

STREET TRADING POLICY



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Introduction

The purpose of this policy is to clarify the Council's position in relation to Street Trading and ensure that such trading is done in accordance with the Council's Strategic Objectives to promote a Strong Local Economy and Clean, Safe and Healthy Communities.

Street trading means the selling, exposing or offering for sale any article, including a living thing, in a street. This includes the sale of food and ice cream from mobile units, but does not include news vendors, any trading done in a market, acting as a pedlar under a pedlar's certificate or the delivery of goods as a roundsman, such as a milkman.

Chorley Council operates a consent scheme, whereby certain streets are either consented for trade or prohibited. These are identified in Appendix 1.

The Council may impose conditions to any consent and may also set fees and charges applicable to the consent.

It is an offence to trade without a consent, trade on a prohibited street, make a false statement in an application for consent or to contravene any conditions relating to the time and place of trading.

The Council may also revoke a consent where the trader is investigated by the police, charged or convicted of an offence or contravenes the conditions of the consent, or refuse to grant a consent where the application pre-requisites are not met.

The Council's licensing role to protect public safety should be reflected in any such similar regulatory functions, such as Street Trading Consents, to ensure that the public is not put at risk by granting of a consent to individuals that they do not think suitable to hold such consent. Therefore the General Licensing Safeguarding, Suitability and Convictions Policy will be used to also consider the suitability of individuals as street traders to apply a consistent approach to protecting public safety. This policy is attached as Appendix 3.

Legislative background

The Local Government (Miscellaneous Provisions) Act 1982, Part III and Schedule 4, is the primary legislation under which street trading is regulated. However, regard must also be had for other relevant legislation, such as Food Safety Act 1990 and the associated regulations, Anti-social Behaviour, Crime and Policing Act 2014, Health and Safety at Work etc. Act 1974 and associated regulations, Environmental Protection Act 1990, Trading Standards legislation, and this Street Trading Policy.

Under the Council's Scheme of delegation, officers have the authority to grant a street trading consent. Any refusal or revocation of such a consent, or the addition of any individual conditions, would be delegated to the Director in consultation with the Chair of the Licensing and Public Safety Committee.

The legislation does not provide for the right of appeal to the Magistrate's Court. Any appeal against decisions would be through Judicial Review or a complaint to the Local Authority Ombudsman.

Application pre-requisites

Applications must be made on the official application form (Appendix 2) and accompanied by a passport sized photograph of the applicant.

The applicant must pay the applicable fee to the Council upon application.

No-one under the age of 17 is permitted to trade under a consent.

Where food is being sold, the applicant must also be a registered food business, this must be in the local authority area where their registered office is (this may be their home address).

Traders that employ staff must have employer's liability insurance.

Any Staff employed must be nominated and their photographs supplied with the application.

An Applicant, including for any nominated assistant, must present a Basic Disclosure and Barring Service (DBS) certificate which is less than 2 months old at the date of application, or electronic updates will be accepted. The cost of the DBS will be borne by the applicant. Where there are any convictions then the application will be determined by the Director in consultation with the Chair of the Licensing and Public Safety Committee.

Where a street trading consent or licence has previously been revoked, either by Chorley Council, or any other authority, the Council may refuse an application for consent.

Any trader selling food must achieve a minimum Food Hygiene Rating Score of 3 in order to be eligible for a consent. The consent would be revoked where the trader falls below this minimum rating of 3.

Conditions of consents

A consent will only be granted for a period of 12 months and may be revoked at any time for any reasonable cause, as determined by the Council.

The Council may, in granting or renewing a consent, impose such conditions as it considers reasonably necessary.

The following standard conditions will apply:

- (a) A street trader shall not trade within 50 metres of a fixed retail shop selling similar goods as its principal business, during the shop opening hours for the particular shop.
- (b) Only those goods originally nominated by the applicant to be sold. Any changes to be notified to the Councils' Regulatory Services Team by the consent holder before sales commence.

- (c) Nuisance or annoyance shall not be caused (whether to persons using the street or otherwise).
- (d) No obstructions of any street or persons using it shall be caused.
- (e) The trader shall display his/her name and consent number in a prominent position on the vehicle, cart, barrow or portable stall at all times when trading.
- (f) The trader shall produce, on the request of an authorised officer of the Council, evidence of his/her identity. A passport size photograph must accompany the application form which will be used for this purpose if consent is granted.
- (g) The trader shall at all times ensure compliance with all legislation relevant to the conduct of the business, in particular:
 - (i) any vehicle used must be in roadworthy condition, taxed and insured.
 - (ii) any vehicle used shall not be sited in contravention of parking restrictions.
 - (iii) any loudspeaker may only be used in accordance with Section 62 of the Control of Pollution Act 1974, and,
 - (iv) any vehicle or stall used for the sale of food shall comply at all times with the Food Safety and Hygiene (England) Regulations 2013 and Regulation 852/2004 Annex II Chapter III.
 - (v) where food is being sold, the applicant must also be a registered food business, this must be in the local authority area where their registered office is (this may be their home address).
- (h) The trader shall provide adequate receptacles for rubbish and remove all rubbish deposited in the vicinity of the vehicle or stall.
- (i) Trading may only take place between the hours of 07.30am and 11pm on any day. Consent holders may apply to the Council for consideration to be able to trade outside of these hours. The Council reserve the right to revise any extended operation hours at any reasonable time.
- (j) The trader shall ensure that where food (including drinks) is sold, they achieve a minimum Food Hygiene Rating Score of 3.
- (k) Traders are expected to maintain high levels of good conduct and therefore must not interfere with any other trader in their lawful operations.
- (l) A trader will be required to provide a Disclosure and Barring Service Certificate with each application, including for any nominated assistant.
- (m) The trader must notify the Council of any charges or convictions which arise during the course of the consent, including for any nominated assistant, failure to do so may result in refusal to grant any future applications.
- (n) The holder of any consent may employ any other person to assist him without a further consent being required. For any such assistants nominated, a basic DBS must be completed for this person and their photographs to be supplied with the application.

NOTE The Council may vary these conditions at any time.

Fees and Charges

The Council will set the fees for street trading consent annually.

Traders who reside inside the borough will be subject to a discounted fee, to promote economic growth and development for Chorley residents.

If consent is surrendered or revoked during the 12-month period, the Council will charge an administration fee. Surrendered or revoked consents will be subject to a pro-rata refund based on whole and part months when trading has taken place.

Enforcement

Where, during the course of the consent, there are any charges, police investigations, and/or convictions against the consent holder or nominated assistant, the consent may be revoked with immediate effect.

In the event that a further application for a Street Trading consent is made following the outcome of a police investigation and/or Court hearing the matter will be passed to the Director in consultation with the Chair of the Licensing and Public Safety Committee, where the General Safeguarding, Suitability and Convictions policy will be applied.

Failure of the trader to advise the Council of any charges, police investigations and/or convictions which arise during the term of the consent may result in refusal to grant any future applications.

Where a complaint is received from either the public or another authority, such as the police or local authority, the complaint will be investigated and the Council may revoke the consent where a condition has been breached, they consider that on a balance of probabilities that an offence has been committed or the reputation of the Council may be undermined by the activities of a consent holder or for any reason.

Where two consent holders are investigated due to complaints of breaches of conditions or arguments over trading times and areas, both consent holders will be expected to fully participate in mediation. Where issues persist or mediation is refused the Council may consider enforcement action or referral to the General Licensing Sub-Committee for a consideration of the matter and a decision on whether to apply additional conditions, revoke or renew consents for either or both party.

Appendix 1- Prohibited and Consent streets

The Council has adopted a system of street trading comprising of designated “prohibited streets” and “consent streets”.

PROHIBITED STREET

A “prohibited street” means a street or area in which street trading is prohibited. In Chorley the prohibited streets with are:

(i) All land and streets in the open air, generally in the areas known as Rivington and Anglezarke within the Borough of Chorley. (Signs mark the approximate boundary of this area, further details are available from the Regulatory Services Team, telephone 01257 515151).

(a) There are three sites in this area where trading is permitted, these sites are let on a twelve month licence by Tender from United Utilities, Andertons Yard, Horwich - a street trading consent is also needed from Chorley Council.

(ii) The area of land adjacent to the Market Walk Development in Chorley bounded by the Market Walk Development, the car park and New Market Street, Chorley.

(iii) Streets in the area of the General Market, Chorley Town Centre:

Cannon Street	High Street	Chapel Street	Market Place
Cleveland Street	Market Street	Clifford Street	New Market Street
Fazakerley Street	Union Street		

iv) The M6 Services at Charnock Richard and the M61 Bolton West Services.

CONSENT STREET

A “consent street” means a street or area where trading is not allowed without the consent of the Council. A consent is a document issued by the Council.

In Chorley all streets other than prohibited streets are designated “consent streets”. This means that a person wishing to trade in those streets must obtain the consent of the Council.

A “street” includes any road, footway or other area to which the public have access without payment. Therefore, the Act can apply to public and private car parks, shopping centres and leisure areas. However, to trade in a private area you still need the permission of the landowner as well as a street trading consent from the Council.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
PART III - STREET TRADING
APPLICATION FOR STREET TRADING CONSENT

GRANT / RENEWAL Application (delete as appropriate)

(Please use CAPITAL LETTERS)

NAME: _____

DATE OF BIRTH: _____ NI Number: [grid]

ADDRESS: _____

POSTCODE: _____ TEL NO. _____

TYPE OF VEHICLE: _____ REG NO _____

ARTICLES TO BE SOLD: _____

IF NO VEHICLE, OTHER METHOD OF SALE: _____

WHERE AND WHEN DO YOU PROPOSE TO TRADE: _____

I ENCLOSE FEE OF £
(Cheques payable to Chorley Borough Council)

I AM OVER 17 YEARS OF AGE

Signed _____ Date _____

Fees: Applicants residing within the Borough: £440.50 per annum.
Applicants residing outside the Borough: £562 per annum.

- NOTES: 1. A Consent granted will be valid for a period of twelve months from the date of issue.
2. Completed application forms, DBS certificate and passport size photograph of the consent holder to be returned to: Regulatory Services Section
Early Intervention and Support Directorate
Civic Offices
Union Street
Chorley PR7 1AL

DATA PROTECTION ACT 1988
The information on this form will be used by Chorley Council under the terms of the Data Protection Act 1998 and will only be used in connection with the operation of the Environmental Services Unit. In case of query

please contact the nominated Chorley Council Data Protection Officer at the Civic Offices, Union Street, Chorley, PR7 1AL.

FOR OFFICE USE ONLY

Received:

Consent issued:

No.

Fee Paid

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LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

STREET TRADING CONDITIONS

The Council has adopted a system of street trading comprising of designated “prohibited streets” and “consent streets”.

1. PROHIBITED STREET

A “prohibited street” means a street or area in which street trading is prohibited. In Chorley the prohibited streets with are:

- (i) All land and streets in the open air, generally in the areas known as Rivington and Anglezarke within the Borough of Chorley. (Signs mark the approximate boundary of this area, further details are available from the Regulatory Services Team, telephone 01257 515151).
 - (a) There are three sites in this area where trading is permitted, these sites are let on a twelve month licence by Tender from United Utilities, Andertons Yard, Horwich - a street trading consent is also needed from Chorley Council.
- (ii) The area of land adjacent to the Market Walk Development in Chorley bounded by the Market Walk Development, the car park and New Market Street, Chorley.
- (iii) Streets in the area of the General Market, Chorley
 - Cannon Street
 - Chapel Street
 - Cleveland Street
 - Clifford Street
 - Fazakerley Street
 - High Street
 - Market Place
 - Market Street
 - New Market Street
 - Union Street
- iv) The M6 Services at Charnock Richard and the M61 Bolton West Services.

2. CONSENT STREET

A “consent street” means a street or area where trading is not allowed without the consent of the Council. A consent is a document issued by the Council.

In Chorley all streets other than prohibited streets are designated “consent streets”. This means that a person wishing to trade in those streets must obtain the consent of the Council.

A “street” includes any road, footway or other area to which the public have access without payment. Therefore, the Act can apply to public and private car parks, shopping centres and leisure areas. However, to trade in a private area you still need the permission of the landowner as well as a street trading consent from the Council.

There have been different interpretations as to what constitutes a “street” for a number of years. The law was clarified in 2009 by the case heard in the High Court, of West Berkshire District Council v Simon Paine [2009] EWHC 422 (Admin). The essential point

from the case is that a “street” can include private land such as a private car park, even though the public might not be expected to enter the land, they can do so, without payment. It does not just mean land which is part of a highway. This means that a number of activities that have not previously been considered to require a Street Trading Consent, will require one from now on. For example, parking on the private car parks of businesses, and selling goods to the employees, requires a Street Trading Consent.

You might also need planning permission if you want to trade from the same place on a regular basis or if you want to trade from a Council owned car park - contact the Council's Planning Section, Civic Offices, Union St, Chorley, telephone number (01257) 515151.

You should also contact Lancashire Highways Agency (Tel: 0845 0530011) to establish whether they have any comments regarding the proposed location of trading.

Exemptions

Street Trading means that selling or exposing or offering for sale of any article (including a living thing) in a street but this does not include:

- (a) trading as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871;
- (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 provided under the Highways Act 1980;
- (d) trading as a news vendor;
- (e) trading as:
 - (i) a petrol filling station
 - (ii) at a shop or on a street adjoining premises so used and as part of the business of the shop;
- (f) selling things, or offering or exposing them for sale as a roundsman. This means purely delivering goods which have been pre-ordered before you arrive at the premises, or delivering a regular order, such as with a milk round. Delivering a small amount of pre-ordered goods, when the majority of your business is to offer a range of goods for customers to choose from on site, does not qualify you as a roundsman.

3. GENERAL CONDITIONS TO A TRADING CONSENT

A consent will only be granted for a period of 12 months and may be revoked at any time for any reasonable cause, as determined by the Council.

The Council may, in granting or renewing a consent, impose such conditions as it considers reasonably necessary.

The following standard conditions will apply:

- (a) A street trader shall not trade within 50 metres of a fixed retail shop selling similar goods as its principal business, during the shop opening hours for the particular shop.

- (b) Only those goods originally nominated by the applicant to be sold. Any changes to be notified to the Councils' Regulatory Services Team by the consent holder before sales commence.
- (c) Nuisance or annoyance shall not be caused (whether to persons using the street or otherwise).
- (d) No obstructions of any street or persons using it shall be caused.
- (e) The trader shall display his/her name and consent number in a prominent position on the vehicle, cart, barrow or portable stall at all times when trading.
- (f) The trader shall produce, on the request of an authorised officer of the Council, evidence of his/her identity. A passport size photograph must accompany the application form which will be used for this purpose if consent is granted.
- (g) The trader shall at all times ensure compliance with all legislation relevant to the conduct of the business, in particular:
 - (i) any vehicle used must be in roadworthy condition, taxed and insured.
 - (ii) any vehicle used shall not be sited in contravention of parking restrictions.
 - (iii) any loudspeaker may only be used in accordance with Section 62 of the Control of Pollution Act 1974, and,
 - (iv) any vehicle or stall used for the sale of food shall comply at all times with the Food Safety and Hygiene (England) Regulations 2013 and Regulation 852/2004 Annex II Chapter III.
 - (iv) where food is being sold, the applicant must also be a registered food business, this must be in the local authority area where their registered office is (this may be their home address).
- (h) The trader shall provide adequate receptacles for rubbish and remove all rubbish deposited in the vicinity of the vehicle or stall.
- (i) Trading may only take place between the hours of 07.30am and 11pm on any day. Consent holders may apply to the Council for consideration to be able to trade outside of these hours. The Council reserve the right to revise any extended operation hours at any reasonable time.
- (j) The trader shall ensure that where food (including drinks) is sold, they achieve a minimum Food Hygiene Rating Score of 3.
- (k) Traders are expected to maintain high levels of good conduct and therefore must not interfere with any other trader in their lawful operations.
- (l) A trader will be required to provide a Disclosure and Barring Service Certificate with each application, including for any nominated assistant.
- (m) The trader must notify the Council of any charges or convictions which arise during the course of the consent, including for any nominated assistant, failure to do so may result in refusal to grant any future applications.
- (n) The holder of any consent may employ any other person to assist him without a further consent being required. For any such assistants to be nominated, a basic DBS must be completed for this person and their photographs to be supplied with the application.

NOTE The Council may vary these conditions at any time.

4. **APPLICATION PRE-REQUISITES**

Applications must be submitted on the official application form and be accompanied by the appropriate fee (See below). A passport size photograph of the consent holder should be included with the completed application form. A valid Disclosure and Barring Service (DBS) is also required before the grant or renewal of a consent.

A consent will not be granted to any person under 17 years of age.

A consent will only be granted for a period of 12 months, but can be revoked at any time.

A consent will only be granted where the applicant provides a basic Disclosure and Barring Service (DBS- formerly the CRB) certificate, this must be less than 2 months old at the date of application, including for any nominated assistant. The applicant will be required to make an appointment the Council for this to be completed by contacting the Transactional Team on 01257 515151.

Where there are any convictions then the application will be determined by the Director in consultation with the Chair of the Licensing and Public Safety Committee.

Where a street trading consent or licence has previously been revoked, either by Chorley Council, or any other authority, the Council may refuse an application for consent.

5. **FEES & CHARGES PAYABLE**

Applicant residing within the Borough	£440.50 per annum
Applicant residing outside the Borough	£562 per annum

If consent is surrendered or revoked during the 12-month period, the Council will charge an administration fee of £62. Surrendered consents will be charged for whole and part months when trading has taken place.

6. **PENALTIES FOR NON-COMPLIANCE**

It is an offence to:

- (a) Engage in street trading in a prohibited street.
- (b) Engage in street trading without consent in a street.
- (c) Make any false statement in an application for consent.
- (d) Engage in Street Trading from a vehicle, cart, barrow or portable stall without a consent permitting it.
- (e) Contravene conditions relating to the time and place of trading from a vehicle, cart, barrow or portable stall.

The maximum fine on summary conviction is £1,000.

Further advice and information is available from the Regulatory Services Team, Early Intervention Directorate, Tel: (01257) 515151.

STREET TRADING CONSENT GUIDANCE NOTES

FOOD SAFETY AND HYGIENE (ENGLAND) REGULATIONS 2013 REGULATION (EC) 852/2004 ANNEX II CHAPTER III

1. High risk foods, e.g. cooked meats, uncooked pies and pasties, quiches, soft cheeses, prepared vegetable salads, egg mayonnaise, fresh cream cakes, sandwiches containing high risk foods etc. must be stored at not more than 8°C as soon as possible after arrival on the vehicle or stall. A thermometer should be provided for each refrigerator. If any of these foods are intended to be sold hot, they must be kept at not less than 63°C whilst awaiting service.
2. Hand washing facilities and facilities for the washing of food and equipment are required on the vehicle or stall.
3. Interior wall and roof surfaces must be in good order, repair and condition to enable them to be effectively cleaned e.g. laminated plastic with sealed joints, or any smooth impervious hard finish.
4. The floor must be in good repair and condition to enable it to be effectively cleaned, e.g. metal, heavy duty vinyl with as few joints as possible.
5. Work surfaces and shelving must be covered with a suitable impervious material e.g. stainless steel or laminated plastic. Legs to the above should be gloss painted or covered with an impervious material which can be effectively cleaned.
6. The interior of the vehicle must be kept clean at all times.
7. There must be adequate natural or artificial lighting provided.
8. All containers for foods must be of such a type to prevent any contamination of the food, and be kept clean.
9. Refuse containers must be provided, with tight fitting lids, inside the vehicle, and outside for use by customers if the vehicle is parked for any length of time.
10. Food should not be placed so as to involve risk of contamination.
11. Any unfit or unsound food must be kept apart from any other food.
12. Open food e.g. sandwiches, cakes, biscuits etc. must be kept covered whilst exposed for sale with a suitable clean cover.
13. No live animal shall be carried in a food vehicle.
14. Wrapping materials or containers must be clean and not allow any contamination of the food. Any printed material e.g. newspapers must not be used to directly wrap food in.

PERSONAL HYGIENE REQUIREMENTS

1. A clean and washable overall must be worn at all times.
2. Keep all cuts and abrasions covered with waterproof dressings.
3. Smoking is prohibited within the vehicle at all times.
6. If a food handler becomes aware that they are suffering from any food poisoning type illness they must notify the owner of the business and refrain from work. They should not return to work until they have been given medical clearance by their GP.

If they have salmonella, dysentery or staphylococcal infection they must notify the owner of the business who then must notify the Environmental Health Officer. They must refrain from work until cleared by the Officer.

FOOD REGISTRATION

If food intended for sale from a vehicle or stall etc., is stored elsewhere than shop premises, the Local Authority must be informed so that the storage premises can be inspected by an Environmental Health Officer.

Under the Regulations, the premises where the vehicle is normally kept will have to be registered. Forms are available from this department if the vehicle is kept in the Chorley Area. There is no charge for registration. If you do not keep your vehicle/trailer/stall within the Borough of Chorley, please contact your local Environmental Health Department.

GUIDANCE NOTES FOR HEALTH AND SAFETY PRACTICES IN MOBILE FOOD VEHICLES

GENERAL REQUIREMENTS

1. Employers have a legal duty to employees including the provision and maintenance of plant and systems of work, provision of training and supervision, safe handling and storage of substances and articles and provision of a safe working environment.
2. Employers and the self-employed have a duty not to expose persons not being employees to any risk to their health and safety. Includes, members of the public and patrons of the food business.
3. Employees must safeguard themselves and their colleagues and co-operate with their employer in connection with those duties imposed upon them.
4. As from 1 April 1996, the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) requires that Chorley Council are notified of:
 - (i) All injuries to employees or self-employed persons which result in more than seven days off work should be notified within ten days of the accident, using Health and Safety Executive website.
 - (ii) All fatalities and specified major injuries to employees or self-employed persons, all specified dangerous occurrences, and any incident arising from work where a member of the public is killed or taken to hospital direct from site. Notification in these instances must be made immediately by the quickest practicable means (usually telephone) and followed by formal notification within ten days.
 - (iii) Certain prescribed industrial diseases, for more information see HSE website.
5. The Health and Safety (First Aid) Regulations 1981 place a duty on employers and the self-employed to provide a clean first aid box containing only specified first aid materials (ie no medicines, tablets, antiseptic etc.) and a guidance card on emergency first aid. In addition, employers must nominate as a minimum, a person to look after the first aid equipment, and to call the emergency services if necessary. Notices should be displayed giving the location of the kit.
6. The Electricity at Work Regulations 1989 place a duty on employers and the self-employed to ensure the safety of all electrical equipment. Planned routine maintenance is essential, and regular checks should be made to ensure the safety of equipment and the electrical installation.
7. The Control of Substances Hazardous to Health Regulations 2002 place a duty on employers and the self-employed to assess the potential health risk to employees and others by work with hazardous substances and to control those risks identified and monitor the effectiveness of any control measure introduced.
8. Any vehicle or trailer used must be so constructed and maintained as to be roadworthy.

LIQUEFIED PETROLEUM GAS (LPG)

1. Increasing concern is shown over the safety of LPG installations. LPG is a convenient, easy to handle fuel but it is a potentially dangerous substance. LPG takes the form of commercial propane, marketed in red or orange cylinders, and commercial butane, marketed in blue, green or yellow cylinders. The principal danger lies in the release of gas into a confined space, which can result in a fire or explosion risk. LPG is heavier than air, therefore leaking gas will usually descend.
2. The installation of gas appliances, flues, pipework, valves etc. must be undertaken by a competent person (Gas Safe registered) and should comply fully with all relevant British Standards.
3. Regular maintenance and examination of the installation should be carried out, including leak testing by the use of soapy water or similar. Naked flames must never be used.

LPG STORAGE ACCOMMODATION

1. Containers or cylinders of LPG and any manifold and changeover valves must be positioned in the open air or separate ventilated housing outside the body of the vehicle.
2. The ventilated housing may be recessed into the body of the vehicle, but must be sealed from the vehicle so that escaping gas cannot be released within the vehicle itself. Ventilation to external air may be achieved by ventilating the base or the side away from the vehicle, or both, using reinforced mesh or similar strong supporting construction. Ventilation at low level is very important.
3. All cylinders must be securely attached to the vehicle with their valves uppermost and be readily accessible to permit the changing or quick removal when necessary.
4. The compartment or housing construction must be of non-combustible material giving at least 30 minutes fire resistance, located to prevent damage to cylinders if subject to impact during a RTA. Joint's to be bonded or fire-stopped to prevent fire or hot gas spreading into the vehicle.
5. Access to the housing should only be from the outside of the vehicle, be secure to prevent tampering, but containers must be accessible in emergencies. The access point should be located on the nearside of the vehicle to minimise the risk of the operator being struck by a passing vehicle when changing the cylinders.
6. A Notice should be fitted to the outside of the housing to indicate the presence of LPG. Pictorial signs must comply with the Health and Safety (Signs and Signals) Regulations 1996.
7. Sources of ignition must be prohibited within one metre from the storage housing:
 - (i) The exhaust pipe may require shielding to prevent it becoming a source of ignition.
 - (ii) No part of the electrical installation must pass through the housing unless protected from mechanical damage.
 - (iii) The battery must be positioned away from the housing to prevent the risk of ignition of any escaping gas.

PIPEWORK AND JOINTS

1. Pipework should be LPG compatible, adequate rating and resistant to corrosion and abrasion, supported at intervals of not more than one metre, or 500mm in the case of soft copper.
2. Pipework passing through walls or partitions must be protected by grommets to prevent abrasion or fracture. Pipework passing beneath the vehicle must be installed to prevent mechanical damage from debris such as flying stones.
3. Pipework and fittings should be of solid drawn copper tube with copper or copper alloy fittings, or stainless steel tube and appropriate compression or screwed fittings. Copper pipework should not be exposed to temperatures above 100°C.
4. Every pipe containing LPG should terminate with a readily accessible shut-off valve or tap immediately before the appliance, in a readily accessible position. Taps should indicate clearly open and shut positions, and directions they must be turned to close them.
5. A shut-off valve should also be fitted prior to the first appliance on the line from the cylinders.

FLEXIBLE HOSES

1. Lengths must be kept to a minimum for essential flexibility.
2. High pressure hoses must be provided with integral threaded ends.
3. Low pressure hoses must be joined using either integral threaded ends, crimping or use of suitable hose clips (not of the worm-driven type).
4. Flexible hoses should not be used when temperatures exceed 50°C unless braided or armoured.

APPLIANCES

1. Appliances must be:
 - (i) Securely fastened to the vehicle.
 - (ii) Sited so as to allow easy access so that, in an emergency, the means of escape is not endangered.
 - (iii) Installed, maintained and serviced, in accordance with the manufacturer's instructions.
2. Appliances must not be sited in a position where heat from them may create a fire hazard or cause damage to surrounding material.
3. A flame failure device, which shuts off the supply of gas if the flame is extinguished is recommended to each appliance in all cases.
4. Appliances should not be lit whilst the vehicle is in motion, except that LPG fuelled refrigerators may be used on the road provided that:

- (i) A flame failure device is fitted and an adequate flue is provided.
 - (ii) It is properly secured, and does not show naked flame.
5. Refrigerators, when used on the road, are recommended to have an additional air intake of not less than 13cm² (1,300mm²) fitted in the floor of the vehicle below the refrigerator, but this must be sited so as to prevent a draught extinguishing the burner or pilot flame.
6. It is encouraged that a 12v battery source is used on freezer and refrigerators whilst vehicles are in motion.
7. Frying ranges should be fitted with:
- (i) An automatic high temperature limit device which will shut off the main burner if the temperature exceeds 230°C.
 - (ii) An automatic temperature control to maintain the temperature of the frying medium, with a maximum setting of 205°C.
8. Alternatively, a tap or valve should be fitted to control the main burner, together with a visual temperature indicating device incorporating an alarm mechanism if the temperature of the frying medium exceeds the pre-set value.

GAS SAFETY

MAINTENANCE AND INSPECTION BY EMPLOYERS AND USERS

1. Regulation 35 of GSIUR requires employers to ensure that gas appliances, flues, pipe work and safety devices are maintained in a safe condition. They should be inspected by a competent person in accordance with current industry practice. Periods between inspections may vary depending on the equipment and its use and should follow manufacturer's recommendations, but as a general rule **annual inspection** will be a reasonable minimum frequency.
2. It is the responsibility of the street trader to ensure that the competent persons carrying out the inspection and maintenance of the appliances are registered with Gas Safe and hold the qualification of Commercial Catering and LPG. More information can be found on the Gas Safe Register website at www.gassaferegister.co.uk/ or alternatively contact the Public Protection team at Chorley Council on 01257 515151.
3. A copy of the inspection report should be kept with the vehicle / trailer and made available for inspection at any reasonable time by an authorised officer.

VENTILATION

1. Adequate ventilation must be provided in every vehicle compartment where LPG fuelled appliances are used.

2. Suitable flues must be fitted to all appliances where required and flueless appliances avoided.

FIRE PRECAUTIONS

1. Clear written instructions must be displayed inside the vehicle, detailing the action to be taken in the event of fire or gas leakage.
2. A fire blanket should be provided, especially where frying is undertaken.
3. A dry powder fire extinguisher of 4.5kg capacity should be a minimum provision and will be suitable for both LPG and fat fires. The extinguisher must be located in a readily accessible position adjacent to the exit.
4. Access to and from the vehicle should be safe and free from obstructions.

Appendix 3- General Licensing Safeguarding, suitability and convictions policy



GENERAL LICENSING SAFEGUARDING, SUITABILITY AND CONVICTIONS POLICY

INTRODUCTION

The Council is responsible for a multitude of licensing functions, including but not exclusively, Taxi Licensing, the licensing of Premises and persons for the sale of alcohol, late night refreshment, regulated entertainment, sexual entertainment, gambling and betting, street trading consents, houses in multiple occupation, caravan sites and animal welfare including boarding and breeding, pet shops, dangerous wild animals and zoos.

This policy covers new and renewal applications as well as any existing licences and consents for all licensing functions except Taxi Licensing, where there is a specific policy 'Safeguarding, Suitability and Convictions Statement of Policy for Taxi Licensing' adopted by the Council in November 2015.

Licences and consents may only be granted where the Council is satisfied that the individual is a "suitable person" to hold such a licence or consent.

This Policy is intended to give guidance on one aspect of whether an individual is or is not a "suitable" person; specifically, the situation where an individual has previous convictions, cautions, complaints, reprimands and/or other relevant matters.

In carrying out its Licensing functions the Council's primary objective is to protect public safety and therefore must ensure:

- That an individual is a "suitable" person
- That the public are not put at risk by individuals with a history of dishonesty, indecency and/or violence
- The safeguarding of children, young persons and vulnerable adults

The Council also has a duty to prevent harm to animals as part of the wider licensing functions and therefore this secondary objective is relevant to all animal welfare licensing activities.

There is an expectation from the public that those persons trading under a licence or consent granted by the Council are trustworthy, honest and do not pose a risk to the safety of the public or to animals in their care.

For example, a street trader serving ice cream from a mobile unit which visits residential streets within the borough may have regular contact with children. They may also know where those children live, when parents are home or not and what holiday plans they may have, by building up trusting relationships with those customers.

Most people only board their cat or dog when they are going away on holiday. While they look after their pets, the boarding establishment will know the departure and return date and address of their customers.

The operator of a house in multiple occupation or residential caravan site is, as the owner of the premises, likely to have keys and access to the individual units, for the purposes of maintenance and safety. This type of accommodation may house young or elderly people or those with specific vulnerabilities.

For these reasons it is imperative that the Council has a robust policy for ensuring that all those given a licence or consent by the Council are suitable and safe to be trusted with the safety of the public and animals and the personal information they may hold on individuals.

Assessment of Suitability

The most important questions that the Members of any Committee that decides on whether to grant, renew, suspend, revoke or refuse a licence or consent are:

1. Would I trust this person to be responsible for having access to any member of my family (children, parents, grandparents, grandchildren, husband, wife or pets), with particular regard to whether they might be alone &/or vulnerable at the time?
2. And would I trust this person with sensitive personal information about my routines and holiday plans?

If the answer to those questions is 'No', 'don't know' or 'not sure' then a licence should not be granted or renewed and should be refused or where an existing licence is in place revoked, on the grounds that Members are not convinced that the applicant is safe and suitable.

Safeguarding Considerations

Particular regard must be had for the safeguarding of children and vulnerable adults. Vulnerable persons not only includes those with learning or physical disability or impairment (including dementia), but also includes those under the influence of drugs or alcohol, or in any other circumstances which render them less capable of making decisions; this might include suffering from shock after an incident or traumatic experience.

Following the review of Rotherham's Licensing Services serious failings were identified and consequently the Council did not take sufficient steps to protect the public. Chorley Council must learn from the mistakes of Rotherham and Rochdale and ensure that the appropriate policies and safeguards are in place to ensure that only those persons that meet the suitability test are permitted to hold any form of licence or consent issued by the Council.

Therefore, it is important to not only consider convictions but also take steps to give sufficient weight to relevant personal relationships and associations with known or suspected criminals, complaints, allegations, investigations, arrests and charges, even where convictions are not secured, when making any decisions that can impact on the safety of the public.

The Licensing Committee is not a jury in a criminal court and does not have to be convinced beyond reasonable doubt of guilt. The precautionary principle should be applied in all cases.

Child Sexual Exploitation is not a remote problem that only affects other areas of the country, statistically there is evidence to support the claim that it happens everywhere, and that the people responsible for perpetrating and organising these crimes live and work in our communities. There is evidence of an association between taxi drivers, proprietors and operators and also other licenced premises, such as takeaways, pubs and off licences. As such the Licensing and Public Safety Committee and sub-committees have a clear responsibility to the public when making their decision, the consequences of failure in this respect are far reaching, not only personally for the victims, but also for the reputation of the Council.

Convictions

Although convictions are not the only consideration for the Council, they are important and clear guidelines are crucial.

The Rehabilitation of Offenders Act 1974 does apply to all licences and consents (except for those licences relating to taxi drivers). It is acknowledged that employment plays a vital role in reducing reoffending and changing behaviour, however, the Council's primary role when carrying out the licensing function is to protect public safety and ensure all those persons licensed by the Council are suitable to hold such a licence or consent.

When submitting an application for a licence or consent individuals may be required to declare any and all previous convictions, this will depend on the legislation for each individual licence or consent. Individuals may also be required to disclose convictions which are not spent for the purposes of the Rehabilitation of Offenders Act 1974.

The information will be treated in confidence and will only be taken into account in relation to the relevant application and the associated legislation in order to assist the Council in determining whether the applicant is a safe and suitable person to hold a licence or consent.

We will consider all convictions based upon the Council's guidelines. When considering convictions, complaints, allegations, investigations, arrests and charges the Council will be mindful of the severity of, the relevance to the licence applied for and the time elapsed since the offence or alleged offence. The age of the applicant at the time of the offences/ alleged offences will also be taken into account.

Complaints include those made directly to the Council, police or any other agency. Intelligence received from other agencies, which includes circumstances that have not resulted in a criminal conviction, caution or other disposal may be taken into account. By way of example, this would also include incidents that have resulted in a police, trading standards or RSPCA investigation, but there has been no further action due to the criminal burden of proof, if the Council is satisfied that the incident occurred based on the balance of probabilities.

The disclosure of a criminal conviction, caution or other relevant information relating to an individual's conduct will not debar that individual from being granted, retaining or renewing a licence or consent. It will depend on whether or not an individual can satisfy the Council that they are a "suitable" person to hold such a licence or consent.

The Council may not be satisfied that an individual is a "suitable" person to hold a licence for any good reason. If adequate evidence that an individual is a suitable person is not presented or if there is good reason to question or doubt the evidence provided, then that could amount to good reason to refuse a licence or consent or make any decision adverse to the licence or consent holder.

In considering evidence of an individual's good character and fitness to hold a licence or consent and where previous convictions / cautions or other information relating to criminal matters or character are disclosed, the Council will consider:

- The nature of the offence / issue and penalty
- When it was committed / took place
- The date of conviction / issue and the length of time elapsed
- The age of the individual when the offence / incident took place
- Whether or not it is part of a pattern of behaviour
- The intent the harm could or did cause
- Any other factors which may be relevant

Greater weight will be given to recent convictions, complaints, allegations, investigations, arrests and charges and in particular those criminal offences involving dishonesty, violence, drugs, alcohol, criminal damage and sexual offences, together with serious offences connected with the driving of a motor vehicle (where relevant to a street trading consent for a mobile unit, such as an ice cream van).

The Council will, where appropriate, contact other agencies (e.g. other local authorities, the Police, Children's Services, RSPCA) for any other information which they may hold in order to determine the application or existing licence or consent. . Any checks made with the police will be in accordance with the guidelines in the Department of Transport Circular 2/92 and the Home Office Circular 13/92. This information will be kept in strict confidence and will be retained no longer than is necessary and in any event will be destroyed in accordance with the requirements of the Data Protection Act 1998 and good practice after the application is determined or any appeal against such determination is decided.

Whilst a licence or consent is valid, should we receive updates from the Police, of new convictions and cautions for licence/consent holders, this will allow us to decide whether action needs to be taken on the continuation of the licence or consent. It is the responsibility of each licence or consent holder, including any nominated assistant in relation to a street trading consent, to inform the Council promptly in writing of any conviction, caution or fixed penalty arising during the currency of the licence or consent. A criminal record check is required on application, and thereafter every three years for existing licence or consent holders, and nominated assistants. Applicants may wish to use the digital service provided by DBS for the annual updates.

GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS

The Council has adopted the following guidelines relating to the relevance of convictions to which it refers in determining applications for licences and consents.

The guidelines cannot deal with every possible offence and the Council will take into account offences not specifically referred to, or any other conduct which may be relevant to an application. If an applicant has a conviction for an offence not covered by the guidelines a judgement will be made based on the factors outlined at paragraph 3 when determining the application.

Offences are given a general description in the guidelines and offences of a similar nature created in any statutory provision, modification or re-enactment, will be taken into account and interpreted in accordance with the spirit of the guidelines

The guidelines are not an attempt to provide a definition of what constitutes a “suitable person”.

Any individual who is refused a licence or consent will need to refer to the individual legislation for the details of rights of appeal against this decision.

The guidance will be used for the determination of all new applications, the renewal of existing licences or consents and the continuous review of current licences or consents where any offences are committed during their period of validity.

General Policy

1. Each case will be decided on its own merits.
2. The public has an expectation that the Council will take the necessary steps and make appropriate checks to ensure that applicants are suitable to persons to hold any licence or consent granted by the Council. One aspect of this is the extent to which previous convictions indicate that an individual is not a safe and suitable person and / or may or otherwise take advantage of the role and information that the licence or consent provides. This includes, but is not limited to, convictions for:
 - Offences against children, young people, vulnerable adults or animals
 - Dishonesty
 - Sexual offences
 - Violence and drugs
 - Traffic offences
3. Whether an applicant has any recorded criminal activity is a critical factor in making this judgement.
4. Convictions or cautions which are recorded for any offences may be considered by the Council in determining an application. This guidance refers to the most common groups of relevant offences, namely, offences against children and young persons, dishonesty, sexual offences, traffic offences, violence and drugs.

5. An offence when committed in relation to carrying on the business for which the licence or consent is granted (or complaint about behaviour) will be viewed in a more serious light and a longer period of rehabilitation will be required.

A person with a conviction for a single serious offence or a number of separate offences is not barred from applying for a licence or consent, but would normally be expected to remain free from conviction for an appropriate period (which will depend on the nature of the offence) and be able to provide supporting evidence to show that they are a 'suitable' person to be granted or to continue to hold a licence or consent (the onus is on the individual to produce such evidence).

Simply remaining free of conviction will not generally be regarded as sufficient evidence.

Consideration will be given to any patterns of offending, intent and the harm which was or could have been caused.

Multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account. Any case which involves a sexual offence, murder or manslaughter the application / licence will normally be refused / revoked.

Consideration may be given by the Council to the specific guidance for relevance of offences and convictions in the '**Safeguarding, Suitability and Convictions Statement of Policy for Taxi Licensing**' when considering the details of individual cases for general licensing purposes. It is not appropriate to list all potential relevant offences in this document due to the wide range of licences and consents issues by the Council. This will need to be considered on an individual basis.