



North Tyneside Council

STREET TRADING INFORMATION FOR APPLICANTS OF CONSENTS

These guidelines have been produced to assist people who want to trade in a street (street trading).

“Street Trading” is defined as “the selling or exposing or offering for sale of any article (including a living thing) in a street. There are certain exceptions from this definition but generally the definition is wide and covers most forms of trading.

Introduction

If you want to sell, expose or offer for sale any article (including a living thing) in a street, then you must hold a street trading licence or consent issued to you by North Tyneside Council. It is an offence to engage in street trading without the benefit of a licence or consent.

This Guidance Note tells you:

- What legal requirements you must meet to get a consent
- What information we need from you to enable us to consider your application.

What are the legal requirements?

The primary Act of Parliament governing street trading is the Local Government (Miscellaneous Provisions) Act 1982. This Act allows the Council to control street trading in three distinct ways by classifying streets as:

- Licensed streets
- Prohibited streets
- Consent Streets.

In North Tyneside we have resolved to adopt a scheme designating the whole of North Tyneside as a consent area with the exception of the coastal strip which has been designated as 8 licensing zones. “**Street**” includes any road, footway, beach or other area to which the public have access without payment. We cannot approve your application unless we are satisfied that:

- i) You are at least 18 years of age.

(No child can be employed or engaged in street trading by their parents - see Section 20 of the Children and Young Persons Act 1933 as amended).

ii) You have submitted your application in writing.

iii) Your proposed trading location will not conflict with any adopted policy guidelines.

If you wish to sell hot food and/or drink between 2300 - 0500 you will also need to apply for a Premises Licence under the Licensing Act 2003.

For clarification purposes a street trading consent would not be required for the following activities:

- **A pedlar** - although you cannot set up a stall or stop in any one location for a period of time - you must trade as you travel and not travel to trade. Pedlars are required to register with the Police
- **A designated market or fair**
- **A trunk road picnic area**
- **A news vendor** - although you must sell only newspapers or periodicals and/or have a stall occupying less than 1 metre in length/width or 2 metres in height. Further, any stall must not stand on the carriageway of a street.
- **A roundsman** - for example milkmen, coalmen and other persons who go to regular customers.
- **A highway amenity for structures on the highway** to provide for recreation, refreshment or the production of income
- **A charitable street collection.**
- **Trading carried out at a petrol filling station.**
- **Trading in or around a shop** (Where the trading is in a street adjoining a shop premises so used as part of the business of the shop).

You do not require a consent to trade from private land (such as a beer garden) where the public are denied general rights of access or have to pay to enter. You might however need to separately obtain planning permission and/or the express permission of the Council (as landowner) if we own or are responsible for the land.

You are required to have a licence or consent to trade from private land if such land is openly accessible to the public without charge e.g. a car park in a trade park.

Consent streets

The holder of a Street Trading consent can trade from any appropriate location (a pitch) in a consent street or operate as a mobile unit e.g. ice cream vendors but you must not cause obstruction or nuisance, trade in a licence zone or occupy a pitch within 50 metres of a fixed premises retailing the same or similar goods.

Choosing a location to trade

- You may only trade from an area or in areas that you have identified on your application.
- You cannot trade in the area of another local authority using the Consent issued by North Tyneside Council.
- Once you have found a prospective pitch, you are advised to contact Highways to ensure that trading from the pitch will not cause an obstruction or breach any restriction which is the responsibility of the Highways section.

- You are advised to ensure that the prospective site would not have a significant effect on road safety from either the positioning of the mobile unit or from customers visiting or leaving the point of trade.
- If your prospective pitch is on private land, we will ask you for written confirmation that you have the permission of the landowner.
- If during the consent period you wish to move to a different location, you must notify the Council in writing and ensure that the above criteria is met.
- Conditions may be attached to your consent prescribing where and where not you can trade, for example not trading close to schools.

Designation of consents

The consent scheme commenced on 5 September 2011.

The Council reserves the right to limit the number of consents granted giving consideration to the volume of applications and the level of provision.

Each application will be determined on its own merits using the criteria detailed below.

Age Limit

No consent will be granted to a person under 18 years of age.

Period of Consent

In normal circumstances, consents will be issued for 12 months. However, the Council reserves the right to issue consents for a shorter period where it considers it necessary or desirable to do so.

A consent may be revoked at any time.

Identification

The consent must be carried at all times when trading. Any “plate” issued must be prominently displayed. A badge will be issued to each consent holder and all employees to identify them as authorised persons. The badge will bear a photograph of the consent holder or employee and must be worn at all times when trading.

How to apply for a new Consent

To apply for a street trading consent you will need to supply the following:

- A completed application form
- 2 passport style photographs of yourself (with your name on the rear of the photograph)
- Basic DBS certificate that must be dated within one calendar month of application (required on new applications and on renewal every 3 years)
- 2 photographs of your unit/van –showing registration number if vehicle
- Appropriate fee - £150 for 12 month consent
- Where the consent is from an identifiable pitch, a copy of a map should be supplied. The map should clearly identify the proposed site position by marking the site boundary with a red line
- A copy of public liability insurance to a value of £5 million

- A copy of your V5 registration document and certificate of motor insurance
- Depending on the activity, further documentation may be requested by the Council
- See below if you have employees working on the unit/van

If you intend to sell food and/or beverages you are required to register within 28 days of commencing trading with the Environmental Health Section of the local authority of where the unit is garaged or stored when not in use. For North Tyneside, please contact the Food Team on (0191) 643 6653.

Disclosure and Barring Service (DBS)

Individuals living in England and Wales need to apply to DBS for a basic check via <https://www.gov.uk/government/publications/basic-checks>. Alternatively, an individual can use a 'Responsible Organisation' (RO) – a third party registered with DBS – to submit checks on their behalf. A list of Responsible Organisations can be found at <https://www.gov.uk/guidance/responsible-organisations>.

The current cost of a Basic Disclosure via the DBS will cost **£18.00** and the DBS aims to process the majority of applications within 14 days.

A fresh DBS is required every 3 years.

Renewal application

All consents must be renewed after 12 months. Applications for renewals must contain an updated public liability certificate, a copy of the V5 registration document and a copy of certificate of motor insurance.

Employees

Where you employ staff who work on the unit/pitch you will need to supply the following:

- 2 passport style photographs of any employees working on the pitch or mobile unit – name(s) written on the reverse of the image.
- Registration form for each employee with basic DBS disclosure certificate that must be dated within one calendar month of application.

There is no additional fee for processing employee registration forms however a fee of £20 will be charged for replacement badges.

Consultations on applications made

Before a consent is granted or renewed the Licensing Section will consult with various officers and agencies. In particular, the following may be consulted: (this list is not exhaustive)

- Environmental Health Section (where food and/or beverages)
- Strategic Property Section
- Highways Section
- Northumbria Police
- Local Councillors
- Local Chamber of Commerce where relevant

- Planning / Regeneration Section

Written observations may be sought and taken into consideration when determining an application.

Determination of the application

Each application will be assessed on its merits and individual circumstances, where appropriate, may be taken into consideration. The criteria used for determining an application include;

- Public safety
- Public order
- Avoidance of nuisance
- Needs of the area
- Compliance with legal requirements
- Consultees observations
- Any objections received
- Period of service provision (as shown on application form)
- Extent of provision (what is being traded)
- Conduct of consent holder/employees

Applications may at any time be referred to the Regulation and Review Committee for determination.

If Council officers when determining an application propose to;

- refuse an application;
- to grant it on principal terms different from those specified in the application;
- confine the applicant's trading to a particular place;
- vary or revoke a consent

a notice will be served giving the grounds for the decision and giving an opportunity to the applicant to make representations regarding that decision.

Refusal of applications

The Local Government (Miscellaneous Provisions) Act 1982 does not allow any legal appeals against the decision of the Council in relation to Street Trading Consents. A person aggrieved by a decision of the Council may seek a Judicial Review of the decision, should it be felt necessary.

Selling your Street Trading Business

Consents are non-transferable. A street trading consent cannot be passed to a successor if you sell your business. If you cease trading you will be required to surrender your consent to the Licensing Section.

Refunds

Where a consent is surrendered or revoked a refund may be applied for. The amount refunded will be calculated on a monthly basis and a deduction will be made to cover administration.

Enforcement of Street Trading

The Council will actively enforce the provisions of the Street trading legislation within North Tyneside. All enforcement activities will be in accordance with the North Tyneside Council Enforcement Policy.

Complaints

Should you wish to make a complaint they can be sent to the Senior Licensing Officer or can be directed through the Corporate Complaints procedure, copies of which are available at www.northtyneside.gov.uk or from the Council Offices.

For more information please contact:

Licensing Section – (0191) 643 2175