

CLACKMANNANSHIRE COUNCIL

Report to Council of 14 August 2008

Subject: Street Trading Policy

Prepared by: Peter J Broadfoot, Head of Administration and Legal Services

1.0 SUMMARY

- 1.1. This report proposes that the Council should adopt a policy about the granting of street trading licences. It relates, in particular, to mobile traders selling food, snacks and refreshments from vans. The policy, if adopted, would require that a condition be imposed on any such licences that trading must not take place within 500 metres of any secondary school in the Council area.

2.0 RECOMMENDATIONS

- 2.1. It is recommended that the Council adopt the policy set out in this report in relation to street traders' licences, namely that any such licence shall be subject to the condition that no trading shall take place within 500 metres of any secondary school in the Council area.

3.0 BACKGROUND

- 3.1. The Council determines applications for street traders licences in terms of the Civic Government (Scotland) Act 1982. Some of the licences granted allow the licensee to operate mobile snack vans. Over the years there has been an increasing practice for such licensees to locate themselves directly outside secondary schools, in particular at lunch time. As a result, many school pupils leave the school premises in order to buy their lunch from the snack vans.
- 3.2. This has given rise to various concerns, including:-
- a) road safety,
 - b) increased litter,
 - c) encouraging pupils to leave the school premises,
 - d) discouraging pupils from benefitting from schools' healthy eating programmes,
 - e) general detracting from the amenity of the area.

- 3.3 These issues are by no means unique to Clackmannanshire and several Councils have considered means of tackling them. The furthest any has gone so far is to try to reach voluntary agreements with traders that they will not trade within a certain distance of schools. The Civic Government (Scotland) Act 1982 does, however, give the Council the right to impose conditions on licences. These are "such reasonable conditions as the licensing authority think fit". The Act also makes it clear that licences may be restricted to an area specified in the licence.
- 3.4 In terms of the 1982 Act, therefore, it would be possible for the Council to require that a condition be imposed on street traders' licences that they must not trade within a certain distance of a school. It is suggested that 500 metres may be an appropriate distance.
- 3.5 Councils have been reluctant to impose such requirements because there is a concern that it may act in restraint of trade, or may be seen as seeking to achieve aims that are not strictly for the licensing authority to enforce but, for example, for education authorities to deal with in other ways. This can be countered by the argument that the licensing regime is in place to ensure that any licensed activities are carried out in a safe, appropriate manner and without causing nuisance. It would be open to any street trader to appeal to the Sheriff against the imposition of a condition on his or her licence. Whether any appeal would be successful or not would depend upon the particular circumstances of the case. If any appeal were successful, the Council would need to revisit its policy.

4.0 CONCLUSIONS

- 4.1. In order to ensure that street trading is carried out in safe and appropriate manner and without causing nuisance, the Council may wish to adopt the policy on street traders' licence conditions as set out in this report.

5.0 SUSTAINABILITY IMPLICATIONS

- 5.1. None.

6.0 FINANCIAL IMPLICATIONS


- 6.1. None in relation to adopting the proposed policy.

6.2. Declarations

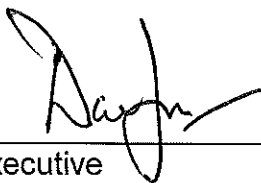
- (1) The recommendations contained within this report support or implement Corporate Priorities, Council Policies and/or the Community Plan:

- **Corporate Priorities (Key Themes)** (Please tick)

- Achieving Potential
 - Maximising Quality of Life
 - Securing Prosperity
 - Enhancing the Environment
 - Maintaining an Effective Organisation
- **Council Policies** (Please detail)
-
- **Community Plan (Themes)** (Please tick)
- Community Safety
 - Economic Development
 - Environment and Sustainability
 - Health Improvement
- (2) In adopting the recommendations contained in this report, the Council is acting within its legal powers. (Please tick)
- (3) The full financial implications of the recommendations contained in this report are set out in the report. This includes a reference to full life cycle costs where appropriate. (Please tick)



 Head of Service



 Chief Executive



CLACKMANNANSHIRE
COUNCIL

Report to Council

To accompany all Reports to Council

To: Head of Administration And Legal Services

Author: Peter J Broadfoot	Date: 15 July 2008
Service: Chief Executives	
Date of Meeting: 14 August 2008	
Title of Report: Street Trading Policy	

Recommendation that the attached report be:

1. Given unrestricted circulation	<input checked="" type="checkbox"/>	(tick appropriate box)
2. Taken in private	<input type="checkbox"/>	

By virtue of paragraph ____ of schedule 7A, Local Government (Scotland) Act 1973.

Appendices attached to this report (if none, state "none")

1. None
- 2.
- 3.
- 4.

List of Background Papers (if none, state "none")

1. None
- 2.
- 3.
- 4.

Note: All documents specified must be kept available by the author for public inspection for four years from the date of the meeting at which the report is considered.