of stalls	Single Market	Additional amount per market – up to 12 markets per year	Additional amount per market – over 12 markets per year
Less than 15	£50	£30	£20
15 – 24	£100	£75	£50
25 – 34	£150	£120	£100
35 – 44	£200	£150	£125
45 – 54	£250	£200	£150
55 – 100	£500	£400	£300

In respect of community-based markets it is proposed that an administration fee of £100 is paid to cover the Council's administrative costs.

## 7. Other Approvals

It is important to emphasise that any approval given by the Council in respect of its market policy does not remove the requirement for other relevant approvals to be obtained.

In particular the operator of a market should ensure that where the market is being held on private land, the approval of the landowner is obtained. The Council may wish to receive evidence of such approval.

Planning permission might also be required and any market operator should consult with the Council's Planning Department to ascertain whether any planning considerations are relevant.

Attention is also drawn to the provisions of the Licensing Act 2003 in respect of any entertainment provided at the market or where a Temporary Events Notice might be required in respect of the sale of hot food or alcohol.

## **8. Parish and Town Councils**

The Council recognises the important role played by Parish and Town Councils in serving their local communities and also acknowledges the contribution made by Parish and Town Councils to a wide range of community events which include, on occasions, a market element.

The Council will discuss with Parish and Town Councils the extent to which this market policy will apply to them and in the context of the outcome of such discussions will review the implementation of the policy.

## **9. Section 37 of the Local Government (Miscellaneous Provisions) Act 1982**

The Council, at a meeting on 14<sup>th</sup> November 2001, approved the adoption of Section 37 of the Local Government (Miscellaneous Provisions) Act 1982.

This Section deals with temporary markets and any operator of a temporary market, together with the occupier of land on which the market is to be held, are required to give to the Council not less than one month's notice of the holding of the market.

No notice is required if the proceeds of sale of the temporary market are to be applied solely or principally for charitable, social, sporting or political purposes. The Council reserves the right, in appropriate circumstances, to require evidence in respect of such matters.

Any notice given by the operator and the occupier of the land shall state:

- i) the full name and address of the person intending to hold the market.
- ii) the day or days on which it is proposed that the market will be held and its proposed opening and closing times.
- iii) the site on which it is proposed that the market will be held.
- iv) the full name and address of the occupier of the land if he is not the person intending to hold the market.

It is important to emphasise that the requirements of Section 37 are quite separate to the licensing of events under the Council's Markets Policy set out in Section 5. The operator and the occupier of the land should ensure that a notice is given to the Council under the requirements of Section 37 as soon as proposals for a temporary market are under consideration. This will enable the Council to give preliminary consideration to a proposal and indicate its likely view on a subsequent application for a markets licence.

Failure to give a notice under Section 37 is a criminal offence and liable to a summary conviction in the Magistrates' Court.

#### 10. **Enforcement**

The Council will monitor the application of its markets policy and any market event which is established after the date of the implementation of this markets policy will be subject to the Council's requirements.

Any market which is not approved by the Council under Section 5 of its markets policy will be subject to legal action and the Council will seek an appropriate remedy in the courts to prevent the market being held and/or damages as appropriate.

In addition, any market operator acting in contravention of any market licence granted by the Council will run the risk of the licence being terminated by the Council on such terms as the Council determines and, in such circumstances, the Council reserves the right to refuse any future applications for market licences submitted by the operator concerned or any person or organisation associated with the operator.