

# Notice of meeting and agenda

## Regulatory Committee

**2.00 pm, Monday, 1 February 2016**

Dean of Guild Court Room, City Chambers, High Street, Edinburgh

This is a public meeting and members of the public are welcome to attend

## Contact

E-mail:

[stephen.broughton@edinburgh.gov.uk/aileen.mcgregor@edinburgh.gov.uk](mailto:stephen.broughton@edinburgh.gov.uk/aileen.mcgregor@edinburgh.gov.uk)

Tel: 0131 529 4261/529 4325

## **1. Order of business**

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- 1.1 Including any notices of motion and any other items of business submitted as urgent for consideration at the meeting.

## **2. Declaration of interests**

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- 2.1 Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

## **3. Deputations**

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- 3.1 If any

## **4. Minutes**

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- 4.1 Regulatory Committee of 17 November 2015 (circulated – submitted for approval as a correct record).

## **5. Work Plan and Rolling Actions Programme**

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- 5.1 Rolling Actions Programme (circulated)

## **6. Executive Decisions**

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- 6.1 Policy and Code of Conduct on Public Processions – report by the Executive Director of Place (circulated).
- 6.2 Access to Taxis by Customers using Wheelchairs or Customers accompanied by Assistance Dogs – Update - report by the Executive Director of Place (circulated).
- 6.3 Taxi Fare Table - Credit and Debit Card Surcharges – report by the Executive Director of Place (circulated).
- 6.4 Licensing Policy Development – Street Trading Consultation Update – report by the Executive Director of Place (circulated).
- 6.5 Licensing Customer Survey 2015 – report by the Executive Director of Place (circulated).

## **7. Routine decisions**

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- 7.1 None

## **8. Motions**

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- 9.1 If any

### **Carol Campbell**

Head of Legal and Risk

## **Committee Members**

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Councillors Barrie (Convener), Blacklock (Vice-Convener), Aitken, Burgess, Cairns, Gardner, Heslop, Lunn and Redpath.

## **Information about the Regulatory Committee**

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The Regulatory Committee consists of 9 Councillors and is appointed by the City of Edinburgh Council. The Regulatory Committee usually meets every eight weeks. The Regulatory Committee usually meets in the Dean of Guild Room in the City Chambers on the High Street in Edinburgh. There is a seated public gallery and the meeting is open to all members of the public.

## **Further information**

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If you have any questions about the agenda or meeting arrangements, please contact Stephen Broughton, Committee Services, City of Edinburgh Council, Waverley Court, Business Centre 2.1, 4 East Market Street Edinburgh EH8 8BG, Tel 0131 529 4261, e-mail [stephen.broughton@edinburgh.gov.uk](mailto:stephen.broughton@edinburgh.gov.uk)

A copy of the agenda and papers for this meeting will be available for inspection prior to the meeting at the main reception office, City Chambers, High Street, Edinburgh. The agenda, minutes and public reports for this meeting and all the main Council committees can be viewed online by going to [www.edinburgh.gov.uk/cpol](http://www.edinburgh.gov.uk/cpol).

## **Webcasting of Council meetings**

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Generally the public seating areas will not be filmed. However, by entering the Dean of Guild Court Room and using the public seating area, you are consenting to being filmed and to the use and storage of those images and sound recordings and any information pertaining to you contained in them for web casting and training purposes and for the purpose of keeping historical records and making those records available to the public.

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If you have any queries regarding this, and, in particular, if you believe that use and/or storage of any particular information would cause, or be likely to cause,

substantial damage or distress to any individual, please contact Committee Services on 0131 529 4105 or [committee.services@edinburgh.gov.uk](mailto:committee.services@edinburgh.gov.uk) .

## Regulatory Committee

2.00 pm, Tuesday 17 November 2015

### Present

Councillor Barrie (Convener), Blacklock (Vice-Convener), Burgess, Cairns and Lunn

### 1. Minutes

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#### Decision

To approve the minute of the Regulatory Committee of 25 September 2015, as a correct record.

### 2. Rolling Actions Programme

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The Regulatory Committee Rolling Actions Programme for 3 May 2013 to 17 November 2015 was presented.

#### Decision

1. To note the Rolling Actions Programme.
2. To note that an update report on the House in Multiple Occupation Market Review (No 15) would be submitted in the first quarter of 2016.

(References – Act of Council No. 12 of 24 October 2013; Regulatory Committee Rolling Actions Programme – 17 November 2015, submitted)

### 3. Public Safety at Sports Grounds: Annual Update

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An annual update on the Council's responsibilities in relation to public safety at sports grounds between October 2014 and September 2015 was provided.

#### Decision

To note the content of the report.

(References – Regulatory Committee 17 November 2014 (item 7), report by the Executive Director of City Strategy and Economy, submitted)

### 4. Licensing Performance Update

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Performance measures and targets for Licensing were approved at the Regulatory Committee on 2 February 2015. An update on Licensing Performance to date was provided.

Following a full day assessment visit on 7 October 2015, the Licensing Service was awarded Customer Service Excellence Accreditation.

#### **Decision**

1. To note the report.
2. To note the progress to date against agreed performance targets.
3. To thank the staff for their efforts in achieving the improvements in performance and to congratulate them on their achievements.
4. The Acting Director of Services for Communities to investigate payment of licensing fees by instalments.

(References – Regulatory Committee of 2 February 2015 (Item 5); report by the Acting Director of Services for Communities, submitted)

### **5. Unacceptable Behaviour Towards Staff**

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Details were provided of a proposed interim procedure to deal with individuals who displayed unacceptable behaviour towards staff who carry out duties related to the Council's function as Licensing Authority, and outlined the manner in which such incidents should be dealt with.

#### **Decision**

1. To note the report.
2. To endorse the proposed procedure and discharge the outstanding remit from the Regulatory Committee held on 25 September 2015.
3. To refer this report to the Licensing Board with a request that the Board adopts this policy for holders of any licence issued by the Board.

(References – Regulatory Committee of 25 September 2014 (Item 12), report by the Acting Director of Services for Communities, submitted)

### **6. Transfer of Taxi Examination Centre from Police Scotland to the City of Edinburgh Council**

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An update report was provided on the transfer of the functions of the Taxi Examination Centre from Police Scotland to the City of Edinburgh Council.

Performance data from the first six months of operation under these revised management arrangements was also provided.

#### **Decision**

1. To note the content of the report.
2. To discharge the outstanding remit from the Regulatory Committee on 17 November 2014 to report back on the Service Level Agreements once finalised.

3. The Acting Director of Services for Communities to submit a further report giving a more detailed breakdown of the types of faults that vehicles had failed on. The report to include information on repeat failures, and if attached to any particular operator.
4. The Acting Director of Services for Communities to consult with the taxi trade on the findings.

(Reference – Regulatory Committee of 4 April 2014 (Item 7); 8 September 2014 (Item 10); 17 November 2014 (Item 9 ); report by the Acting Director of Services for Communities, submitted.)

## **7. Taxi Training - Taxi Driver Topographical Assessment**

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Details were provided of a review of the existing topographical assessment policy and process. Approval was sought for the proposed changes to the current policy.

### **Decision**

1. To note the content of the report.
2. To agree to remove the current topographical test disqualification periods for prospective taxi drivers who fail the assessment.
3. To agree to allow an applicant to sit the topographical assessment without the requirement to make an application to become a taxi driver, and that an application for a Taxi Driver's Licence must be made within 12 months of successfully passing the assessment.
4. To agree to monitor these changes over a six month period and to receive a committee report outlining the final policy after this period.

(References - report by the Acting Director of Services for Communities, submitted.)

## **8. Consultation on a Code of Practice and Training Requirements for Letting Agents – referral report from the Health, Social Care and Housing Committee**

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The Health, Social Care and Housing Committee on 10 November 2015, considered a report by the Acting Director of Services for Communities seeking approval to a response to a Scottish Government consultation on a new code of practice and training requirements for letting agents in Scotland. The report summarised the key issues covered by the consultation and highlighted areas where the draft code of practice could be strengthened.

The report was referred to the Regulatory Committee for information.

### **Decision**

To note the report.

(References – reference report by the Head of Legal and Risk; Health, social Care and Housing Committee 10 November 2015 (Item 11) submitted.)

# Item 5.1 Rolling Actions Programme

## Regulatory Committee

3 May 2013 to 1 February 2016

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
1	24.07.13	Balfour Beatty Fee Structure for Holyrood Road	To instruct the Director of Services for Communities to review the HMO university fee structure and report back to the committee within six months.	Director of Place	November 2015		April 2016
2	20.06.14	Street Trader Licensing - Pedicabs	To complete the review of Pedicabs.	Director of Place	April 2016		Ongoing
4	17.11.14	Taxi Examination Centre	To agree to receive an update report in 6 months.	Director of Place	November 2015		<b>Discharged -</b> Reported to Committee November 2015



No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
5	17.11.14	Parades and Processions	<p>1. To note that further work was to be carried out to develop a policy and code of conduct for further processions.</p> <p>2. To receive a further update in six months.</p>	Director of Place	February 2016		To Committee February 2016
6	28.04.15	Private Rented Sector Enforcement Policy	To agree to consult on the use of third party reporting powers to the Private Rented Housing Panel, with a report detailing the findings of the consultation to be brought before the September 2015 Committee.	Director of Place	<p>This date was based on Scottish Govt bringing in the powers by September. There has been a delay and Scot Govt has still to provide a firm timescale for implementation.</p> <p>If provided by year end, will aim to include in Annual report scheduled for April</p>	Ongoing	

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
7	28.04.15	Private Rented Sector Enforcement Policy	Annual report on the details and statistics on the enforcement action taken by Private Rented Services.	Director of Place	April 2016		Ongoing
8	23.06.15	Licensing Policy Development – Taxi and Private Hire Driver Training Update	<ol style="list-style-type: none"> <li>1. To agree to consult on the development of a fit for purpose training programme that met the needs of a modern taxi and private hire service, which would include a proposed level of training, course content and method of training delivery including bringing the training in-house.</li> <li>2. To agree to receive a further update in due course.</li> <li>3. To agree to include mental health issues in the disability awareness section of the new training.</li> </ol>	Director of Place	February 2016		Consultation Underway

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
9	23.06.15	Access to Taxis by Wheelchair Users	<ol style="list-style-type: none"> <li>1. To agree the action plan.</li> <li>2. To agree to receive an update report in November 2015.</li> <li>3. To instruct the Director of Corporate Governance to include the delegation of authority to the Director of Services for Communities to grant medical exemption certificates based on medical advice in the next report to full Council on the Council's Scheme of Delegation.</li> <li>4. To ask the medical advisors for a breakdown of the medical conditions granted wheelchair exemptions.</li> </ol>	Director of Place	February 2016		Enforcement action being analysed

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
10	25.09.15	Review of Late Hours Catering Licensing	<ol style="list-style-type: none"> <li>1. To consult on the draft policy conditions and operating plans, in line with statutory requirements.</li> <li>2. To formally consult with the Licensing Board; and</li> <li>3. To receive a final report on the outcome of the consultation within six months.</li> </ol>	Director of Place	April 2016		Consultation underway
11	25.09.15	Air Weapons and Licensing (Scotland) Act 2015	To agree to update the Committee Work Plan to include additional areas of work required by the implementation of the Bill described in the report by the Acting Director of Services for Communities.	Director of Place	April 2016		Meeting held with Scottish Government officials
12	25.09.15	Licensing Policy Development – Street Trader Licensing Update	To note that a further report would be submitted to the November meeting of the Committee.	Director of Place	February 2016		Consultation widened and extended until mid November 2015

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
13	25.09.15	Licensing of Hire Vehicles: Protecting Vulnerable Passengers	<ol style="list-style-type: none"> <li>1. To agree to consult on the proposed changes to licensing processes; namely that any applicant for taxi or private hire car driver licences who had not been resident within the UK for at least 10 years previously would be required to produce documentary evidence regarding previous offending behaviour or lack thereof; and</li> <li>2. To agree that a further report on this issue will be submitted in 12 months.</li> </ol>	Director of Place	September 2016		

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
14	25.09.15	Abusive Behaviour Towards Licensing Staff – Motion by Councillor Barrie –	<ol style="list-style-type: none"> <li>1. Acting Director of Services for Communities to report to the Regulatory Committee in November on a procedure for bringing any substantiated instances of abusive behaviour to staff from applicants for licences to the attention of the Licensing Sub-Committee when considering their applications,</li> <li>2. Acting Director of Services for Communities to report to the Regulatory Committee in November on a procedure for bringing reports of any substantiated instances of abusive behaviour to staff from licence holders to the attention of the Licensing Sub-Committee in respect of their fitness to hold a licence</li> </ol>	Director of Place	November 2015		<b>Discharged -</b> Reported to Committee November 2015

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
15	Lic Sub 07.10.15	Taxi Driver Licences	The Acting Director of Services for Communities to report to a future meeting of the Regulatory Committee for approval to remove the disqualification periods for resitting the topographical test. The report to include any financial implications inclusive of any fees or charges that may be required, to recover any additional costs to council.	Director of Place	November 2015		To Committee November 2015
16	17.11.15	Review of the House in Multiple Occupation (HMO) Over concentration	This should be reported to the Regulatory Committee within three cycles, in consultation with the Planning Committee regarding over concentration of HMOs.	Director of Place	September 2015		<b>Discharged -</b> Reported to Committee September 2015
17	17.11.15	Annual Update on Public Safety at Sports Grounds	Annual Report	Executive Director of City Strategy and Economy	November 2016		Annual Report
18	17.11.15	Licensing Performance	The Acting Director of Place to investigate payment of licensing fees by instalments.	Director of Place	April 2016		Six monthly report

No	Date	Report Title	Action	Action Owner	Expected completion date	Actual completion date	Comments
19	17.11.15	Taxi Training - Taxi Driver Topographical Assessment	To agree to monitor these changes over a six month period and to receive a committee report outlining the final policy after this period.	Director of Place	April 2016		
20	17.11.15	Transfer of Taxi Examination Centre from Police Scotland to the City of Edinburgh Council	<p>1. The Acting Director of Services for Communities to submit a further report giving a more detailed breakdown of the types of faults that vehicles had failed on. The report to include information on repeat failures, and if attached to any particular operator.</p> <p>2. The Acting Director of Services for Communities to consult with the taxi trade on the findings.</p>	Director of Place			June 2016



# Regulatory Committee

2:00pm, Monday, 1 February 2016

## Policy and Code of Conduct on Public Processions

<b>Item number</b>	6.1
<b>Report number</b>	
<b>Executive/routine</b>	Executive
<b>Wards</b>	All Wards

### Executive summary

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The number of parades and processions taking place in Edinburgh has increased significantly. The Regulatory Committee adopted the introduction of standard conditions in 2015 and it was agreed that the Committee would issue a detailed Policy and Code of Conduct for parades and processions.

In recognition of the increase in the number of complaints about parades and processions the development of guidance aims to provide a consistent and transparent approach for future events and provide organisers with a greater understanding of the Councils expectations.

The report also highlights the requirement to amend a standard condition following recent court action.

### Links

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[Coalition pledges](#)

[Council outcomes](#)

[Single Outcome Agreement](#)

## Policy and Code of Conduct on Public Processions

### Recommendations

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It is recommended that the Committee:

- 1.1 agrees the proposed Policy and Code of Conduct on Public Processions;
- 1.2 agrees to consult widely on the proposed Policy and Code of Conduct on Public Processions in line with statutory requirements;
- 1.3 agrees to consult on the Parades notification form in line with statutory requirements;
- 1.4 agrees to amend Standard March Condition 15 to remove the phrase “whether or not services are in progress”; and
- 1.5 receives a further update in six months.

### Background

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- 2.1 Under the Civic Government (Scotland) Act 1982, anyone organising a parade or procession in Scotland must notify the appropriate local authority and the police at least 28 days prior to the date of the event.
- 2.2 It is important to note that council permission is not required to hold a parade. Upon receipt of a notification the Council has limited powers in respect of parades and processions. It can choose to take no action; it has the power to attach conditions or, under very limited circumstances, to ban the parade or procession. If the Council takes no action the parade will proceed as the organiser intended.
- 2.3 Part V of the Civic Government (Scotland) Act 1982 Section 63(8) sets out the relevant considerations which the Council must take into account when considering a notification received from a procession organiser and whether it is necessary to prohibit or impose conditions. These conditions include the following:
  - public safety;
  - public order;
  - damage to property; and
  - disruption to the life of the community.

When considering all procession notifications, the Council should have regard to the impact of the procession in relation to each of these four considerations, as

set out in the legislation. The Council must also take into account the effect of previous similar processions and the conduct of participants during these.

- 2.4 At the Regulatory Committee meeting on 17 November 2014 the Committee adopted new Standard Procession Conditions and noted that further work was to be carried out to develop a policy and code of conduct for future processions.

## Main report

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### Introduction

- 3.1 The number of parades and processions in the city is significant, reflecting its capital status. Whilst there are many positive aspects to these parades they also pose a number of challenges to the city.
- 3.2 Challenges include:
- disruption to the public transport network and traffic flow in city centre;
  - disruption to retail, leisure, business and tourism;
  - dates and timing of parades sometimes clash with other planned events;
  - management arrangements and other council costs; and
  - costs required to police processions.
- 3.3 The vast majority of parades and processions pass without difficulty. However, there have been occasions when the behaviour of participants, followers or protestors has caused complaints and offence to others members of the community. Examples of this type of behaviour include overtly controversial political or religious affiliation or actions which have disrupted access to buildings or other events.

### Proposed Policy and Code of Conduct on Public Processions

- 3.4 The proposed Policy and Code of Conduct on Public Processions, attached at Appendix 1, will provide organisers with a clear statement of the City of Edinburgh Council's expectations when planning and managing parades and processions.
- 3.5 The introduction of the Policy and Code of Conduct on Public Processions following consultation, and if thereafter approved, will create consistency of approach and provide parade organisers with a basis on which they can build and plan their events.

### Proposed changes to the Parades and Processions Notification Form

- 3.6 The Parades Notification Form (Appendix 1B) has been updated to reflect the content of the proposed Policy and Code of Conduct on Public Processions. This will allow council officers to provide more focused response and assistance to procession organisers.

### Change to Standard Parade Conditions

- 3.7 At the Regulatory Committee meeting on 17 November 2014 the Committee adopted new Standard Procession Conditions.

3.8 Following the adoption of the conditions the Council was subject to legal challenge in respect of:

Condition 15 which states.

“Any band or bands taking part in a parade/procession shall cease playing when approaching and passing any place of worship, whether or not services are in progress, or any other location where a recognised religious, cultural, or legal ceremony is taking place” being refused by the Licensing Sub-Committee.

3.9 The legal challenge by a parade organiser related to a request to delete the words “whether or not services are in progress”.

3.10 Following legal advice the Council was advised that the words “whether or not services are in progress” would likely be regarded as unlawful by the Sheriff. In these circumstances settlement terms were agreed with the parade organiser and the appeal did not process to a hearing.

3.11 It is proposed therefore that the Standard Procession Conditions are amended to remove the words “whether or not services are in progress”.

### **Next Steps**

3.12 In line with statutory requirements the proposed Policy and Code of Conduct on Public Processions and conditions requires to be consulted on. Initial discussions with council officers and Police Scotland have helped shape the proposed Policy and Code of Conduct. This initial consultation should now be expanded to include the wider business and residential communities, relevant partners and agencies. Given the scope of the review it is important to reach as broad a range of stakeholders as possible.

3.13 It is intended to report back to the Regulatory Committee with the outcome of the consultation within six months.

### **Measures of success**

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4.1 That the Council discharges its statutory duties.

4.2 Parades and processions are managed in a way that minimises disruption to the community and protects the rights of those that choose to hold a parade or procession.

### **Financial impact**

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5.1 None arising directly from this report. Costs from managing parades and processions are met from the revenue budget within either the Neighbourhood, Roads or Public Safety team.

## Risk, policy, compliance and governance impact

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- 6.1 There is a risk that any decision to prohibit or apply conditions to a parade or procession may be appealed to the Sheriff. Since 2012, the Council has 'prohibited' two marches, and of these one order was successfully appealed.
- 6.2 It is intended that the revised Policy and Code of Conduct will strengthen the Council's position in the event of a legal challenge.

## Equalities impact

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- 7.1 The proposals in this report demonstrate a high degree of relevance to the public sector equality duty to eliminate unlawful discrimination, harassment and victimisation, and to foster good relations. The proposals also demonstrate a high degree of relevance to Articles concerning freedom of assembly, conscience and religion, and freedom of expression as set out in the European Convention on Human Rights.
- 7.2 It is intended that an Equalities and Rights Impact Assessment will be completed in conjunction with the consultation process.

## Sustainability impact

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- 8.1 There is no environmental impact arising from the contents of this report.

## Consultation and engagement

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- 9.1 Police Scotland and interested service areas within the Council, including Legal Services, were consulted on the proposed Policy and Code of Conduct on Public Processions, and support its introduction. The introduction of a Policy and Code of Conduct on Public Processions will require detailed consultation with the public and affected businesses.

## Background reading / external references

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Scottish Government guidance - [Review of parades and marches in Scotland \(2006\)](#)

### Paul Lawrence

Executive Director of Place

Contact: Andrew Mitchell, Community Safety Manager

Gordon Hunter, Licensing Project Officer

E-mail: [andrew.mitchell@edinburgh.gov.uk](mailto:andrew.mitchell@edinburgh.gov.uk) | Tel: 0131 469 5822

[gordon.hunter@edinburgh.gov.uk](mailto:gordon.hunter@edinburgh.gov.uk) | Tel: 0131 529 4252

## Links

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<b>Coalition pledges</b>	N/A
<b>Council outcomes</b>	N/A
<b>Single Outcome Agreement</b>	N/A
<b>Appendices</b>	Appendix 1 – Proposed Policy and Code of Conduct on Public Processions

# **Proposed Policy and Code of Conduct on Public Processions**

## **1 INTRODUCTION**

- 1.1 Legal Context
- 1.2 Aim of Policy and Code of Conduct
- 1.3 Key principles
- 1.4 Definition

## **2 NOTIFICATION PROCESS**

- 2.1 Information needed
- 2.2 How the Council will deal with notifications
- 2.3 How the Council will deal with representations
- 2.4 Appeals against prohibitions
- 2.5 Cancellations
- 2.6 Information on proposed processions

## **3 PROVISIONS OF THE POLICY AND CODE OF CONDUCT**

- 3.1 General
  - 3.2 The timing of and playing of music at processions
  - 3.3 Ensuring Processions progress
  - 3.4 The Procession Route
  - 3.5 Large or potentially complex processions
  - 3.6 Processions through the city centre
  - 3.7 Feeder and return processions
  - 3.8 Public safety, public order, damage to property or disruption to the life of the community
  - 3.9 Cost recovery
  - 3.10 Carrying of Halberds or weapons
  - 3.11 Encouragement of processions organisers to opt for alternative arrangements / events, rather than processions
  - 3.12 Additional legal requirements applicable to processions
  - 3.13 Additional information pertaining to participants
- Appendix A Ward 11 Map
- Appendix B Standard March Conditions
- Appendix C Marches, Parades and Processions in Edinburgh Notification Form



## 1 INTRODUCTION

Edinburgh is a multicultural city which has a tradition of public processions and demonstrations. The use of the term 'procession' covers all parades, marches, cavalcades and demonstrations where demonstrators proceed from one point to another. They can be organised by civic, cultural, political, religious, community, arts interest groups or other organisations.

The number of parades and processions is significant given the city's role as capital city. Whilst there are many positive aspects to these parades they also pose a number of challenges to the city.

These challenges result from:

- The significant number of processions other events and roadworks throughout the city, of which a large number progress through the city centre;
- the increasing importance of retail, leisure, business and conference tourism to the city and the impact which such a significant number of processions has upon these sectors;
- disruption caused to public transport and traffic flow in the city, particularly in the city centre;
- instances of low levels of public disorder experienced around some processions;
- feedback from residents and business, strongly favouring a reduction in the number of processions in local areas of the city and in the city centre in particular the High Street
- substantial physical improvements to the city, especially the significant investment in the city centre, which is vital to Edinburgh's economy; and
- increased costs to the Council at a time when pressures on overall public expenditure are increasingly acute.
- increasing costs required to police processions, in both financial resources and policing hours.

The vast majority of parades and processions pass without difficulty. However, there have been occasions when participants, followers or protestors have displayed an overtly controversial political or religious affiliation, which has caused complaints and offence to others members of the community. The Council cannot condone such behaviour which is inconsistent with a friendly, inclusive and tolerant city.

### 1.1 Legal context

This Policy and Code of Conduct has been prepared as a source of guidance for those organising processions for any purpose in public places. It is designed to assist procession organisers by providing both a checklist and a reminder of the points they will need to cover and the issues they will need to address at the planning stage of a procession and on the day of a procession.

The Policy and Code of Conduct operates within the guidance issued by Scottish Ministers to local authorities on 12 December 2006 under Section 65A of the Civic Government (Scotland) Act 1982. It sets out the changes to the law of Processions made by the Police, Public Order and Criminal Justice (Scotland) Act 2006 and what the Council needs to take account of when assessing notifications to hold a Procession. It also sets out the steps that the Council should take when considering

whether it is necessary to prevent a procession from taking place or to attach conditions on it under Part V of the Civic Government (Scotland) Act 1982.

The Council must act within the law, apply the law correctly and base its decision on correct facts. The Council has to exercise discretion in a reasonable manner, act within its powers and be able to justify any condition or prohibition in relation to the specific circumstances of a procession.

Part V of the Civic Government (Scotland) Act 1982 section 63(8) sets out the relevant considerations<sup>1</sup> which the Council must take into account when considering a notification received from a procession organiser and whether it is necessary to prohibit or impose conditions. These conditions include the following:

- public safety;
- public order;
- damage to property; and
- disruption to the life of the community.

When considering all notifications for a procession, the Council will rigorously measure the impact of the procession against each of these four considerations, as set out in the legislation.

In addition, the Council will liaise with the police regarding the associated risk. This is one of the main factors in deciding whether a procession should be allowed to go ahead without additional conditions other than the standard conditions being placed on it.

Other legislative considerations that the Council must take account of are that:

- the minimum amount of notice that procession organisers must give to the Council about their intention to hold a public procession, is 28 days;
- the Council can in limited circumstances exempt certain processions from the requirements to give notice timeously;
- the Council must take into account the effect that a previous procession had on public safety issues and how far those involved kept to the Policy and Code of Conduct; and
- the Council must keep a list of processions that have been held in its area, or which have been prevented, to allow the public to see which processions happen regularly and which are likely to happen in the future.

## **1.2 Aim of Policy and Code of Conduct**

The Policy and Code of Conduct recognises the need to achieve a balance between the legitimate desire of people to protest, to celebrate their history and cultural traditions, or to raise awareness of issues that they regard as important, and the legitimate right of non-participants to go about their daily lives with minimal disruption and inconvenience.

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<sup>1</sup> Police, Public Order and Criminal Justice (Scotland) Act 2006 Section 71 (8) (a)

It is critical to its success that the Council works with the police and procession organisers to ensure that the Policy and Code of Conduct is:

- applied equally to the broad range of organisations that might wish to hold events in the city;
- implemented fairly;
- adhered to consistently; and
- monitored properly.

### 1.3 Key principles

The Policy and Code of Conduct is based on 3 key principles:

- the rights to peaceful assembly and freedom of expression, as outlined in European Convention on Human Rights (ECHR) legislation, are fundamental rights which the Council believes should be open to all;
- these rights are not absolute, however, and therefore they must be balanced by the responsibility to ensure that the rights of others are not infringed. These rights are subject to proportionate limitations where it is necessary to do so; and
- the exercise of these rights brings specific responsibilities, both to procession organisers and participants, especially in relation to those residents and businesses who may suffer from disruption directly or indirectly caused by a particular procession.

### 1.4 Definitions

In this document, the following definitions shall apply:-

**“City”** means the City of Edinburgh;

**“City Centre”** means that area of the city situated within the boundary of ward 11 (see appendix A)

**“Council”** means The City of Edinburgh Council, a local authority incorporated under the Local Government etc (Scotland) Act 1994 and having its headquarters at City Chambers, High Street, Edinburgh, EH1 1YJ, and reference to the Council shall, where appropriate, include reference to officers of the Council;

**“Divisional Commander”** means the Police Commander of the City of Edinburgh, including any successor or substitute.

**“ECHR”** means the European Convention on Human Rights;

**“Feeder Procession”** means any smaller or subordinate Procession that commences in a local area of the city and progresses to link up with other smaller processions and/or feeds into a larger, and usually the main, procession, of which it then becomes part;

**“Follower”** means any person who is an onlooker in support of the procession or someone who follows a procession along all or part of its route, but not a participant or a protester;

**“Opt-in List”** means a list held and maintained by the Council in accordance with Section 63(10) of the Civic Government (Scotland) Act 1982, as amended, of any organisation, individual, community council, or residents’ or tenants’ association, or similar, which has specifically requested to be advised by the Council of any procession in an area in which they reside, conduct business or have a representational role;

**“Participant”** means any person who actively participates or takes part in a Procession in any way or manner;

**“Police”** means Police Scotland, including any successor or substitute body which carries out the same or similar function, and reference to the police shall, where appropriate, include reference to officers of the police (including, where appropriate, reference to the Divisional Commander, the Police Commander or any other officer);

**“Police Commander”** means the designated police officer who is in charge of policing and public order on the day of a procession, or any other officer acting in the role of the police operational commander;

**“Policy and Code of Conduct”** means the entirety of this document which may be amended and approved by the Regulatory Committee;

**“Procession”** There is no statutory definition within the “Act” of procession, however for the purposes of this Policy and Code of Conduct the Council considers it to mean any organised, moving public procession in a public place and shall include cavalcades, commemorations, celebrations, demonstrations, festivals, marches, parades, protests, rallies, remembrances, ridings and walks, whether by individuals or vehicles;

**“Procession Organiser”** means any person who organises a procession, and completes and submits the notification form; and

**“Return Procession”** means any smaller or subordinate procession that, following the conclusion of the main procession, decouples there from and continues as a separate Procession to its local area of the city before its own conclusion and dispersal.

In this document, unless otherwise specified or the context otherwise requires:

- Words in the singular shall be construed to include the plural and *vice versa*;
- Any reference to a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and words importing individuals include corporations and *vice versa*;
- Any reference to a statute or statutory provision includes any subordinate legislation which is in force from time to time under that statute or statutory provision;
- Any reference to any statute, statutory provision or subordinate legislation shall be deemed to include any reference to such statute, statutory provision or subordinate legislation as they may be amended or re-enacted from time to time.

## 2 NOTIFICATION PROCESS

All processions must be notified to the Council in writing by completing a notification form Appendix C). If a procession organiser intends organising a procession, he/she can pick up a notification form from the Council, may request one by post or submit a notification online.

The Act requires a minimum of 28 days prior notice of a procession to allow time for any necessary discussions to take place, **except in those exceptional circumstances (as determined and agreed by the Council) where this period of notice would be impractical.**

Where a road closure or parking restriction is required a TTRO would be necessary to close any roads or to prohibit parking etc. The application process for a TTRO under the Road Traffic Regulation Act for processions and the timescales associated with this process means the Road Services team will require longer than the normal 28 day notification period required under the Civic Government (Scotland) Act 1982. A minimum of 12 weeks notice is required to allow the Council to meet its statutory obligations.

The procession organiser must give notification as early as possible in those cases where a series of similar processions is proposed, as doing so will help all parties concerned in the planning process. Having allowed for this period of notice, the procession organiser should send the form in their chosen format, keeping a copy for themselves, to the address detailed below at paragraph 2.6.

### 2.1 Information needed

The notification form (appendix C) asks for:

- the name of the organisation;
- the procession organiser's name, address and contact details;
- the reason for the procession;
- frequency of procession;
- the day, date, time
- the proposed route;
- duration of the procession and distance of route;
- details as to whether or not it is a feeder or return procession;
- details of other associated processions;
- details of any associated event at start or finish of the procession (i.e. static demonstration, rally in a public park, etc);
- a list of places of where recognised religious, cultural, or legal ceremony is or is likely to be taking place along the route;
- details as to whether or not the procession will be routed through the city centre and explanation for following this route;
- details as to whether or not consideration has been given by the procession organisers to an alternative to a procession (i.e. static demonstration, rally in a public park, etc);
- estimated number of participants;

- the number of stewards;
- the chief steward's details; and
- participating bands' details and approximate numbers of expected band members.

The procession organiser should read the notification form, along with this Policy and Code of Conduct, and, when completing the form, take into account all aspects thereof. If the procession organiser believes he/she will have any difficulty in complying with the Policy and Code of Conduct, he/she must explain this in detail when submitting the form and give reasons why any exceptions to the Policy and Code of Conduct should be considered. Any additional information relating to the proposed procession should be submitted in writing to the address detailed below at paragraph 2.6.

The Council expects all procession organisers to:

- act responsibly in ensuring processions are organised for appropriate purposes; and
- where appropriate, consider the scope for combining processions, particularly if they repeatedly follow the same route(s) or are set to take place in consecutive weeks.

Once the procession organisers have completed the notification form, they can submit the form online, by post, or by email, all as detailed at paragraph 2.6.

## **2.2 How the Council deals with notifications**

The information which the procession organiser provides on the notification form shall be processed by the Council, which is the "data controller" for the purposes of the Data Protection Act 1998. The information provided in the submitted notice of proposal shall be used by the Council to ensure its compliance with Part V of the Civic Government (Scotland) Act 1982 (as amended).

All information provided by the procession organiser in the submitted notice of proposal, including all personal data in its entirety (which includes name, address and contact information), shall be shared with the following interested parties:

- internally with other Council departments who may be addressing the issues raised by the submitted notice of proposal; and
- the police.

Summary information (which includes organisation name, date, time, assembly point, proposed route and estimated number of participants) as provided by the procession organiser in the submitted notice of proposal, but excluding all personal data in its entirety, shall be shared with the following interested parties:

- the general public via the Council's website;
- Elected Councillor(s) for the electoral ward(s) through which the procession passes; and
- any organisation, individual, community council, or residents' or tenants' association, or similar, which has specifically requested to be included on the Opt-in List.

Depending on the information supplied in the notification form, the Council will handle the notification in terms of the process chart for local authorities which forms part of the guidance issued by the Scottish Ministers<sup>2</sup>. The procession organiser may then be asked to attend an Event Planning Operation Group (EPOG) meeting with the Council and the police to discuss the proposed procession. Procession organisers who indicate that any part of the route of any of their processions will go through the city centre will normally be expected to attend a meeting with officers of the Council and the police.

Once the Council has taken stock of any observations or representations made by council officers, the elected Councillor(s), Police Scotland and other interested parties, in relation to the proposed procession, where appropriate it will prepare a report confirming the details of the notification and details of any representations for consideration by the Licensing Sub Committee or the Regulatory Committee. Parades or processions that are considered to be politically sensitive or controversial will be referred to the Licensing Sub Committee or the Regulatory Committee for consideration.

If no representations are received, then prior to the date of the procession the Council will send to the procession organiser a letter confirming the details of the procession, including the date, route and time, together with any other conditions which the procession organiser will be obliged to follow.

If the procession is to end in a rally or demonstration in a public space owned by the Council, such as a public park, pedestrian precinct, event space, civic space, car park or road, the procession organiser should contact either the Parks and Green Space Service or Roads Services: Events & Project Development Team (see paragraph 2.6 below) which will liaise with the procession organiser regarding permission to use the facility or the road.

After the specific requirements have been discussed with the Parks and Green Space Service, Roads Services or the Events & Project Development Team, the procession organiser will have to agree to the General Conditions of Let of Park/Precinct/Square. These conditions will usually covers issues including the hire of temporary toilet facilities, site clearance arrangements, equipment hire, staffing and any other costs.

### **2.3 How the Council deals with representations**

Current legislation presumes the right to hold a Procession and, as such, the Council must justify any conditions or prohibitions in relation to the specific circumstances of a procession.

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<sup>2</sup> Guidance issued by the Scottish Ministers on 12 December 2006 under Section 65A of the Civic Government (Scotland) Act 1982

Where representations have been received from the police or a local Councillor(s) or concerns raised by local residents or businesses, the Council will make every effort to meet and negotiate with the procession organiser to resolve concerns to the mutual satisfaction of all involved. These negotiations may result in it being necessary to submit a revised and mutually agreed notification.

If, however, it is impossible to resolve difficulties through negotiation, a formal meeting of the Council's Licensing Sub-Committee of the Regulatory Committee can be arranged to consider the issues in dispute and to seek a determination thereof.

At the Council's Licensing Sub-Committee of the Regulatory Committee meeting, both the procession organiser and those making representations will be afforded an opportunity to present their respective cases and the committee members will have the opportunity to question them.

After hearing all parties, the Council's Licensing Sub-Committee of the Regulatory Committee will announce its decision having regard to the requirements of the legislation, which will be confirmed in writing. The Council's Licensing Sub-Committee of the Regulatory Committee on behalf of the Council can either prohibit the holding of a specific Procession or impose conditions and/or restrictions on it in terms of Part V of the Civic Government (Scotland) Act 1982.

These conditions and/or restrictions may include:

- making alterations to the date, time, duration or route of the procession;
- asking for stewarding arrangements to be strengthened;
- seeking to prevent a procession to ensure that anti-social behaviour is not promoted; and
- prohibiting its entry into any public place specified by the Council's Licensing Sub-Committee of the Regulatory Committee.

If the Council decides to prohibit a procession under Section 63(1) of the Civic Government (Scotland) Act 1982, a prohibition order will be sent to the procession organiser, as early as possible after the Council's Licensing Sub-Committee of the Regulatory Committee meeting. This prohibition order will explain what the consequences will be should the prohibition order and its terms be ignored in part or in its entirety. A separate statement of reasons will explain why the Committee arrived at its decision to prohibit the processions.

## **2.4 Appeals against prohibition orders**

A Procession Organiser may appeal against a prohibition order made under Section 63(1) of the 1982 Act.<sup>3</sup> This appeal should be made by way of summary application and lodged with the Sheriff Clerk within 14 days of the date the prohibition order has been received together with the statement of reasons.

An appeal may be upheld by a Sheriff if he/she considers that the Council, in making its decision, had:

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<sup>3</sup> Civic Government (Scotland) Act 1982



- based its decision on any incorrect material fact;
- erred in law;
- exercised its discretion in an unreasonable manner; or
- otherwise acted beyond its powers.

The Sheriff, considering an appeal under this Section, may hear evidence by or on behalf of, any party to the appeal, and will also take into account the actions of the Council and give it the opportunity to be heard.

If the Sheriff upholds an appeal, he/she may either:

- remit the case with the reasons for his/her decision to the Council for reconsideration of its decision;
- vary the prohibition order under appeal, if there is insufficient time for the case to be remitted to the Council; or alternatively
- dismiss the appeal.

## **2.5 Cancellations**

If the procession organiser has to cancel the procession, it is his/her responsibility to advise both the Council and the police as soon as possible. Where practical, the procession organiser should confirm the cancellation in writing within 48 hours to the address as detailed at paragraph 2.6.

## **2.6 Information on proposed Processions**

Details of forthcoming processions will be placed on the Council's website at: (add Hyper link)

Completed notification forms for processions should be sent to the Licensing Service at the address below:

A procession organiser may make specific enquiries about particular processions or notify any cancellations to the Licensing Service at the address below

Directorate of Place  
Licensing Service  
City of Edinburgh Council  
City Chambers  
249 High Street  
Edinburgh  
EH1 1YJ

or by Email to: [marchesandparades@edinburgh.gov.uk](mailto:marchesandparades@edinburgh.gov.uk)

Tel: 0131 529 4208

If you are planning an event in any public Park or Greenspace managed by the City of Edinburgh Council you will need to apply for permission from the Parks and Greenspace Department.

**Parks & Greenspace Service**

The City of Edinburgh Council  
City Chambers  
253 High Street  
Edinburgh  
EH1 1YJ

or by email to : [park.events@edinburgh.gov.uk](mailto:park.events@edinburgh.gov.uk)

Tele: 0131 529 7921 x 57921

The Road Services Events Team is responsible for facilitating events that take place on or affect the public highway. This includes giving permission to use a certain part of the public highway, ensuring 'events' are co-ordinated with any other works taking place on the public highway. When necessary a Temporary Traffic Regulation Order (TTRO) is issued to allow the event to take place. A TTRO would be necessary to close any roads or to prohibit parking etc. The application process for a TTRO under the Road Traffic Regulation Act for processions and the timescales associated with this process means Road Services team will require longer than the normal 28 day notification period required under the Civic Government (Scotland) Act 1982. In these circumstances 12 weeks notice is necessary to enable the Council to meet its statutory obligations.

**Roads Services: Events & Project Development Team**

Waverley Court  
Level C.1  
4 East Market Street  
Edinburgh  
EH8 8BG

Telephone number: 0131 529 3433

email: [marchesandparades@edinburgh.gov.uk](mailto:marchesandparades@edinburgh.gov.uk)

The City of Edinburgh Council's Public Safety Unit is to act as a public safety advisory service to those wishing to organise an event within Edinburgh, as well as ensuring compliance with current legislation and provide expert guidance on issues relating to safety at the event.

Public Safety representative(s) where appropriate will co-ordinate meetings/discussions in all matters relating to the safety of the event, and as part of this make a decision as to what organisations should be involved once the main details of the event are known, (NB. The number of organisations depends entirely on the nature of the event and the number of organisations can also change throughout the planning process).

Public Safety  
Waverley Court  
Level 2.6  
4 East Market Street  
Edinburgh  
EH8 8BG

telephone: 0131 529 4559  
email: [publicsafety@edinburgh.gov.uk](mailto:publicsafety@edinburgh.gov.uk)

### **3 PROVISIONS OF THE POLICY AND CODE OF CONDUCT**

The Policy and Code of Conduct sets out (1) the issues which the Council requires to consider when dealing with the notification of a procession and (2) the conditions, requirements and restrictions (where appropriate) the Council and/or the police can impose upon procession organisers and participants of any procession. This represents a general approach and each procession will be assessed on its own merits and according to circumstances.

Responsibility for a procession and its participants lies first and foremost with the procession organiser who must ensure a pre-planned, well-organised and peaceful event that has as little negative impact as possible on local residents, businesses and communities. The police, too, have a critical role in upholding the law in and around processions.

In considering the notification of a procession and in determining whether to approve a procession or otherwise, the Council will take into account the following provisions as set out in this Part 3 of the Policy and Code of Conduct. The undernoted conditions, requirements and restrictions (where appropriate) shall apply to the procession organiser and participants of any procession:

#### **3.1 General**

The procession organiser must:

- co-operate with the Council and the police from the time of submission of the notification form until the procession disperses;
- identify himself/herself to the police commander at the commencement of the procession; and
- ensure that all participants have been informed of any conditions imposed on the procession (e.g. change to timing, route, etc).

#### **3.2 The timing of and playing of music at processions**

Processions will normally take place between 7.30am and 9.00pm. As a general rule no music will be played before 9.00am or later than 6.00pm. Council officers will exercise a degree of discretion to allow the playing of music out with these times on condition that it can be demonstrated by procession organisers, to the satisfaction of the Council, that the playing of music will not disrupt the life of the local community. This discretion will only apply to the playing of music after 6pm

and no later than 8pm. Depending on individual circumstances, discretion may allow for permission to be given for the playing of music no earlier than 8.30am, for local community processions taking place out with the city centre only.

In terms of the playing of music, further restrictions may be required after considering the type of premises on the proposed route e.g. residential developments, places of worship, football grounds and public houses. All processions will be required to cease playing music when approaching and passing places of worship where a recognised religious, cultural, or legal ceremony is taking place

Following the cessation of music on approaching a place of worship, and at the discretion of the police commander, the keeping of time by means of a single tap on a single snare drum may be permitted. The discretion of the police Commander would only be exercised when considered that it would ensure an efficient progression of the procession.

### **3.3 The procession route**

In terms of procession routes, the Council will take the following considerations into account:

- the impact of the route on residents, businesses and transport users and seeking to balance the desire of the procession organiser for a particular route with the impact on other people affected by that route. The presumption is that processions, where practical, will avoid residential areas;
- the procession organiser's proposals for stewarding and other arrangements. In particular, the procession organiser will be required to provide suitably qualified and identifiable stewards at a ratio of one steward per ten Participants. A procession organiser's failure to make necessary stewarding arrangements will be considered a material factor in assessing future procession notifications;
- future planning arrangements will require to address the matter of traffic and pedestrian flow, when large processions are taking place, by investigating the introduction of breaks in the procession to minimise disruption to other users; and
- the responsibilities involved in managing traffic as referred to in Section 29 of the guidance issued by Scottish Ministers.<sup>4</sup> The Council will work with procession organisers and the police to minimise any costs which may be payable by the procession organisers for traffic management deemed necessary depending on the nature of the procession. In certain circumstances where a restriction on Traffic flow is required to enable the procession to be progress safely a TTRO (Temporary Traffic Regulation Order) will be required to allow the procession to take place.

In addition, the procession organiser must:

- ensure that, wherever possible, processions follow main roads, rather than going through residential developments;

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<sup>4</sup> Guidance issued by the Scottish Ministers on 12 December 2006 under Section 65A of the Civic Government (Scotland) Act 1982

- ensure that routes are free of obstructions;
- ensure that all participants in a procession will march in a formation of not more than six and not less than four abreast, keeping to the near or left hand side of the street. This shall be subject to the following potential exceptions:
  - a. on one-way streets where the participants will keep to the right hand side to allow quicker progress and reduce time and disruption to the public.
  - b. participants will not be allowed to move off until in the correct formation; or
  - c. where there is an obstruction due to road works or another good cause, as determined by and agreed with the police commander. Wherever possible and practical under the circumstances, this should be agreed between the procession organiser and the police commander prior to the procession commencing.
- ensure all processions revert to not more than six and not less than four abreast formation as soon as practical or appropriate
- ensure that appropriate stewarding is provided to ensure that passage is allowed for traffic and pedestrians;
- ensure that the procession is split into sections in order to avoid serious dislocation of traffic and to facilitate the crossing of pedestrians who have a right of free access and passage to or through any public area. procession organisers should submit to any conditions imposed by the Council which will facilitate the ability of pedestrians to cross a procession route; and
- ensure all participants disperse as soon as the procession concludes.

### **3.4 Processions through the city centre**

Princes Street has traditionally been one of the main thoroughfares used for parades and processions. Since the introduction of the trams this is no longer viable, and many parades have been displaced to other areas within the city centre including the High Street which is also regularly used as an event space. A number of complaints have been received about the use of the High Street for parades and processions. Parades using this route have disrupted tourist and business activity in that area. Particularly at weekends a number of wedding ceremonies or similar have been disturbed by the noise from bands taking part in parades. It is proposed that there should be special consideration for future use of the High Street for parades and processions and where possible alternative routes should be considered.

When considering notifications for processions taking place within or progressing through the city centre, the Council will:

- ensure that the relevant considerations set out in Part V of the Civic Government (Scotland) Act 1982 section 63(8) are taken into account; and
- require that procession organisers of all processions, who indicate that their route will go through the city centre, attend a meeting with Council officers and the police to agree suitable arrangements for individual processions which access the city centre.

### **3.5 Feeder and return processions**

In the case of all notifications, including for feeder or return processions, disruption to the life of the community will be considered, in particular the impact on residents and businesses located on procession routes.

Feeder and return processions will be considered as separate notifications. The Council will require the submission of individual notifications for each Procession. A procession organiser, who intends to undertake feeder or return processions, will require to submit separate notification forms for each of these processions.

In instances where a procession organiser submits multiple notifications for the same date and for the same or similar routes, the procession organiser will be required to explain the need to hold multiple processions. The Council will take this explanation into account, along with the need to balance the rights of the procession organiser in terms of Article 11 of ECHR with the rights and freedoms of others, in determining whether it is necessary to prohibit or impose any restriction on a Procession.

Procession organisers will also be asked to identify other related processions on each notification they submit. If clarification is required, then the Council, in consultation with the Police, will determine whether the notifications should be considered as related processions and/or defined as a feeder/return procession.

The Council will seek to agree a voluntary code, with the procession organisers, on managing the number of feeder and return processions taking place in local areas as part of a longer term strategic agreement encompassing the use of Event Management Plans.

### **3.6 Public safety, public order, damage to property or disruption to the life of the community**

In terms of likely threats to public safety, public order, damage to property or disruption to the life of the community, the Council will consider:

- Police advice regarding public safety or potential public disorder in relation to any proposed procession, as well as police reports on the extent to which previous processions have involved anti-social behaviour on the part of participants or followers causing disruption to the life of the community;
- a report provided by the police in relation to the impact which policing the Procession will have upon wider police resources. Any other events which take place in the city on or around the proposed date of the procession and which will require policing and/or other resources will also be taken into account; and
- representations from residents and businesses whose activities are likely to be affected by the proposed procession regarding the expectation of disruption, public disorder and anti-social behaviour.

Once council officers have assessed these reports, they will decide whether to:

- propose alterations to the proposed route;
- ask for stewarding arrangements to be strengthened; and/or

- recommend additional conditions or purposes that the procession is prohibited.

The impact of a procession will be assessed in its totality and the likelihood of any restriction or prohibition will be greater where the procession (including, for clarification, the procession organiser and participants) or its followers have previously:

- caused public disorder or damage to property;
- been involved in anti-social behaviour causing disruption to the life of the community; or
- failed to comply with police instructions on the day.

In addition, the procession organiser must:

- ensure anyone under the influence of alcohol or drugs is not allowed to participate;
- ensure that an appropriate risk assessment is carried out to identify the appropriate number of steward or marshals required to manage and control of those participating in processions. All stewards or marshals must:
  - have been trained to a suitable standard, as determined by the Council;
  - have the necessary maturity, character and temperament to carry out the duties required of them.
  - be briefed by the procession organiser and given guidance/instruction on their role prior to the procession;
  - carry proof of status;
  - co-operate with and take any necessary instruction from the police, as required;
  - wear suitable clothing (for example, fluorescent jackets) to make themselves easy to identify;
  - conduct themselves in a proper manner;
  - ensure that participants comply with directions regarding their own public safety and that of members of the public; and
  - be aware of the stewarding plan for the procession.
- accept that he/she is specifically responsible for the behaviour of all participants, including bands (where appropriate);
- undertake to use his/her best endeavours to assist the police in managing the behaviour of followers of the procession by encouraging stewards to advise those followers that abusive or violent behaviour is not acceptable and will not be tolerated;
- generally ensure compliance with this Policy and Code of Conduct and police instructions; and
- ensure that the behaviour of participants could not reasonably be perceived as being deliberately aggressive (i.e. threatening, abusive, homophobic, sectarian, or racist) and note that the Council will take account of any public disorder, anti-social behaviour or damage to property resulting from the procession in any

notification received in the future from the procession organiser for a similar procession.

### **3.7 Cost recovery**

Currently, the Council does not charge procession organisers for their processions. However, it may seek to recover costs incurred in the holding of processions or the events which take place at the assembly/dispersal of processions. This is in line with the statutory guidance issued to local authorities by the Scottish Government. It is considered reasonable that the Council should continue to ask procession organisers to meet costs for these services and facilities.

Costs may be recovered from procession organisers for a range of services and equipment provided to facilitate the safe and orderly conduct of their procession or event. For example, this can include safety barriers, the cost of putting in place traffic management arrangements including, among other things, a Temporary Traffic Restriction Order (TTRO), toilet provision to prevent public urination, and bins and clean-up services, to stop littering

It is considered fair that the Council should advise procession organisers in advance of any costs they will be required to meet. **Where charges are levied** there should be a consistent level of charges, depending upon the nature of the services or equipment that is required, which procession organisers should be asked to pay. This approach would address comments made by many of the principal procession organisers, as well as from the public who support cost recovery but have concerns about the ability of smaller procession organisers to pay.

The procession organisers of all processions where the Council will require to recover costs should, as a general rule, be notified in advance of the procession of the costs involved. There should be a clear and transparent pricing policy for recovering costs from procession organisers. Failure to meet the Council's costs will be considered a material factor in assessing future procession notifications.

### **3.8 Carrying of Halberds or weapons**

The carrying of halberds or weapons is prohibited on all processions, unless permitted by prior agreement, subject to final agreement on the day by the police commander.

### **3.9 Encouragement of procession organisers to opt for alternative arrangements/events, rather than processions**

A policy of encouraging procession organisers to opt for alternative arrangements / events rather than a Procession will be pursued in appropriate circumstances. Whilst it is recognised that the Council cannot compel a procession organiser to hold a static event rather than a Procession, it is considered that, following a full assessment of the legislative criteria, the holding of a static event may offer an acceptable compromise.



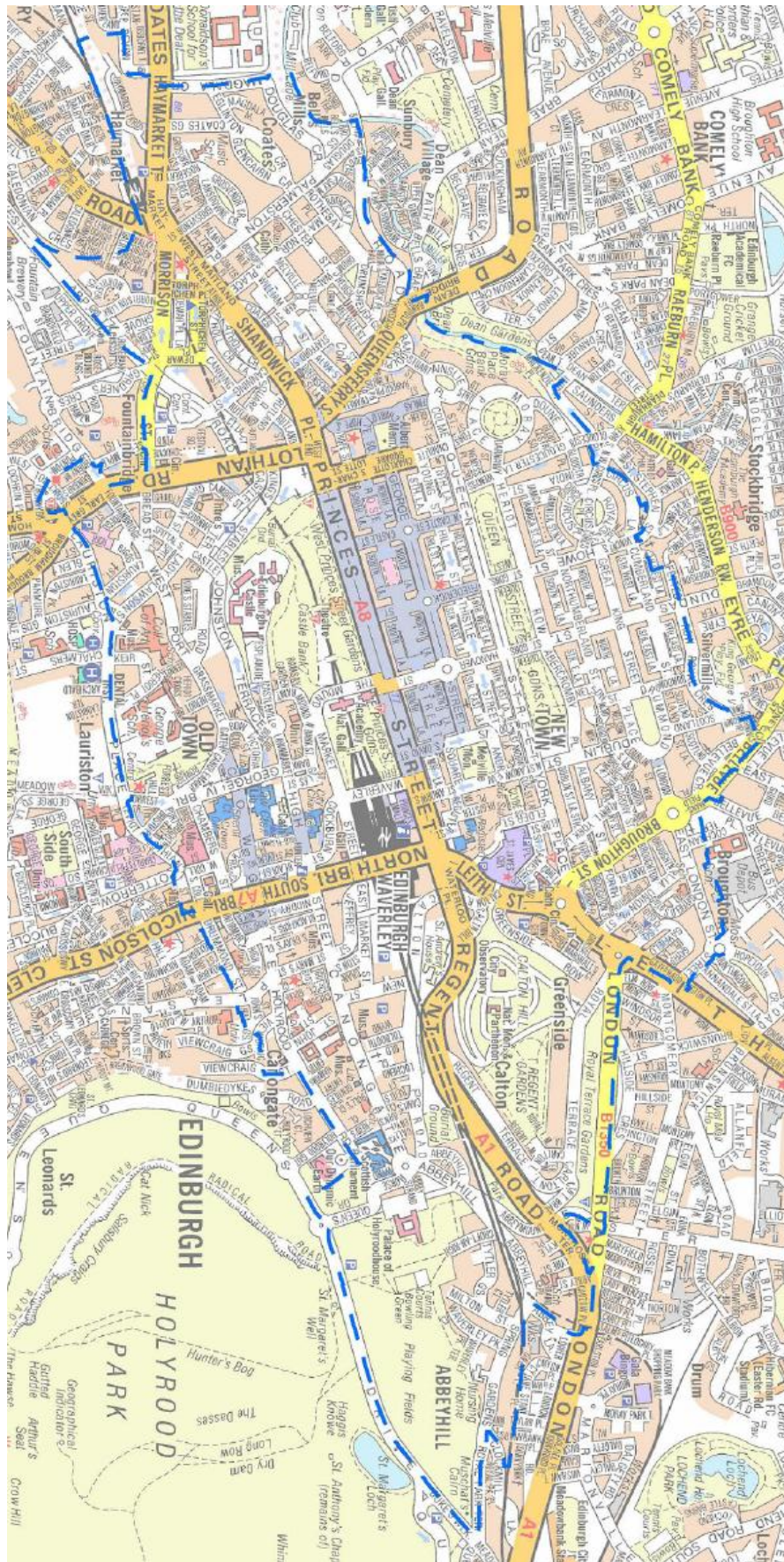
### **3.10 Additional legal requirements applicable to processions**

- The conditions of Section 62 of the Control of Pollution Act 1974 in relation to the use of loudspeakers shall be observed;
- The terms of the Public Order Act 1936 in relation to the prohibition of the wearing of uniforms signifying association with any banned organisations etc. shall be observed;
- The terms of the Public Order Act 1986 in relation to the powers of the Chief Constable during or immediately before a march or procession shall be observed;
- The conditions of the Terrorism Act 2000 in relation to being members of or supporting, or fund-raising for, an organisation forbidden by law shall be observed;
- The terms of the Road Traffic Regulation Act 1984 as amended by the Road Traffic (Temporary Restrictions) Act 1991 and the Road Traffic Regulation (Special Events) Act 1994 for any restrictions which are to be put in place such as closing roads, diversions, signs or traffic cones shall be observed;
- The terms of the Road Traffic Act 1988 in relation to the conditions which set out the powers of the Police shall be observed.

### **3.11 Additional information pertaining to participants**

#### **All participants in processions are required to:**

- behave with due regard for the rights, traditions and feelings of others in the vicinity of the procession, particularly in areas where there has previously been public disorder around processions;
- behave with due respect at 'sensitive' areas such as places of worship, as above
- refrain from using words or behaviour which could reasonably be perceived as being deliberately aggressive (i.e. threatening, abusive, homophobic, sectarian, or racist);
- obey the lawful direction of procession organisers, stewards and the police at all times;
- keep to the designated route as directed by the police;
- refrain from consuming alcohol or drugs prior to or during the procession;
- not display flags relating to proscribed organisations or which are likely to cause offence; and
- disperse in good order as soon as the procession concludes.



## Appendix B - Standard March Conditions

1. The procession moves off promptly at the times specified above.
2. The procession adheres to the stated routes.
3. The procession will at all times continue moving and no part will stop except for emergency purposes, on the direction of or with the agreement of the police / council officer, or at the procession route end.
4. After the procession concludes participants disperse at the specified times above.
5. Official(s) are appointed to liaise with the police / council officer and shall identify themselves to the police officer / council officer in charge at the assembly point before the commencement of the parade/procession.
6. Sufficient stewards and marshals shall be provided by the organiser of the parade/procession. Stewards and marshals will be readily identifiable and shall be present throughout to supervise the parade/procession and to ensure that all participants comply with directions.
7. A sufficient number of suitably trained medical personnel should be in attendance. The level of attendance is to be agreed with the Council.
8. Unless by prior agreement, all persons participating in the parade/procession shall not walk not more than six and not less than four abreast.
9. The terms of the Public Order Act 1936 in relation to the prohibition of the wearing of uniforms signifying any association with any banned organisation etc. shall be observed.
10. Unless by prior agreement, the use of any staves, wooden poles or other item shall not be used to display or carry banners, placards, flags or posters.
11. Banners, placards, flags and posters bearing inflammatory images or words will not be displayed.
12. The conditions of Section 62 of the Control of Pollution Act 1974 in relation to the use of loudspeakers shall be observed.
13. The conditions of the Environmental Protection Act 1990 shall be observed insofar as making noise during the parade/procession is concerned.
14. The organiser will assist the police/ council officers in ensuring that regular and appropriate passage across the parade/procession is allowed for traffic and pedestrians.
15. Any band or bands taking part in a parade/procession shall cease playing when approaching and passing any place of worship, or any other location where a recognised religious, cultural, or legal ceremony is taking place.
16. No vehicles or animals should be part of the procession unless by approval of Police Scotland and City of Edinburgh Council prior to the day of the event
17. Any instructions given by the police or council officers are immediately complied with.

## Appendix C

### Marches, Parades and Processions in Edinburgh Notification Form

As event organisers you should be aware of the Councils the Policy and Code of Conduct (add hyper link). It is important that you read it carefully and ensure you are aware of the responsibilities placed on you, as the organiser, on members of your own organisation and on members of any other supporting organisations.

The law is clear – the onus rests with you as the organiser to ensure that all participating are aware of their responsibilities.

#### Overview

The Council Policy and Code of Conduct on Public Processions draws from the Statutory Guidance issued in terms of section 65A of the “Act.” The Guidance for Scottish local authorities on marches and parades can be found at:

[www.scotland.gov.uk/publications/2006/12/06144351](http://www.scotland.gov.uk/publications/2006/12/06144351)

The guidance applies to all marches, parades and processions held in Scotland. At the present time, all organisations are included in the terms of the Act and notification of any march, parade or procession must be made to the relevant local authority.

#### The Law

In addition to the terms of Part V of the Civic Government (Scotland) Act 1982 organisers of any march, parade or procession should make themselves aware of the requirements and restrictions of the following statutes:

- Public Order Act 1936 – forbids people from wearing uniforms signifying association with any banned organisation(s);
- Public Order Act 1986 – relates to the power of the Chief Constable during or immediately before a march, parade or procession
- Terrorism Act 2000 – relates to relation to the wearing of clothing or items in support of a proscribed organisation
- Criminal Justice (Scotland) Act 2003 – relates to offences aggravated by religious prejudice
- Police, Public Order and Criminal Justice (Scotland) Act 2006

#### Local licences, restrictions etc

If an application to march etc is deemed acceptable, a ‘Letter of Confirmation’ will be issued to the organiser. However, the ‘Letter of Confirmation’ refers to the march only. If it is your intention to offer other forms of entertainment, for example a funfair, sale of goods or food, you should ensure that appropriate licence(s) are obtained. The Licensing Service staff will be only too happy to provide information and assistance and can be contacted at the address below:

Directorate of Place  
Licensing Service  
City of Edinburgh Council  
City Chambers  
249 High Street  
Edinburgh  
EH1 1YJ

or by Email to: [marchesandparades@edinburgh.gov.uk](mailto:marchesandparades@edinburgh.gov.uk)

Tel: 0131 529 4208

### **Notice of proposal to hold a public procession**

As the organiser of your event, you should give us at least 28 days' notice of your intention to hold a procession. In certain circumstances, for example, the unexpected closure of a local factory leading to redundancies, the 28 day notice may be waived. Each application for waiving of the 28 day notice will be considered by the Council in terms of the particular circumstances. If you cannot provide the notice needed, you should contact the Licensing Service at the address at the end of the form for advice to apply for an exemption. We can only make an exemption in exceptional circumstances.

You should read the attached code of conduct (add link) and fill in all sections of the form and:

- Send it to the Licensing Service address at the end of this form
- Keep a copy for yourself

On receipt of the notice of intention, a copy will be forwarded to Police Scotland who will make enquiries as appropriate to your application. It may be that a precursory meeting will be organised to discuss your proposals further.

Should it be deemed necessary, you may be asked to produce a risk assessment. This will lead to better and more informed decision making process.

Intimation of your intention to hold a procession will be notified on the Council's website and will also be passed to appropriate community bodies for their information and consideration.

### **Organising an event**

While many parades or processions are community based, such as gala day events, they all require planning. Notwithstanding the 28 days notice required by the Act, you should try to give as much notice as possible giving an opportunity for the authorities to determine if there are other planned events already in place for your choice of date. For example, there may already be a larger event intimated which could make it difficult for the police to provide attention at your event.

Where a road closure or parking restriction is required a TTRO would be necessary to close any roads or to prohibit parking etc. The application process for a TTRO under the Road Traffic Regulation Act for processions and the timescales associated with this

process means Road Services team will require longer than the normal 28 day notification period required under the Civic Government (Scotland) Act 1982. A minimum of 12 weeks notice is required to allow the Council to meet its statutory obligations.

## **Considerations**

What are the ages of the participants in the parade? Obviously, if you have a lot of younger children, you should have more stewards available.

Have you considered how far your parade will stretch once it starts? Consider the impact on local traffic and the local community.

How many stewards do you intend to have? This will depend on the nature of your event; the proposed route; has the event taken place previously; and how was your event received by the general public.

Are your stewards suitably experienced? Do you have anyone who has health and safety training? Are your stewards capable of dealing with eventualities? Have you considered what those eventualities might be? Have any stewards been trained in first aid?

Have you considered public liability insurance? What would happen if some damage was caused to a third party by virtue of your event being on the public roads?

Have you thought about litter issues at the marshalling point and the dispersal point for your event?

What will you do if you get very wet weather on the day of your event?

This list is by no means exhaustive and you may be asked to complete a risk assessment.

A risk assessment will help to:

Identify any dangers associated with holding it;

- Evaluate the level of any known risks;
- Decide who is at risk and in what way and how the risk to them could be got ride of; and
- Decide, where other types of risk have been identified, whether it would be possible to introduce appropriate measures to allow the procession to go ahead.

## **Next steps**

We will assess the risks associated with holding your procession within the first two weeks of us receiving your notification and in certain circumstance may also ask for a risk assessment to be submitted. You should remember to keep a copy of this form for your records and bring it with you to any meeting which we may hold. This is because we and the police may want to raise issues with you about how their risk assessment compares to yours. In case there are problems, we may need further meetings.

**Please provide the following:**

**Your contact details**

Name:
Address:
Postcode:
Phone number:
Email address:

**Name of organisation or band:**

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**Date and start time of procession:**

--

**Date and finish time of procession:**

--

**Is the date of your procession particularly significant to the organisation please explain?**

--

**Reason for procession:**

--

**The proposed Route (and provide a plan of route):**

--

(Continue on a separate sheet if necessary)

**List road names to be closed**

--

**List road names to be subject to parking restrictions**

**Do you require the City of Edinburgh Council to supply equipment to close any roads or restrict parking to facilitate the Procession?**

If the answer is no, what arrangements are you making for the required work?

**Has your organisation held a procession along the same route before?**

**Have there been any difficulties or tensions in the recent past with holding this procession?**

**Number of people expected to take part:**

**Details and numbers of any vehicles and or horses in the procession:**

**Please provide details of the arrangements for controlling the event:**

(Continue on a separate sheet if necessary)

**Chief Steward's contact details**

Name:

Address:

Postcode:

Phone number:

Email address:



**Number of stewards attending:**

**Number of buses or coaches:**

**Please provide any extra information about the procession which you think may be relevant (reasons why it is not possible for this procession to be combined with other similar ones)**

**Please provide details about the return procession (if this applies)**

Names of any bands, the names of each band member who will be taking responsibility for the bands and the approximate number of band members expected to take part.

The named band member must be present on the day and must identify themselves to the police. Name of bands:

Band A:

Band B:

Band C:

Name of responsible member for:

Band A:

Band B:

Band C:

Number of band members

Band A:

Band B:

Band C:

(Continue on separate sheet, if necessary)

**At the end of the public procession, what are your arrangements for getting participants to go disperse?**

**Are you organising any other social events at the end of the public procession? (Please give details of what these are.) And will you need a police presence?**

**Do you charge for entry into any part of your event and/or charge people for participation in your event? This includes any charges for participation (including members of the public, stall holders, members sub-contractor etc**

**Yes / No**

**Are goods sold during your event?**

**Yes / No**

**Is the event a charitable fundraising venture?**

**Yes / No**

**Does the event involve filming of a commercial nature?**

**Yes / No**

**Have you taken out insurance to help cover for any risks arising from the procession?**

**Yes / No**

**Have you considered the policing and other associated costs for holding the procession?**

**Yes / No**

**If the local authority is holding a meeting, I would like to raise the following points?**

1

2

3

4

5

**Please provide any other supporting comments in this box.**

**NOTE:** your application may be delayed without the full information listed above.

All information should be provided 28 days prior to your Procession / Event.

12 weeks notice may be required for events requiring a Temporary Traffic Regulation Order.

**Declaration:**

I understand that, as the event organiser, I am the person responsible for the event. Therefore, I will ensure that appropriate risk assessment and event plan will be in place.

If using a 3rd Party Traffic Management Contractor I confirm that I will ensure that there is appropriate signage, traffic management planning and sufficient public liability insurance in place (a minimum cover of £5,000,000).

I indemnify the City of Edinburgh Council against all claims for accident, damage or injury caused by, or in consequence of the event named.

I understand that if any litter / rubbish remains in the area as a result of the event that there will be a charge imposed on the event organiser should the Council have to remove it.

I have read and understand fully the guidance notes provided to me and will adhere to all responsibilities/duties required by the City of Edinburgh Council.

All information given in this application is correct to the best of my knowledge and belief.

**Signature:**

**Date:**

**Name in BLOCK CAPITALS:**

You may be contacted to arrange a meeting to discuss your notification in more detail.

Please return this form to:

Directorate of Place  
Licensing Service  
City of Edinburgh Council  
City Chambers  
249 High Street  
Edinburgh

EH1 1YJ

or by Email to: [marchesandparades@edinburgh.gov.uk](mailto:marchesandparades@edinburgh.gov.uk)

Tel: 0131 529 4208

# Regulatory Committee

2.00pm, Monday, 1 February 2016

## Access to Taxis by Customers using Wheelchairs or Customers accompanied by Assistance Dogs - Update

Item number	6.2
Report number	
Executive/routine	Executive
Wards	All

### Executive summary

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The Council, as the licensing authority, is fully committed to ensuring that licensed taxis are able to accommodate customers using wheelchairs and that taxi drivers provide reasonable assistance to these customers to access the vehicle.

The Council has previously received a number of complaints concerning the service provided to customers using wheelchairs and this was reported to the Committee on 23 June 2015 when a plan of action was approved to address the concerns identified.

This report provides details of the progress made in respect of the actions arising from the agreed plan.

Additionally, enquiries have been received by the Council from groups representing persons with visual impairment. These enquiries raise concern about the transport of assistance dogs accompanying visually impaired customers using taxis. The report provides information concerning complaints received regarding refusal to transport an assistance dog and the Council's procedure in respect of drivers requiring to be medically exempt from transporting assistance dogs.

### Links

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**Coalition pledges**

**Council outcomes**

**Single Outcome Agreement**

## Access to Taxis by Customers using Wheelchairs or Customers accompanied by Assistance Dogs – Update

### Recommendations

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It is recommended that the Regulatory Committee:

- 1.1 notes the contents of this report;
- 1.2 notes the reports to this Committee in respect of Taxi Driver Training and Taxi & Taxi Driver's Licence Conditions;
- 1.3 agrees the proposed actions as set out in paragraph 3.20; and
- 1.4 receives a further update in six months.

### Background

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- 2.1 At present taxis must be readily wheelchair accessible. The current conditions state that the driver of a taxi is required to assist customers using wheelchairs into the taxi, using the ramps if necessary, and ensure that they are properly secured by means of the fixed straps and seatbelts before starting the journey. Prior to the grant of a Taxi Driver's Licence, drivers are required to undertake training on 'Wheelchair Access and Disability Awareness'.
- 2.2 The Council has received a number of complaints from customers using wheelchairs who have been denied taxi travel within the city. These concerns have also been raised by some equalities groups within the city.
- 2.3 In June 2015, the Committee agreed to consult on the development of a fit for purpose training programme that meets the needs of a modern taxi service for the Capital City. It is proposed to introduce a range of measures including refresher training for drivers which will include Passenger Assistance and Disability Awareness. The outcome of the consultation is the subject of a separate report to this Committee.
- 2.4 In June 2015, the Committee approved an action plan (Appendix 1) to address the concerns identified through the investigation of complaints regarding access to and use of taxis by wheelchair users.

- 2.5 This report gives details of the progress of the actions taken to address the issues. The report does not deal with any aspect of the licensing of private hire cars (PHCs) or their drivers because the type of vehicles permitted are not normally capable of being wheelchair accessible. There are a small number of PHCs capable of carrying a wheelchair and these are subject to specific Council conditions.
- 2.6 During August and September 2015, Freedom of Information requests were received from groups representing persons with visual impairment asking for information regarding complaints concerning licensed hire car drivers refusing to transport assistance dogs in breach of their licence conditions. Only one such complaint has been received in the past three years however, these inquiries revealed a perceived anxiety concerning the matter within those groups.

## Main report

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- 3.1 The Council is fully committed to ensuring that all taxi services are fully accessible. Licensing conditions require taxis to be wheelchair accessible. This means that all taxis must be fitted with ramps and other fittings to secure a wheelchair, and that these must be in good working order at all times. Doors must be wide enough to allow a wheelchair to be accommodated with fixtures in place to allow the wheelchair to be safely anchored within the vehicle.
- 3.2 Drivers are required to assist customers using wheelchairs and secure wheelchairs in the vehicle. The driver should also facilitate and assist any accompanying carer to use the equipment.
- 3.3 Should a driver have a medical condition that prevents them from assisting wheelchair passengers they can apply to the Council for a Wheelchair Exemption Certificate (WEC). They must provide medical evidence of why they are unfit, which would be in the form of a doctor's letter detailing the reasons why they are unable to assist wheelchair passengers, the nature of the injury/illness and how long they anticipate the incapacity will last.
- 3.4 On receipt of this information the driver will be referred to the Council's medical provider for examination. Once all the relevant information is available a WEC may be granted or refused. The certificate must be displayed in accordance with licence condition 130. This exemption can be reviewed as required, normally based on advice from the medical advisor.
- 3.5 Investigation of complaints received by the Council identified a number of issues which highlighted that a thorough review of the relevant conditions and level of compliance is necessary. An action plan (Appendix 1) detailing how this work would be taken forward was formulated and agreed by the Regulatory Committee on 23 June 2015. The plan proposed a series of actions including:
- raising general awareness of Council policy;
  - holding focus groups with third sector partners and clients;
  - an audit of the wheelchair exemptions;

- a review of relevant issues as part of the refresh of the taxi driver training programme;
  - analysis of the number of taxis failing their annual test due to lack of wheelchair accessibility; and
  - a campaign of enforcement activity.
- 3.6 In order to raise the profile and awareness of the Council Policy and the relevant licence conditions, letters were sent to the taxi trade via the companies operating licensed booking offices within the city and the information was cascaded by them to all licence holders operating on their circuits. This was reinforced in discussion between Council officers and individual managers responsible for customer care and standards within the companies.
- 3.7 Discussions have been held with representatives from the Edinburgh taxi trade together with London Taxis International Ltd (manufacturers of the TX model London Taxi) regarding perceived issues concerning the loading and unloading of wheelchairs, in particular electrically operated chairs, and information concerning best practice has been circulated to the trade.
- 3.8 All licence holders who have a medical wheelchair exemption certificate are now required to attend for a medical examination by the Council's health service provider when renewing their Taxi Driver's Licence, at which point the exemption is reviewed.
- 3.9 There are currently 62 Wheelchair Exemption Certificates in effect which are considered to be permanent, subject to medical review, together with a fluctuating number of exemptions of varying tenure determined by medical condition. There are over 3,000 licensed taxi drivers.
- 3.10 A review of the training requirement in respect of taxi drivers has been carried out and is the subject of a separate report to this Committee.
- 3.11 A review of the conditions relating to taxi and taxi drivers' licences has also been carried out and will be the subject of a separate report to this Committee. Proposals include additional conditions in respect of licence holders' responsibility to ensure functionality of equipment and licence holder compliance with the relevant conditions in respect of passengers using wheelchairs.
- 3.12 An enforcement campaign was implemented between July and October 2015. Between these dates, Taxi Examination Centre inspectors carried out routine roadside enforcement on eight occasions when 174 taxis were examined and of these 8 (5%) were found to have defects in respect of the wheelchair ramps.
- 3.13 Additionally, in September 2015, in a joint enforcement campaign to ensure full wheelchair accessibility, Council Enforcement Officers carried out spot checks on taxis with the Cab Inspector. These checks included checks on the display of any certificate of exemption. During this exercise 20 taxis were checked and nine were found to be in breach of the licence conditions in relation to wheelchair

accessibility. The most prevalent fault was the straps, needed to secure a wheelchair, were missing from the vehicle.

- 3.14 In all cases above, where defects were found which could not be remedied immediately, the vehicles were 'red labelled' and put out of service until compliance with all conditions was met.
- 3.15 Taxis presented for an annual test at the Taxi Examination Centre, which fail on any aspect of the wheelchair accessibility equipment are 'red labelled' in terms of the licence conditions and cannot operate as a taxi until the faults are remedied. Analysis of the number of taxis failing the annual test at renewal of the licence is not available as it has not previously been specifically recorded however the Taxi Examination Centre now records this information for future reference.
- 3.16 On a related disability access issue, during August and September 2015, Freedom of Information requests were received from groups representing persons with visual impairment, asking for information regarding complaints concerning licensed hire car drivers refusing to transport assistance dogs, in breach of their licence conditions. Only one such complaint has been received by the Council in the past three years however, these inquiries revealed a concern about the matter within those groups. The relevant information was released to the groups together with details of the Council's procedures in respect of Exemption Certificates for licence holders with a medical condition which required restriction of contact with dogs and details of the Council's complaints procedure and disciplinary process, in circumstances where a breach of licence conditions occurs.
- 3.17 The licence conditions, in respect of both taxi drivers and private hire car drivers, require the drivers to carry assistance dogs accompanying persons with a disability. Where there are medical grounds which prevent a driver from carrying an assistance dog they can apply to the Council for an Exemption Certificate. These are mandatory conditions of licence for both taxi and private hire drivers in terms of The Private Hire Car Drivers' Licences ( Carrying of Guide Dogs and Hearing Dogs) ( Scotland ) Regulations 2004. Drivers must provide medical evidence of why they are unfit, which would be in the form of a doctor's letter detailing the reasons why they are unable to carry assistance dogs, the nature of the condition and how long they expect it will last.
- 3.18 On receipt of this information the driver will be referred to the Council's medical provider for examination. Once all the relevant information is available an Exemption Certificate may be granted or refused. Only once such an exemption certificate is issued to the driver are they exempt from carrying assistance dogs. The certificate must be displayed in accordance with the relevant conditions. This exemption can be reviewed, as required, normally based on advice from the medical advisor.



- 3.19 In relation to wheelchair accessibility and assistance dogs the following future action is proposed:
- that the enforcement campaign is continued during both annual vehicle inspections and roadside enforcement checks by Council vehicle examiners and that relevant information is collated to measure compliance;
  - the Complaints Officer will continue to investigate reports of breach of licence conditions, referring licence holders to the Licensing Sub-Committee, where appropriate, for consideration of suspension of licence;
  - a tender is issued for a contract for test purchasing exercises and procurement of a service provider or providers deploying a customer using a wheelchair and requiring assistance to access a taxi, and a customer accompanied by an assistance dog, and reporting thereon; and
  - holding focus groups with third sector partners and clients.
- 3.20 A further report updating Committee on these actions will be presented in November 2016.
- 3.21 In September 2015 the Committee agreed to carry out full consultation on the licence conditions since they were last amended, to reflect current practice and legislative changes (including requirements introduced by the Equality Act 2010). The outcome of this consultation will be the subject of a separate report to this Committee.

### **Measures of success**

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- 4.1 That taxis and hire cars continue to be licensed appropriately and the Council discharges its statutory duties.
- 4.2 That there is appropriate access to taxis for passengers requiring wheelchair assistance and passengers travelling with assistance dogs.

### **Financial impact**

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- 5.1 There is no direct financial impact on the Council. All costs are contained within existing budgets.

### **Risk, policy, compliance and governance impact**

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- 6.1 Prior to the grant of a medical Exemption Certificate in respect of loading passengers using wheelchairs or conveying passengers accompanied by assistance dogs, taxi drivers must provide medical evidence of why they are unable to do so from their own doctor. The driver would then be referred to the Council's medical provider for examination. Should the committee refuse to grant an Exemption Certificate this could be going against medical advice.
- 6.2 Should the Committee decide not to grant an application for a medical exemption, the applicant may appeal against the decision to the Sheriff Court within 28 days of the date of the decision.

- 6.3 The Council has a number of contracts with service providers that rely on the availability of transport for disabled or elderly persons. Any change to policy could have a direct impact on this provision.

## Equalities impact

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- 7.1 The Committee has to ensure that any policy decisions on this topic do not have an adverse effect on the availability of transport for disabled or elderly persons. However, it is also important that all passengers are transported safely and additionally, the Committee must balance these rights against the rights and wellbeing of taxi drivers.
- 7.2 Steps to ensure the adequate transport of disabled passengers are directly relevant to the public sector general equality duty. Any change which may be recommended in future will require a full Equalities and Rights Impact Assessment.

## Sustainability impact

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- 8.1 There is no environmental impact arising from the contents of this report.

## Consultation and engagement

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- 9.1 Any change requires consultation prior to implementation. Full consultation will be undertaken, and will involve licence holders, disability groups and interested members of the public.

## Paul Lawrence

Executive Director of Place

Contact: Susan Mooney, Head of Service

E-mail [susan.mooney@edinburgh.gov.uk](mailto:susan.mooney@edinburgh.gov.uk) | Tel: 0131 529 7587

Contact: Andrew Mitchell, Community Safety Manager

E-mail [andrew.mitchell@edinburgh.gov.uk](mailto:andrew.mitchell@edinburgh.gov.uk) | Tel: 0131 469 5822

## Links

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<b>Coalition pledges</b>	P28 - Further strengthen our links with the business community by developing and implementing strategies to promote and protect the economic well being of the city
<b>Council outcomes</b>	CO8 - Edinburgh's economy creates and sustains job opportunities
<b>Single Outcome Agreement</b>	SO1 - Edinburgh's Economy Delivers increased investment, jobs and opportunities for all
<b>Appendices</b>	Appendix 1 – Action Plan

## Appendix 1

Action Plan (Approved 23 June 2015)

Action	Description	Timescales
1. Issue press statement	<p>Draft press statement which covers main points of conditions and commits to a public review of the situation</p> <p>Encourage affected customers to come forward by providing information concerning the complaints process to equalities and disability groups via press statements and during focus group meetings (see 4 below).</p>	<p>Complete</p> <p>31 March 2016</p>
2. Raising general awareness of council policy	<p>Letter to all drivers and operators and engage with main operators at a meeting to discuss Council's view on current conditions and standard of conduct.</p>	<p>Complete</p>
3. Arrange focus groups with 3 <sup>rd</sup> sector partners and clients	<p>Sessions to receive feedback on the access to taxis which would inform items 4 and 5 below.</p> <p>e.g. ECAS</p>	<p>31 March 2016</p>
4. Audit Number of wheelchair exemptions in existence	<p>Number, on average how long they are in effect.</p> <p>Review existing policy and practice for issuing medical exemption certificates</p> <p>Consider tightening of policy to make more robust and transparent. Possible review of long term certificate.</p> <p>Report to Regulatory Committee as required.</p>	<p>Complete</p> <p>Complete</p> <p>Complete</p> <p>Report attached</p>

5. Review relevant issues as part of the refresh of the Taxi Driver training programme	Included within current workplan.	Ongoing. This is subject of a separate report to this Committee.
6. Analysis of number of taxis failing annual test due to lack of wheelchair accessibility	Paper examination of records to see if any evidence of problem.	Complete
7. Campaign of Enforcement Activity	<ul style="list-style-type: none"> <li>a) Spot checks taxis in operations (Any found not to be fully serviceable re accessibility will be put off road).</li> <li>b) Check on display of certificates (Any found not found to be displaying certificates will firstly receive a written warning and thereafter be reported to committee)</li> <li>c) Consider feasibility of test purchase to test drivers particularly out of hours.</li> </ul>	<p>Campaign June and July 2015</p> <p>Results attached in report.</p> <p>To be taken forward in 2016. See para. 3.</p>

# Regulatory Committee

2.00pm, Monday, 1 February 2016

## Taxi Fare Table – Credit and Debit Card Surcharge

<b>Item number</b>	6.3
<b>Report number</b>	
<b>Executive/routine</b>	Executive
<b>Wards</b>	All

### Executive summary

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The Council, as the licensing authority, has a duty in terms of the Civic Government (Scotland) Act 1982 to fix the scales for fares and other charges for the hire of taxis. The fares and charges made for the hire of taxis cannot be greater than those fixed by the licensing authority.

The current fare table, approved by the Council on 3 May 2013, and which took effect on 29 July 2013, permits an extra charge of 5% applicable to payments of fare by credit or debit cards.

The Consumer Rights (Payment Surcharges) Regulations 2012, which came into force on 6 April 2013, bans traders from charging consumers more than the direct cost borne by them as a result of the consumer using a given means of payment.

Following investigation of a complaint it has been ascertained that taxi and private hire car operators require advice regarding compliance with the regulations.

### Links

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**Coalition pledges**

**Council outcomes**

**Single Outcome Agreement**

## Taxi Fare Table – Credit and Debit Card Surcharge

### Recommendation

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It is recommended that the Regulatory Committee:

- 1.1 notes the content of this report; and
- 1.2 agrees to issue advice to the taxi trade pending the next full taxi fare review.

### Background

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- 2.1 The Council, as the licensing authority, has a duty in terms of the Civic Government (Scotland) Act 1982 to fix the scales for fares and other charges for the hire of taxis. The fares and charges made for the hire of taxis cannot be greater than those fixed by the licensing authority.
- 2.2 The current fare table (Appendix 1), approved by the Council on 3 May 2013, and which took effect on 29 July 2013, permits an extra charge of 5%, applicable to fare payments by credit or debit card.
- 2.3 Regulation 4 of the Consumer Rights (Payments Surcharges) Regulations 2012, which came into force on 6 April 2013, bans any trader from charging consumers more than the direct cost borne by them as a result of the consumer using a means of payment.
- 2.4 Regulation 4 does not refer to any particular method of payment such as credit or debit cards, therefore the provision applies to all means of payment; and a 'given means of payment' would be a means that a trader decides to accept in any particular case.

In terms of the regulations 'means of payment' currently include cash, cheques, credit cards, debit cards, pre-paid cards, charge cards, paypoint transactions, mobile payments, credit transfers and direct debits. As technology relating to payments develops, any new methods of paying will also be subject to the prohibition.

### Main report

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- 3.1 A complaint was made to the Council by a member of the public to the effect that a charge of 5% of a taxi fare had been added to his fare when he made payment by a credit card.
- 3.2 Investigation of the complaint established that taxi and private hire car operators routinely charged a standard additional 5% when a fare is paid by credit or debit card.

- 3.3 The additional charge allowed by the fare table was introduced by the Council in order to ensure taxi and private hire car operators were not out of pocket in accepting card payments which would be a beneficial and convenient method of payment for hirers.
- 3.4 The Consumer Rights (Payment Surcharges) Regulations 2012 implement Article 19 of the European Union's Consumer Rights Directive (2011/83/EU) of 25 October 2011 in the UK because evidence suggested that excessive payment charges are particularly detrimental to consumers and have a damaging effect on competition.
- 3.5 In order to provide clarity regarding any extra charges which can be levied by taxi and private hire car operators in respect of fares paid by credit or debit card, and to ensure that any such charges are compliant with current legislation, the wording of the Council's approved fare table should be amended to reflect the relevant legislation in the following terms 'Payment of Fare by Credit/Debit Card – up to a maximum of 5% extra provided that does not exceed the direct cost borne by the licence holder when fare paid by the above means.'
- 3.6 Licence holders will be advised by letter of the requirements of the regulations and advised that any breach would be addressed by Trading Standards. It is important to note that these regulations do not apply to business to business transactions but simply to consumer contracts.

### **Measures of success**

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- 4.1 That taxis and hire car operators licensed by the Council comply with relevant legislation.
- 4.2 The public are confident that only charges, legitimately incurred, are passed on to the consumer.

### **Financial impact**

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- 5.1 There is no direct financial impact on the Council. All costs are contained within existing budgets.

### **Risk, policy, compliance and governance impact**

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- 6.1 Should the Committee decide not to agree the amendment to the fare table, the fare table will continue to authorise charges, prohibited by the legislation.

### **Equalities impact**

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- 7.1 There is no adverse impact on the public sector equalities duty. There would accordingly be no direct equalities impact arising from the contents of this report.

### **Sustainability impact**

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- 8.1 There is no environmental impact arising from the contents of this report.



## Consultation and engagement

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- 9.1 Amendment of the Taxi Fare Table is required to achieve compliance with the current regulations. Engagement with appropriate representatives of the taxi and private hire car trade will be undertaken to communicate the amended legislation and direct them to sources of information.

## Background reading / external references

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[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/452405/BIS-15-343-BIS-payment-surcharges-guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/452405/BIS-15-343-BIS-payment-surcharges-guidance.pdf)

<http://www.legislation.gov.uk/ukxi/2012/3110/made>

### Paul Lawrence

Executive Director of Place

Contact: Susan Mooney, Head of Service

E-mail: [susan.mooney@edinburgh.gov.uk](mailto:susan.mooney@edinburgh.gov.uk) | Tel: 0131 529 7587

Contact: Andrew Mitchell, Community Safety Manager

E-mail: [Andrew.mitchell@edinburgh.gov.uk](mailto:Andrew.mitchell@edinburgh.gov.uk) | Tel: 0131 469 5822

## Links

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<b>Coalition pledges</b>	P28 – Further strengthen our links with the business community by developing and implementing strategies to promote and protect the economic well being of the city
<b>Council outcomes</b>	CO8 – Edinburgh’s economy creates and sustains job opportunities
<b>Single Outcome Agreement</b>	SO1 – Edinburgh’s economy delivers increased investment, jobs and opportunities for all
<b>Appendices</b>	Appendix 1 - City of Edinburgh Fare Table for Taxis (effective from 29 July 2013)

THE CITY OF EDINBURGH COUNCIL  
CIVIC GOVERNMENT (SCOTLAND) ACT 1982

## **FARE TABLE FOR TAXIS**

With effect from 29 July 2013

### FOR UP TO 2 PASSENGERS

<b>TARIFF 1</b> Monday - Friday 6am – 6pm	<b>TARIFF 2</b> Monday – Friday 6pm – 6am the following day 6am Saturday – 6am Monday
<b>TARIFF 3</b> Monday - Friday 6am – 6pm during Christmas and New Year	<b>TARIFF 4</b> Monday – Friday 6pm – 6am the following day 6am on Saturday – 6am Monday during Christmas and New Year
<b>CHRISTMAS</b>	6pm on 24 December to 6am on 27 December
<b>NEW YEAR</b>	6pm on 31 December to midnight on 2 January

CHARGES	TARIFF 1	TARIFF 2	TARIFF 3	TARIFF 4
<ul style="list-style-type: none"> <li>▪ Initial hire not exceeding 527m</li> <li>▪ Initial 105 seconds of waiting time</li> <li>▪ Combination of initial time and distance</li> </ul>	£2.10	£3.10	£3.10	£4.10
<ul style="list-style-type: none"> <li>▪ Each additional 188m up until 2031m and thereafter each additional 217m</li> <li>▪ Each additional 40 seconds of waiting time</li> <li>▪ Combination of additional time and distance</li> </ul>	£0.25	£0.25	£0.35	£0.45

### EXTRA PAYMENTS

When more than 2 passengers	Each	£0.20
<b>Note:</b> Only 2 children under 12 years will be reckoned as one passenger. No extra fare will be charged for one child under 5 years of age.		
Each Passenger must be properly seated		
Hires ending at Edinburgh Airport Inner Drop-off Zone (See Note 4 below)		£1.00
<b>Call Out Charge</b> Applicable when pre-booked	£0.80	<b>Airport Pickup</b> For hires Commencing at Edinburgh airport
<b>Cancellation Fee</b> Applicable when taxi is pre-booked but not used	£2.20	<b>Payment Of Fare By Credit/Debit Card</b> Extra applicable when fare paid by the above means
		5.0 %
<b>Cleaning Fee</b> Applicable when taxi is soiled (by travel sickness) £50.00		

### NOTES

- (1) The above Tariff is applicable only within the City of Edinburgh.
- (2) Any hire which terminates outside the City of Edinburgh area – FARE MUST BE NEGOTIATED AND AGREED WITH DRIVER BEFORE THE JOURNEY COMMENCES.
- (3) A copy of the Licensing Conditions can be inspected at the Council's Licensing Offices, 249 High Street, Edinburgh, EH1 1YJ and downloaded from [edinburgh.gov.uk/downloads/file/843/taxi\\_licensing\\_conditions](http://edinburgh.gov.uk/downloads/file/843/taxi_licensing_conditions).
- (4) The Airport Extra is only payable if passenger is dropped off in the restricted zone at Edinburgh Airport where the £1 fee is charged for vehicle access and the driver has explained to the passenger before the start of the journey - (1) He will take the passenger to the drop off point just beside the airport terminal and that there is a £1 extra for this. (2) If the passenger states he is disabled, the £1 extra still has to be paid, but the driver understands that the passenger can reclaim this from the airport at the drop-off point. (3) If the passenger wishes to avoid the £1 extra, he can be taken to an outer drop-off point. However, this is further from the airport terminal, involves the use of a free shuttle bus and will require more time for the passenger to get to the airport terminal.

### COMPLAINTS

Any hirer aggrieved at the level of the fare charged for any hire or for any other reason may discuss the matter with the Taxi Licensing Officer (0131 529 4250). Any complaint must be made in writing and addressed to the Complaints Officer, Licensing Section, The City of Edinburgh Council, 249 High Street, Edinburgh, EH1 1YJ (or alternatively email [licensing@edinburgh.gov.uk](mailto:licensing@edinburgh.gov.uk)) and should include the vehicle's licence number and time and date of the incident.

# Regulatory Committee

2.00pm, Monday, 1 February 2016

## Licensing Policy Development – Street Trading Consultation Update

<b>Item number</b>	6.4
<b>Report number</b>	
<b>Executive/routine</b>	Executive
<b>Wards</b>	All wards

### Executive summary

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This report updates Committee on the outcome of the consultation on street trading and market operators licensing which ran from 27 July until 15 November 2015.

The report details the progress made to date and highlights areas on consensus and recommendations.

### Links

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<b>Coalition pledges</b>	P15 & P28
<b>Council outcomes</b>	CO8
<b>Single Outcome Agreement</b>	SO1

## Licensing Policy Development – Street Trading Consultation Update

### Recommendations

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It is recommended that the Committee:

- 1.1 notes the outcome of the independent consultation and the progress made to date;
- 1.2 approves the adoption of the new standard conditions contained in appendices 6 - 10; and
- 1.3 agrees to receive a further report on issues highlighted during the consultation process.

### Background

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- 2.1 Street Trading and Market Operator are optional licensing activities within the Civic Government (Scotland) Act 1982 (see Appendix 1). The City of Edinburgh Council, by way of resolution, exercised its powers to adopt these activities in 1983 and developed a street trading policy.
- 2.2 The Street Trading policy creates the ability to control and manage activity and also ensures that traders operate within the same general constraints that apply to any other business, including that they comply with relevant legislation and meet the same minimum standards that any responsible business should observe.
- 2.3 The last review of the Street Trading policy was carried out in 2004.
- 2.4 The existing policy has, in the main, served the Council well, however the environment of Edinburgh and the landscape setting of the capital city is an important factor in relation to investment decisions made by businesses. While it is recognised that street trading and markets can provide an important service, this must be balanced against the impact on existing business, amenity and public safety.
- 2.5 The Regulatory Committee, on 16 November 2012, adopted a Work Plan which included a review of policies which are vital to ensuring the Licensing function remains fit for purpose.
- 2.6 Draft policy and conditions for street trading and market operators licensing were developed and these were presented to Regulatory Committee on 2 February 2015, when it was agreed to carry out a full consultation.

2.7 The consultation (see appendix 2) ran from 27 July until 15 November 2015.

## **Main report**

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- 3.1 In line with statutory requirements all existing licence holders were contacted. Additionally the independent consultation was expanded to include the wider business and residential community, relevant partners and agencies. This took the form of an online questionnaire which was published on the Council Website.
- 3.2 The independent consultation was designed to assess the understanding of the impacts of the draft policy on different user groups to allow an informed decision on suitable changes to be made.
- 3.3 There were a total of 56 responses submitted to the Council Consultation Hub survey and a further six written responses. The results of the consultation are contained in Appendix 3 – 5.

### **Consultation Responses**

- 3.4 Almost half of all the respondents (26) were submitted by either street traders or market operators.
- 3.5 A number of views have been expressed but areas where there was a general consensus related to the appearance of stalls, quality of goods on offer and cleanliness of the city. These are outlined below.

### **Traders / Residents**

- 3.6 Existing traders felt very strongly that the system was overly bureaucratic, restrictive and that there should be a greater flexibility to trade in the city centre. They also highlighted that the increasing number of events in the city centre have a significant impact on their ability to trade especially during the Festival and Festive seasons when their trading rights are suspended to allow other business to take over their stances.
- 3.7 The view of residents who responded are of the opinion that regulations and conditions are important, the good management of busier areas is essential and companies, businesses or groups should not be allowed to dominate specific areas.

### **Other Businesses**

- 3.8 A number of retail businesses highlighted the cost of trading in the city centre and the impact that street trading has on their business. A number of these businesses are keen to extend their offering onto the street rather than having street traders directly outside their premises.
- 3.9 There was a mixed reaction to food concessions in the High Street / Hunters Square during the festival period but there was a consensus that if it were to be allowed there should be a wider offering available to the general public. In addition consideration should be given to the manner in which these stances are

allocated providing opportunities for all traders who may have an interest in trading in this area during the festival and festive periods.

### **Charities and Community Groups**

- 3.10 Charitable organisations and community groups highlight the cost of trading and in their view the nature of the conditions are onerous, however many manage markets and street trading on a weekly basis and this necessitates an element of management control and responsibility.
- 3.11 Organisers of one day events and charitable organisations highlighted that consideration needs to be given to one day licences charged at a reduced fee.

### **Events**

- 3.12 Event organisers highlight that they can add to the vibrancy of an area adding interest, character and function to shopping streets and other areas of the city as well as the economic benefit and opportunity to show case Edinburgh. In addition they noted that the draft conditions do not include a specific section on events and accordingly do not address issues that would be particularly relevant to their area of business. This is an area they would be keen to see expanded to provide greater clarity for event organisers by stating the Council's expectations.

### **Pedicabs and Walking Tours**

- 3.13 A number of responses were received in relation to pedicabs and walking tours. Given the complexity of the issues in respect of both of these activities, this is subject of a separate work stream and will be reported to the Regulatory Committee in due course.

### **Proposals**

#### **Existing Traders**

- 3.14 The demand for stances in city centre locations is significant and whilst traders are keen to see a relaxation of policy and conditions there is little to support this position from other stakeholders. No additional space has been identified that would allow for an expansion of trading, therefore it is essential that control and management is maintained.
- 3.15 Further work requires to be carried out to rationalise the application process including co-ordination between Council services. The outcome of this work will be included in the final report scheduled to come to Committee within two cycles. This will form part of ongoing customer service measures which are currently under review, and subject to a separate report to Committee.

#### **Retail / Office based premises**

- 3.16 Businesses remain concerned about the impact of traders who operate outside their premises. This is exacerbated by the lack of space.

- 3.17 The requirement to obtain neighbours' views should be retained allowing the Committee to be the final arbitrator where there is a dispute or concern.

### **High Street / Hunters Square Trading**

- 3.18 Street trading in the High Street and Hunters Square should continue on a temporary basis in line with the proposed operating plan. During August and December annually the space should be considered as an event space and normal trading suspended during these periods.
- 3.19 Traders commented that the uncertainty of bidding weekly for a space does not allow them to plan or manage their business with any degree of certainty of when they can and cannot trade. The service does not recommend a return to daily licences, further consideration of extending weekly to monthly licensing should be considered going forward.
- 3.20 The management and issuing of licences on a daily basis is hugely resource intensive with upward of 200 applications received daily during peak periods. The weekly system of issuing licences has proved to be more efficient but still requires a significant resource to keep up with demand. A return to daily licences is not considered to be sustainable.

### **Charities and one day events**

- 3.21 The policy and conditions are designed to provide clarity and guidance to all traders and outline the Council's expectations and requirements for the same management of events. The fee introduced in April 2015 reflects the actual cost to the Council and it is not recommended that there should be further discounts or a return to daily licences. The current fee covers the cost of inspection, support and administration of the licensing process whether it is for trading on a daily or weekly basis.

### **Events**

- 3.22 The original draft policy did not take account of the specific needs of event based street trading or market operators licensing requirements. It is clear from the consultation that further work is required in this area to provide greater clarity for event organisers. It is intended that a section on events is added to the draft policy reflecting the concerns expressed during the consultation process.

### **Next Steps**

- 3.23 The Regulatory Committee is asked to adopt the standard conditions contained in appendices 6 – 10. It is proposed that these conditions would take effect from 1 April 2016.
- 3.24 Given the complexity around a number of the issues it is intended to carry out further work in respect of:
- event based events;
  - the use of areas as event spaces and the impact it has on local businesses and annual traders; and

- operational plans for key areas including the High Street, Castle Street and Mound Precinct.

It is intended that this work would be undertaken in conjunction with the Event Space Manifesto.

- 3.25 To report back to the Regulatory Committee on the outstanding issues within six months.

## Measures of success

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- 4.1 That the city's licensing function is modernised to ensure that it meets the needs of customers.
- 4.2 A wide ranging and clear consultation and engagement process that demonstrates customer focus and commitment to listening to all stakeholders.

## Financial impact

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- 5.1 The Council's scale of fees for licensing applications was approved with effect from 1 April 2014. Any costs from implementing policy changes will be contained within the current ring-fenced income generated from licensing fees. There are no costs to the Council's revenue budget.

## Risk, policy, compliance and governance impact

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- 6.1 The development of policy in respect of licensing of street traders is part of a wider place-making role for the Council. It is essential that all the strategic aims of the Council are considered and that the Street Trading policy is consistent with these.

## Equalities impact

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- 7.1 There is no adverse impact on the public sector equalities duty. There would accordingly be no direct equalities impact arising from the contents of this report.

## Sustainability impact

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- 8.1 The proposed changes to the licensing framework and condition should create:
- a safe, clean and well maintained environment;
  - a more attractive environment for those living, working and visiting the city;
  - an improved, more diverse, retail offer; and
  - an environment that promotes and protects the economic well being of the city.

## Consultation and engagement

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- 9.1 Consultation commenced on 31 July and finished on 15 November 2015.
- 9.2 Council officers have held a number of one to one meetings with relevant parties including licence holders, retailers, event organisers and interested parties.



- 9.3 In line with statutory requirements the consultation process was expanded to include the wider business and residential community, relevant partners and agencies. This took the form of an online questionnaire which was also published on the Council Website.
- 9.4 Details of the consultation are detailed in Appendix 2.
- 9.5 The consultation was designed to assess the understanding of the impacts of the approach on different user groups to allow an informed decision on suitable changes to be made.

## **Background reading / external references**

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[Central Local Development Committee – Wednesday 7 January 2004 – Item 4. Review of Street Trading Policy Report 2004](#)

[Regulatory Committee - Friday 4 April 2014 - Item 7.1 Licensing Policy Development Street Trading Report](#)

[15 November Work Plan Response – Regulatory Committee](#)

[Regulatory Committee - 2 September 2015 - Item - 6.4 Licensing Policy Development Street Trading Report](#)

## **Paul Lawrence**

Executive Director of Place

Contact: Andrew Mitchell, Community Safety Manager  
Gordon Hunter, Licensing Project Officer

E-mail: [Andrew.mitchell@edinburgh.gov.uk](mailto:Andrew.mitchell@edinburgh.gov.uk) | Tel: 0131 469 5822  
[Gordon.hunter@edinburgh.gov.uk](mailto:Gordon.hunter@edinburgh.gov.uk) | Tel: 0131 529 4252

## Links

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<b>Coalition pledges</b>	<p>P15 - Work with public organisations, the private sector and social enterprises to promote Edinburgh to investors.</p> <p>P28 - Further strengthen our links with the business community by developing and implementing strategies to promote and protect the economic well being of the city.</p>
<b>Council outcomes</b>	<p>CO8 - Edinburgh's economy creates and sustains job opportunities.</p>
<b>Single Outcome Agreement</b>	<p>SO1 - Edinburgh's Economy Delivers increased investment, jobs and opportunities for all.</p>
<b>Appendices</b>	<p>Appendix 1 - Statutory Background</p> <p>Appendix 2 - Consultation Questionnaire</p> <p>Appendix 3 - Questionnaire results</p> <p>Appendix 4 - Comments attached to Questionnaire</p> <p>Appendix 5 - Written responses</p> <p>Appendix 6 - Proposed Standard Conditions – All Street Traders</p> <p>Appendix 7 - Additional Street Trading Conditions – Food Trading</p> <p>Appendix 8 - Additional Street Trading Conditions – Vehicles and Mobile Units</p> <p>Appendix 9 - Specified Trading Zones for Mobile Street Traders</p> <p>Appendix 10 - Standard Conditions – Market Operators</p>

## **Appendix 1 - Statutory Background**

The Civic Government (Scotland) Act 1982 differentiates between activities which **must** be licensed (mandatory), and those which a local authority may elect to licence (optional) if it sees fit. The purpose for regulating both mandatory and optional activities is not to restrict trade or competition but to help prevent crime and disorder, ensure public safety and protect the environment. If an authority wishes to licence an optional activity it must do so by way of resolution. Both street trading and market operator licensing are optional licensing activities and the City of Edinburgh Council, exercised its powers to adopt these licensing activities in 1983.

### **Street Trading**

A licence is required for street trading by a person whether on their own account or as an employee. Street trading means doing any of the following things in a public place:

- (a) hawking, selling or offering or exposing for sale any article;
- (b) offering to carry out or carrying out for money, or money's worth, any service.

and includes doing any of these things in or from a kiosk or moveable stall not entered in the valuation roll, except where it is done in conjunction with or as part of a retail business being carried out in premises abutting the public place.

The Civic Government (Scotland) Act 1982 provides exceptions from the requirement to hold a Street Trader's licence these include:-

- (a) the sale of newspapers;
- (b) sale of milk on or on behalf of a person registered under section 1(3) of the Food Safety Act 1990;
- (c) sale of coal, coke or solid fuel;
- (d) activities in respect of which a certificate is required under the Pedlars Act 1871;
- (e) other activities in respect of which a licence is required under the Civic Government (Scotland) Act 1982; and
- (f) organising or participating in a public charitable collection;

### **Market Operator**

A licence, to be known as a "market operator's licence", shall be required for carrying on a private market.

The Act provides exceptions from the requirement to hold a market operator's licence these include:-

- (a) functions held by charitable, religious, youth, recreational, community, political or similar organisations;
- (b) markets held only for the sale of livestock, fodder or grain.

"Private market" means a market, whether covered or not, carried on by any person other than a local or public authority at which goods are offered by more than one seller for sale by retail to the public.

## Appendix 2 – Consultation Questionnaire



### Street Trading & Market Operator Licensing Review

#### Overview

The Civic Government (Scotland) Act 1982 (“the Act”) makes provision for the licensing and regulation of certain activities in order to achieve the following licensing objectives:

- Preserve public order,
- Preserve public safety,
- Prevent public nuisance, and
- Prevent crime.

The Council is responsible for the licensing and regulation of a number of activities, including market operators and street trading.



Market Operator Licences are required by any person other than a local or public authority at which goods are offered by more than one seller for sale by retail to the public. Street trading licences are required by persons selling or offering to sell goods or services in a public place, including from a kiosk, vehicle or moveable stall.

The Regulatory Committee (“the Committee”) is responsible for determining applications for licences to carry out these activities and over the years it has developed a number of policies and conditions in order to regulate these licensed activities. As with any policy or condition, the Committee must consider whether to allow for any exceptions to be made on a case by case basis.

#### Why we are consulting

While there is no statutory obligation to review existing policies and conditions, as a matter of good practice they should be reviewed from time to time to ensure that each policy and condition remains necessary and appropriate in terms of the above licensing objectives and in terms of promoting the Council’s key priorities, which include improving the efficiency and effectiveness of Council services, building a prosperous city and improving health and well being.

As such a consultation and review exercise is being undertaken to identify any changes which are considered necessary in terms of trading. We are now inviting views on issues which should be considered for policy development in this regard.

#### Street Trading Policy & Licensing Conditions

Throughout the survey we have summarised the key points from the Draft Street Trading Policy & Licensing Conditions that we are seeking views on. However, we would recommend that you read the full policy and conditions before completing the survey.

You can either read the document below or **download a version** <[https://consultationhub.edinburgh.gov.uk/sfc/street-trading-market-operator-licensing/user\\_uploads/draft-street-trading-policy-and-licensing-conditions-v1.0.pdf-2](https://consultationhub.edinburgh.gov.uk/sfc/street-trading-market-operator-licensing/user_uploads/draft-street-trading-policy-and-licensing-conditions-v1.0.pdf-2)> which will open in a new window.

## Introduction

### 1 Which of the following best describes you?

*Please select all that apply*

- I am a street trader    I am a market operator    I am an Edinburgh resident    I am a business  
 I am a City of Edinburgh Council employee    Other - please state

### 2 What is the name of your business, service or organisation? (Please leave blank if responding as an individual)

Organisation

### 3 What is your email address?

This is optional, but if you enter your email address then you will be able to return to edit your consultation at any time until you submit it. You will also receive an acknowledgement email when you complete the consultation.

Email

## City Centre and Areas of Interest

The policy document highlights the high demand for the use of public space in the city centre and other areas of interest and proposes a number of ways in which demand can be effectively managed.

## Summary of Proposed Restrictions

It is highly unlikely that street trading or market operator licences will be granted in the following circumstances:

- In streets that have a significant formal layout and plan form, which would be undermined by the presence of additional items in the street.
- The use of portacabins or other similar sized units are not suitable within the World Heritage Site, Conservation areas and areas of important landscape value.
- Within the setting of certain historic buildings or places which are internationally significant. These areas should be retained as open space.
- Where key views are likely to be adversely affected by the presence of street trading stances.
- At important gateways to the city.
- Within certain areas not regarded by the Council as suitable for street trading or market operations except in exceptional circumstances e.g. areas of high pedestrian footfall, narrow footways and busy arterial routes.
- It is proposed that no further licences are granted in certain high profile areas where all suitable locations are currently in use. However if a suitable location becomes available in the future this can be reviewed. Operating plans will be developed for all of these areas.
- Due to the historic nature and prominence of the High Street and Hunters Square it is proposed that these areas are unsuitable for the sale of hot and cold food, except during the Edinburgh Festival period.
- Any additional licenses in the vicinity of the main sporting stadiums at Tynecastle, Easter Road, Meadowbank and Murrayfield. Additional licences would only be granted when an existing location becomes available.

*(Full details on these proposed restrictions can be found on **page 2 of the policy document***

*<[https://consultationhub.edinburgh.gov.uk/sfc/street-trading-market-operator-licensing/user\\_uploads/draft-street-trading-policy-and-licensing-conditions-v1.0.pdf-2](https://consultationhub.edinburgh.gov.uk/sfc/street-trading-market-operator-licensing/user_uploads/draft-street-trading-policy-and-licensing-conditions-v1.0.pdf-2)> .)*

4 To what extent do you agree or disagree with the following statements about the proposed restrictions to granting street trading or market operator licences in the City Centre and areas of special interest.

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree
Licences should not be granted in streets that have a significant formal layout and plan form. <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Licences should not be granted in areas of high pedestrian footfall, narrow footways and busy arterial routes. <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
No further licences should be granted for the locations specified above unless an existing space becomes available. <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Operating plans should be developed to manage/restrict trading in areas heavily populated with existing traders and markets. <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The sale of food on High Street and Hunters Square should be relaxed for the period of the Edinburgh Festival. <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

5 Please use the space below for any comments relating to the proposed restrictions.

### Mobile Trading Zones

Mobile Trading Zones are used to control mobile street trading activity by managing the areas in which traders can operate. The current system restricts city wide trading and limits numbers to ensure balance for local communities and existing commercial activity. A street trader will not be licensed for more than two zones at any one time.

## Details of the Mobile Trading Zones

The specified zones in the City of Edinburgh local authority in which street traders are permitted to trade shall be the streets with the following boundaries (with the exception of Princes Street, George Street, Rose Street, the Mound Precinct and the Royal Mile).

1. Queensferry Road, Hillhouse Road, Telford Road, Groathill Road North, Ferry Road, Pennywell Road, Marine Drive.
2. Marine Drive, Pennywell Road, Ferry Road, Groathill Road North, Telford Road, Queensferry Road, Dean Park Crescent, Comely Bank Avenue, East Fettes Avenue, Ferry Road, Granton Road, Wardie Steps to Lower Granton Road.
3. Granton Road from Wardie Steps to Ferry Road, East Fettes Avenue, Comely Bank Avenue, Dean Park Crescent, Queensferry Road, Queensferry Street to Princes Street, Waterloo Place, Regent Road, Easter Road, Leith Links to Seal Road.
4. Seafield Road, Leith Links, Easter Road, Regent Road, Waterloo Place, North Bridge, South Bridge southward to Lady F Peffermill Road, Duddingston Road West, Duddingston Road, Southfield Place, Brighton Place, Bath Street to Promenade.
5. Bath Street, Brighton Place, Southfield Place, Duddingston Road, Duddingston Road West, Niddrie Mains Road, Newcraighall Road.
6. Newcraighall Road, Niddrie Mains Road, Peffermill Road, Lady Road, Gilmerton Road.
7. Gilmerton Road from City Boundary, Craigmillar Park northwards to North Bridge, Princes Street, Lothian Road, Earl Grey Street, Home Street, Leven Street, Bruntsfield Place, Morningside Road, Comiston Road, Biggar Road.
8. Biggar Road, Comiston Road, Morningside Road, Bruntsfield Place, Leven Street, Home Street, Earl Grey Street, Lothian Road, Shandwick Place, West Maitland Street, Dalry Road, Ardmillan Terrace, Slateford Road, Lanark Road.
9. Lanark Road, Slateford Road, Ardmillan Terrace, Gorgie Road, Calder Road.
10. Calder Road, Gorgie Road, Dalry Road, Haymarket Terrace, West Coates, Roseburn Terrace, Corstorphine Road, St John Road, Glasgow Road.
11. Glasgow Road, St John's Road, Corstorphine Road, Roseburn Terrace, West Coates, Haymarket Terrace, West Maitland Street, Shandwick Place, Queensferry Street, Queensferry Road.
12. In the north by the shore at South Queensferry, in the east by the Edinburgh City Boundary, in the south by the River Almond and in the west by the Edinburgh City Boundary.
13. In the north by the River Almond, in the east by the Edinburgh City Boundary, in the south by the Calder Road (A71) and in the west by the Edinburgh City Boundary.
14. In the north by the Calder Road (A71) in the east by the Edinburgh City Boundary and in the south east, south and west by the Edinburgh City Boundary.

### 6 To what extent do you agree or disagree with the following statements relating to Mobile Trading Zones?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree
Street Traders should not be licensed for more than two zones at any one time. <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The current mobile trading zones are fit for purpose. <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

7 Please use the space below for any suggestions regarding how these mobile trading zones could be improved.

### Duration of Licence

Street Traders and Market Operator licences are currently renewed on an annual basis. Once an annual licence has been granted it prevents another licence being issued for the same location and trading hours.

Temporary licences can be granted for any period of up to six weeks, and are mainly used in connection with public entertainment or an event. The council has chosen to limit this period to 28 days. The main exception to this is street trading in the High Street and / or Hunters Square where licences are allocated on a weekly basis due to the high volume of demand for stances.

Temporary Street Trading Licences, not linked to public entertainment or an event, are granted on a weekly basis. In circumstances where the demand is far greater than the actual number of temporary stances available they will be allocated by way of a ballot system. It is proposed that once a trader has been allocated a trading period they will not be allocated another trading period until the application list is exhausted. This would apply to areas such as the High Street and Playfair Steps.

It is proposed that charitable organisations are able to obtain both an annual Street Trader / Market Operator licence and a Street Traders licence for a period of up to six months. The six month licence allows charities that have previously operated a Public Charitable Collection, to also sell charity related goods e.g. pin badges.

Issuing annual Market Operator licences could prevent other licences from being granted for the same location and hours of operation. To prevent an annual licence from restricting other trading opportunities in public realm space, it is proposed that an annual Market Operator licence should only be considered in cases where operator's trade is at a frequency of at least once per calendar month, and those dates should be clearly identified on the licence.

8 To what extent do you agree or disagree with the proposals above relating to the duration of licences granted?

*Please select only one item*

Strongly agree    Agree    Neither agree nor disagree    Disagree    Strongly disagree

9 Given the demand for street trading and market stances do you think the Council should introduce a duty to trade?

**What does 'duty to trade' mean?**

Duty to trade is the requirement that a street trader / market operator must only trade in the hours granted in the licence.

*Please select only one item*

Yes    No    Don't know



**10** Please use the space below for any comments regarding the proposals relating to licence durations.

### Hours of Operation

Normal street trading or market operator trading hours are considered between 10:00-20:00 daily. Between April and October, street traders will usually be expected to trade for the minimum trading period of 10:00-16:30.

Street traders will usually not be granted permission to sell food between 23:00-05:00, except in exceptional circumstances. Licence holders who want to trade between 23:00-05:00 will also require a Late Hours Catering Licence. A Late Hours Catering Exemption certificate can also be granted for a period of up to two months to allow trading on a temporary basis.

**11** Do you think that the hours of operation for street trading licences proposed above are suitable?

*Please select only one item*

Yes  No  Don't know

**12** Please use the space below for any comments regarding the proposed hours of operation.

## Walking Tours and Pedicabs

### Walking Tours

It is proposed that walking tour companies should operate under a consistent licensing framework that would consider:

- The number of people allowed on each tour (for safety reasons);
- Route detail;
- Requirements for tour companies to stagger start times; and
- A method statement on how walking tour operatives will manage the public when walking along the route, especially when stopping at points of interest as it can potentially block pavements.

### Pedicabs

Currently there are five pedicab companies, with 200 employees and approximately 120 pedicabs operating in the city centre. Pedicabs operate as licensed street traders within the city centre.

The operation of pedicabs within the city has not been without difficulty and over the years there have been a number of concerns about passenger safety. The Council has developed a separate work stream to review the issues regarding pedicab licensing and there will be further consultation on any new proposals later this year. However, it would be useful to hear some general views on pedicabs at the moment.

### What is a pedicab?

A pedicab is a type of tricycle designed to carry passengers on a for hire basis. They are also sometimes referred to as rickshaws.

#### 13 To what extent would you agree or disagree with the following statements about walking tours and pedicabs?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree
Walking tours should be regulated so that companies operate under a consistent licensing framework. <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pedicabs should be allowed to operate in the city centre. <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pedicabs should be allowed to operate in areas out with the city centre. <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

#### 14 Do you have any specific comments relating to walking tours or pedicabs operating in the city?

## Proposed Licensing Criteria and Conditions

It is proposed that consideration of all licence applications will be subject to a set of licensing criteria. In addition to the criteria, Standard Licensing Conditions have been proposed relating to all street traders, market operators, and Additional Street Trading Conditions for food trading, and vehicles and mobile units.

## Proposed Licensing Criteria and Conditions

**15** To what extent do you agree or disagree with the following statements regarding the proposed licensing criteria and conditions.

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree
The minimum age for street trading should be restricted to 18 years. <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Street traders should supply both a business plan for trading and a tax reference number before granting of a licence. <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The style, variety and locations of market stalls in the city centre should be set out by the Council. <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
All food packaging and utensils for use by customers should be made from biodegradable or recyclable materials. <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**16** Please use the space below for any specific comments regarding the proposed licensing criteria and conditions.

## Street Trading Policy and Licensing Conditions

The Street Trading Policy and Licensing Conditions document aims to set out the Council's approach to the responsible management of street trading and the use of public space.

**17** To what extent do you agree or disagree with the following statements about the policy and licence conditions?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree
The policy and licence conditions are clear and easy to understand <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The policy and licence conditions clearly set out the responsibilities for traders <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The policy and licence conditions contain all the information you need <i>Please select only one item</i>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**18** Please tell us if there are any particular sections in the draft policy or conditions that require clarification.

**19** Please use the space for any other comments or suggestions relating to the proposed Street Trading Policy and Licensing Conditions.

## **Draft Street Trading Policy & Licensing Conditions for Consultation**

### **Background**

Street trading licences are required by persons selling or offering to sell goods or services in a public place, including from a kiosk, vehicle or moveable stall. A street trader licence is not required by persons selling newspapers, milk or coal.

Market Operator Licences are required by any person other than a local or public authority at which goods are offered by more than one seller for sale by retail to the public.

Attractive, well managed street trading and markets can add to the vibrancy of an area adding interest, character and function to shopping streets and other areas of the city. Destination markets can be a draw for tourists and can bring a wider variety of stalls, commodities and cultures. Licensed Street trading activities can also assist in the prevention of illegal street trading by displacing undesirable criminal activity and hawking.

However, if poorly managed, street trading and markets can have a negative effect on an area leading to obstruction to pedestrians, a visually unappealing and untidy street scene, sale of poor quality goods which do not meet local needs and an increase in complaints to the Licensing Authority.

There is a need for a common set of rules that would apply to all street traders and market operators. The new policy for Street Trading describes what is expected in terms of the responsible management of stalls and the use of public space

### **The Street Trading policy aims to provide:**

- Traders with a one stop shop approach to licensing.
- Clarity and transparency explaining how the licensing conditions will be applied in order to minimise uncertainty.
- Sufficient controls that protect established local interests, in particular the nature of the local retail offer, to help create conditions for profitable trade for everyone.
- Controls on the location, duration of licence, trading hours, type of activity, type and style of stalls, number of traders and licence conditions.

### **The policy proposes to grant a licence to traders:**

- Where the location is acceptable in respect of planning, transportation and public safety;
- In low amenity areas such as industrial estates; and
- Within the curtilage of business premises where their presence is visually acceptable and will not result in an adverse affect on traffic movement or safety.

However it is recognised that this may be difficult to achieve in areas within the city centre due to high pedestrian flow and lack of identifiable sites.

## City Centre and Areas of Special Interest

A number of city centre locations have been redeveloped to improve the quality of the public space. This has led to competing demands for the use of the public space, and a significant increase in the volume of licence applications for street trading.

There are currently 300 street trader and 12 market operator locations regularly operating throughout the city. Areas particularly affected by this increased demand include Castle Street, High Street and Grassmarket but other areas of concern include:

Street Traders	Market Operators
Ward 11 – City Centre Ward (see attached map)	
Castle Street	Castle Street
Grassmarket	Castle Terrace
High Street & Hunters Square	Grassmarket
Lauriston Place	High Street
Mound Precinct & Playfair Steps	Leith Street
Rose Street	Mound Precinct
Out with Ward 11	
The Meadows	Juniper Green
South Gyle	Balerno
Bankhead	Morningside
	Portobello
	South Queensferry
	Stockbridge
Sport Stadia	
Easter Road Stadium	
Meadowbank Stadium	
Murrayfield Stadium	
Tynecastle Stadium	

It is *highly unlikely* that street trading or market operator licences will be granted in the following circumstances:

- a. In streets that have a significant formal layout and plan form, which would be undermined by the presence of additional items in the street. These include the **New Town**, and in particular **George Street**.
- b. Within the World Heritage Site, Conservation areas and areas of important landscape value, the use of portacabins or other large units of similar scale, are not considered suitable.

- c. Within the setting of certain historic buildings or places which are internationally significant, including in particular, HM General Register House, the Royal Scottish Academy and National Gallery, Parliament Square, St Giles Cathedral and the Signet Library. These areas should be retained as open space.
- d. Where key views are likely to be adversely affected by the presence of street trading stances.
- e. At important gateways to the city. This will include the approach to, and roundabout at, Edinburgh Airport and principle traffic routes in the centre of the city.
- f. Within certain areas not regarded by the Council as suitable for street trading or market operations except in exceptional circumstances. Long standing factors that would make a location unsuitable include areas of high pedestrian footfall, narrow footways and busy arterial routes. It is proposed, streets affected by this should include:
  - Princes Street
  - Parliament Square and the Lawnmarket;
  - George IV Bridge;
  - Lawnmarket;
  - Lothian Road;
  - North Bridge;
  - Lothian Road;
  - South Bridge;
  - St Giles Street; and
  - Waverley Bridge.
- g. Within certain high profile areas (see [table, page 2](#)) where all suitable locations are current being utilised. It is proposed that no further licences are granted, however if in the future a suitable location becomes available this can be reviewed. Operating plans will be developed for all of these areas. Plans have already been developed for a number of these areas and are detailed in [Appendices 6-8](#). Streets suitable for consideration include:
  - Castle Street;
  - Grassmarket;
  - High Street;
  - Hunters Square;
  - Mound Precinct;
  - The Meadows;

- Playfair Steps; and
- Rose Street.

It is proposed that, because of the historic nature and prominence of the High Street and Hunters Square, they are considered unsuitable for the sale of hot and cold food. However, a working group established to oversee the development of this new policy considered that it would be appropriate to allow trading of hot and cold food during the Edinburgh Festival period.

- h. Any additional licenses in the vicinity of the main sporting stadiums at Tynecastle, Easter Road, Meadowbank and Murrayfield, These locations are already well served by existing Street Trader's licences and it is proposed that additional licences would only be granted when an existing location becomes available.

### **Mobile Trading Zones**

Street trading mobile zones were first introduced in the city in 1984 following a number of complaints about the number of mobile traders operating in one area. The zones were based largely on the residential population and popular street trading locations at the time. The zones were revisited as part of the policy review in 2004 and re-adopted.

While the zones were introduced to control the sale of ice cream from vehicles, they are now utilised for all mobile street trading activity. The purpose of mobile trading zones is to control and manage areas in which traders can operate. The current system restricts city wide trading and limits numbers to ensure balance for local communities and existing commercial activity. A street trader will not be licensed for more than two mobile zones at any one time.

The specified zones in which street traders are permitted to trade are included in [Appendix 4](#). In general, it should be noted that Princes Street, George Street, Rose Street, the Mound Precinct and the Royal Mile were excluded from the trading zones as being unsuitable for this type of activity.

### **Duration of Licence**

A licence granted under the Civic Government (Scotland) Act 1982 can be issued for a period of no more than three years, or shorter period if the Council decides. Both Street Traders and Market Operator's licences are currently renewed on an annual basis. Once an annual licence has been granted this will prevent another licence being issued for the same location and trading hours. Given the temporary nature of street trading and occupation of public realm space it is not intended to increase the period of issue beyond that of an annual licence.

Temporary licences can be granted for any period of up to six weeks, and are mainly used in connection with public entertainment or an event. The council has chosen to limit this period to 28 days. The main exception to this is street trading in the High Street and / or Hunters Square where licences are allocated on a weekly basis due to the high volume of demand for stances.



From 1st April 2015 the current system of a one day Street Trading Licence, not linked to public entertainment or an event, were replaced by a weekly temporary street trading licence.

In circumstances where the demand is far greater than the actual number of temporary stances available they will be allocated by way of a ballot system. It is proposed that once a trader has been allocated a trading period they will not be allocated another trading period until the application list is exhausted. This would apply to areas such as the High Street and Playfair Steps.

Historically, charitable organisations in addition to an annual licence have been able to obtain a street traders licence for a period of up to six months. The six month licence was to allow charities that had previously operated a Public Charitable Collection, to also sell charity related goods e.g. pin badges. There are also a small number of charities which operate a seasonal market in the city. It is proposed that this arrangement continues.

The issue of an annual Market Operator's licence could prevent other licences from being granted for the same location and hours of operation. To prevent an annual licence from restricting other trading opportunities in public realm space, it is proposed that an annual Market Operator's licence should only be considered in cases where operator's trade is at a frequency of at least once per calendar month, and those dates should be clearly identified on the licence.

### **Hours of Operation**

Street trader and or market operator trading hours will normally be considered to operate between the hours of 10:00 – 20:00hrs daily.

Between April and October street traders will be expected to trade between 10am – 4.30pm (or other agreed hours). This should be considered as a minimum trading period.

There will be a presumption against street traders selling food between 23:00hrs and 5:00hrs except in exceptional circumstances at the discretion of the Licensing Sub-committee.

Licence holders who want to trade between 23:00hrs and 5:00hrs will also require a late hours catering licence. In certain circumstances it is possible to obtain a Late Hours Catering Exemption certificate which can be granted for a period of up to two months to allow trading on a temporary basis.

### **Employees**

Previously, temporary street traders could not apply for employee licences.

A new fee of £50 for employees has now been introduced, allowing Temporary Street trading licence holders to apply for up to five employees. This change aims to simplify and improve this category of licence, as currently licence holders have to be present in order to trade and cannot arrange for any substitution, if they require to be absent for a short period. Allowing employee licences provides this increased flexibility.

## Food hygiene certificate

Where an application for a Street Trader's licence is made in respect of an activity which consists of, or includes, a food business within the meaning of section 1(3) of the Food Safety Act 1990, the application must be accompanied by a food hygiene certificate stating that the unit complies with the relevant legislation. The food hygiene certificate is currently issued by the local authority issuing the street traders licence.

The Regulatory Reform (Scotland) Act 2014 amended section 39 of Civic Government (Scotland) Act 1982. This amendment came into effect on 30 June 2014 and requires that the certificate is issued to the trader by the Authority in which the trader is registered as a food business. A number of traders operating within Edinburgh area will be registered as a food business with another local authority.

As a result of the change in legislation, compliance certificates and street trader's licences are unlikely to have the same issue and expiry dates. Whilst, the current licence system allows the local authority to inspect a vehicle prior to the grant of a licence, under the new system this will no longer happen. It will be necessary to have a more robust compliance and inspection regime to ensure that the necessary standards are maintained during the life span of a food and hygiene certificate.

New conditions (see [Appendix 2](#)) will be attached to both street trading and market operator licences to reflect the changes in legislation as follows:

- a) When any vehicle, trailer or stall is trading in food, all requirements of Food Safety legislation must be complied with, to the satisfaction of the appropriate Executive Director.
- b) A valid food hygiene certificate must be provided to the Licensing Authority at time of application for a licence
- c) The licence holder shall ensure that the food hygiene certificate and relevant documentation are valid, maintained and available for inspection by any authorised officer of the Council at any time during trading hours and at any other reasonable time. Relevant documentation includes:
  - Food Hygiene Training certificates for all that will be working on the stall;
  - PAT certificates (electrical safety certificates) for electrically operated equipment;
  - Gas Safety certificates for any LPG operated equipment. This must be issued by a Gas Safe registered engineer, who is registered to do LPG, Non-Domestic, and Mobile Catering; and
  - a copy of the Pressure Vessel Test for any espresso type coffee machine being used.
- d) On the renewal of a food hygiene certificate the licence holders will provide the Licensing Authority with a copy of the new certificate.

## Proposed Licensing Criteria

It is proposed that consideration of all licence applications will be subject to the following criteria:

- a) In general, the issuing of licences will be limited to areas of retail, business and entertainment activity e.g. retail parks and industrial estates. Street traders / market operators shall not be permitted in streets that are predominantly residential.
- b) Street traders must not obstruct or restrict pedestrian or vehicular traffic or cause a danger to road users.
- c) Street traders / market operators must obtain all necessary and appropriate consents prior to commencing trading from any stance, and in particular the consent of the owners of any land on which a stance is to be situated or which is adjacent to any stance. The grant of a licence does not imply that the owner has consented.
- d) The precise location of the proposed stance must be marked on an Ordnance Survey Map with a box and a distance in metres given to the nearest junction. The location of the stance should be clearly described giving:
  - the name of the street;
  - the side of the street (e.g. north, south etc);
  - the name of the nearest side street; and
  - the distance in metres from the nearest side street.

It is proposed that all street trading stances and markets will be mapped to clearly identify locations.

- e) Stances will be clearly delineated. This may be achieved by placing brass studs or wind management anchors in the pavement where the council directs.
- f) All temporary structures shall be designed, erected and maintained to suit their intended purpose. The design and erection shall be to the satisfaction of the Council's appropriate Executive Director's.
- g) Street trading / market operations and the stalls, kiosks, vehicles or mobile units associated with these shall only occupy a stance during trading hours.
- h) At the end of trading hours the licence holder shall promptly remove and take away any stall, kiosk, mobile unit or vehicle and all other ancillary equipment placed on or in the vicinity of the trading stance.
- i) Street trading is considered to be of a temporary nature and traders shall not be allowed to permanently occupy any stance. Licences will be granted on either a temporary or annual basis dependant on location.
- j) Stances sited on the footway should normally be located out with pedestrian desire lines, for example, at suitable recesses.

- k) Where a high density of annual street trader's licences already exists, further licences will only be considered where there is significant additional space identified to accommodate them.
- l) Consideration will be given to how any stall or trading unit will be set up at the specified location. Driving over a public pavement will not be allowed and another means of placing a unit will be required. This will include any deliveries to or servicing of any unit, stance or stall.
- m) When locating street trading stances consideration should be given to the access to street furniture by utilities and other owners of cabinets, manholes and access covers etc. A trader shall move when asked to do so by an owner or their representative wishing to access their apparatus.
- n) Maintaining the integrity of the paved surfaces, roads and pavements is important for the future maintenance of the streets being utilised. It is vital therefore that every effort is made by a licence holder to protect the road and pavement surfaces from damage caused by either placing or removing a unit or stall. Protection should also be given from any footings or stabilisers while the unit / stall is in place.
- o) Amenity areas may have to be shared by street trading activities and tables and chairs being used by adjoining properties as part of the café culture within the city. In these circumstances agreements need to be reached with the relevant service departments prior to the grant of a licence.
- p) Trader during business hours and at the end of each day will ensure the collection and removal of any paper, garbage or other refuse which may be produced, or may accumulate in the course of trading on any pavement around the stance within a distance of 25 metres either side.
- q) Planning permission is required for open air markets if the land is used for this purpose for more than 28 days in a year. This is not 28 days per market operator, as any permissions go with the land not the applicant. It is the responsibility of the person using the land for open air market operations to obtain planning permission for this purpose.
- r) A street trader's licence is required for street trading by a person whether, on their own account or as an employee. The holder of a Street Trader's Licence shall not be less than 18 years of age. Traders will provide at time of application:
- a business plan / model
  - tax reference number of the business
  - details of the type of products to be sold
  - details of public liability insurance
  - wind management plan

- s) Employee licences will be issued to provide assistance to the actual licensed traders but not for the purposes of operating the business on behalf of someone else.

In addition within certain high profile areas, of which the High Street is one, operating plans will be developed.

Full details of the proposed Licence Conditions can be found in [Appendices 1-5](#) of this policy document.

### **Pedicabs**

Pedicabs have operated in the city since 1996. At present there are five pedicab companies, 200 employees and approximately 120 pedicabs operating in the city centre.

The operation of pedicabs within the city has not been without difficulty and over the years there have been a number of concerns about passenger safety.

The current conditions were introduced in 2004. Given the complexity of the issues in respect of pedicab licensing, this is subject of a separate work stream has been developed to review the current conditions and progress will be reported to the Regulatory Committee in due course.

### **Walking Tours**

There is an ongoing commitment within the [Royal Mile Action Plan](#), which was initiated by the Planning Committee to help the street live up to its role as one of the most important streets in Edinburgh, to reduce street clutter and to create an environment where all walking tour companies operate under a consistent licensing framework.

An initial stakeholders meeting took place which considered:

- A cap on the amount of people on the tour (for safety reasons);
- Route detail;
- A requirement for tour companies to stagger their start times; and
- A method statement on how their operatives will manage the public when walking along the route. This is especially important when stopping at points of interest as it blocks pavements.

NB Appendix 1 – 8 which were presented to Regulatory Committee on 2 February 2015 formed part of this consultation document.

## Appendix 3 - Questionnaire results



### Street Trading & Market Operator Licensing Review: Summary report

This report was created on Monday 07 December 2015 at 09:51.

The consultation ran from 29/07/2015 to 15/11/2015.

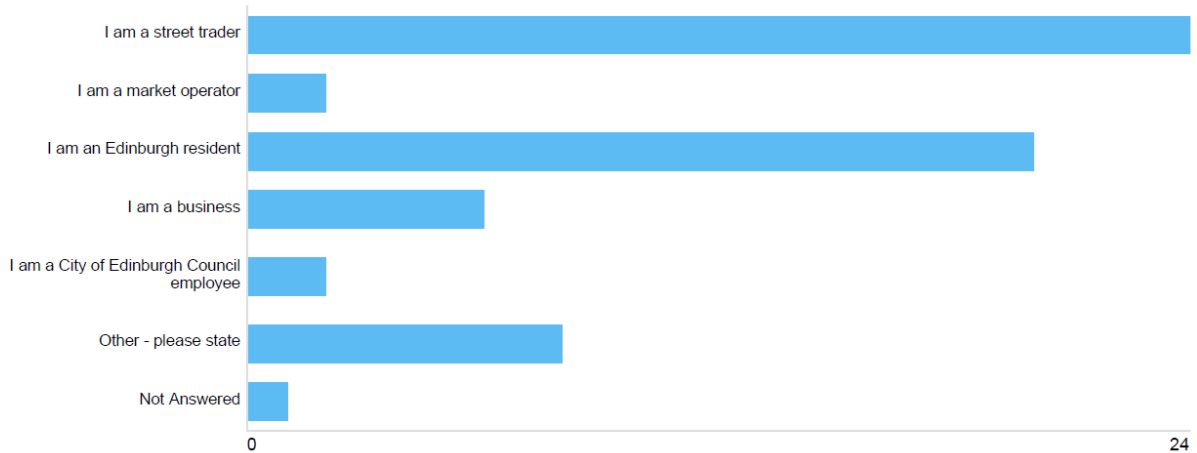
#### Contents

Question 1: Which of the following best describes you?	2
Type of respondent	2
Other - please state	2
Question 2: What is the name of your business, service or organisation? (Please leave blank if responding as an individual)	2
Organisation	2
Question 3: What is your email address?	2
Email	2
Question 4: To what extent do you agree or disagree with the following statements about the proposed restrictions to granting street 3 trading or market operator licences in the City Centre and areas of special interest.	
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Matrix 1 - Licences should not be granted in areas of high pedestrian footfall, narrow footways and busy arterial routes.	3
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Please use the space below for any comments relating to the proposed restrictions.	5
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Please use the space below for any suggestions regarding how these mobile trading zones could be improved.	6
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Do you think the Council should introduce a duty to trade?	7
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Please use the space below for any comments regarding the proposals relating to licence durations.	7
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Matrix 1 - The style, variety and locations of market stalls in the city centre should be set out by the Council.	10
Matrix 1 - All food packaging and utensils for use by customers should be made from biodegradable or recyclable materials.	11
Question 16: Please use the space below for any specific comments regarding the proposed licensing criteria and conditions.	11
Please use the space below for any specific comments regarding the proposed licensing criteria and conditions.	11
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Matrix 1 - The policy and licence conditions contain all the information you need	12
Question 18: Please tell us if there are any particular sections in the draft policy or conditions that require clarification.	13
Please tell us if there are any particular sections in the conditions that require clarification.	13
Question 19: Please use the space for any other comments or suggestions relating to the proposed Street Trading Policy and Licensing Conditions.	13
Please use the space for any other comments or suggestions relating to the proposed Street Trading Policy and Licensing Conditions.	13

**Question 1: Which of the following best describes you?**

**Type of respondent**



Option	Total
I am a street trader	24
I am a market operator	2
I am an Edinburgh resident	20
I am a business	6
I am a City of Edinburgh Council employee	2
Other - please state	8
Not Answered	1

**Other - please state**

There were 56 responses to this part of the question.

**Question 2: What is the name of your business, service or organisation? (Please leave blank if responding as an individual)**

**Organisation**

There were 56 responses to this part of the question.

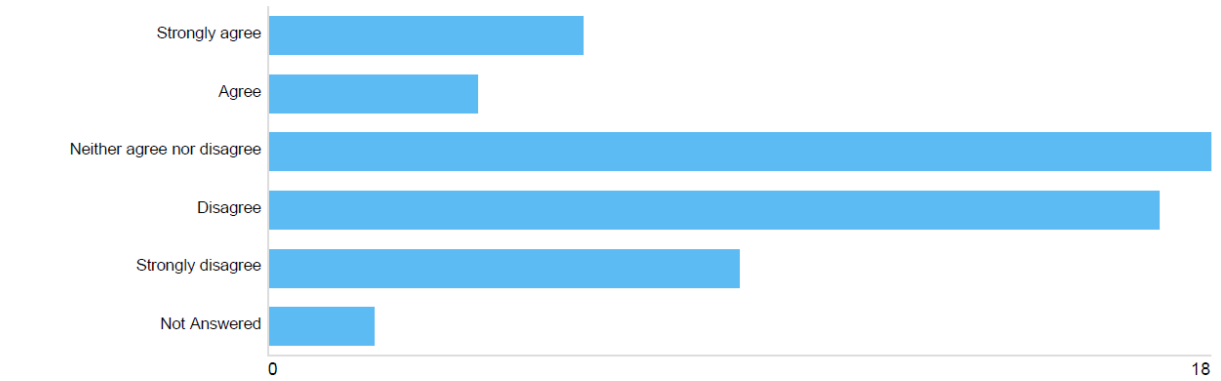
**Question 3: What is your email address?**

**Email**

There were 56 responses to this part of the question.

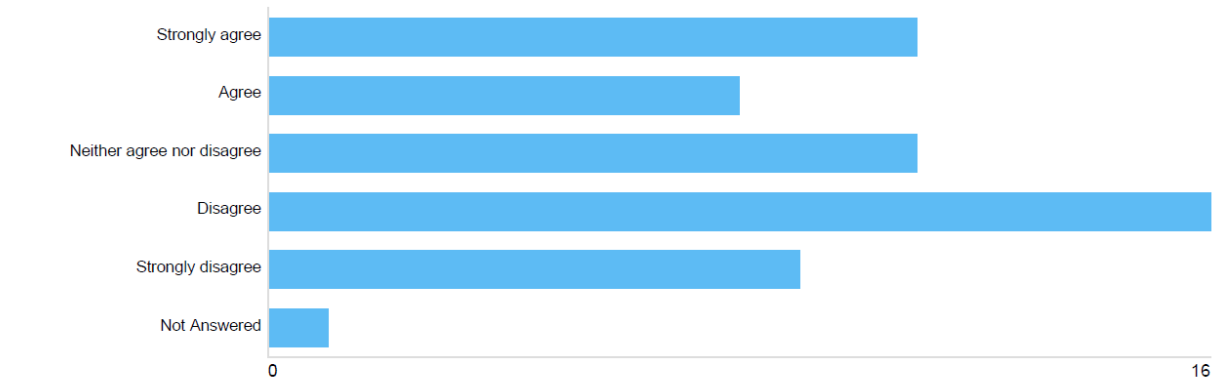
**Question 4: To what extent do you agree or disagree with the following statements about the proposed restrictions to granting street trading or market operator licences in the City Centre and areas of special interest.**

**Matrix 1 - Licences should not be granted in streets that have a significant formal layout and plan form.**



Option	Total
Strongly agree	6
Agree	4
Neither agree nor disagree	18
Disagree	17
Strongly disagree	9
Not Answered	2

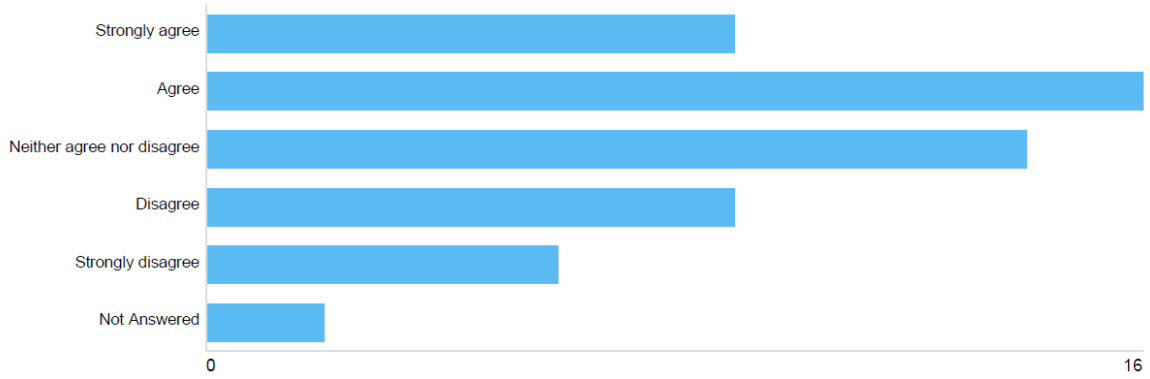
**Matrix 1 - Licences should not be granted in areas of high pedestrian footfall, narrow footways and busy arterial routes.**





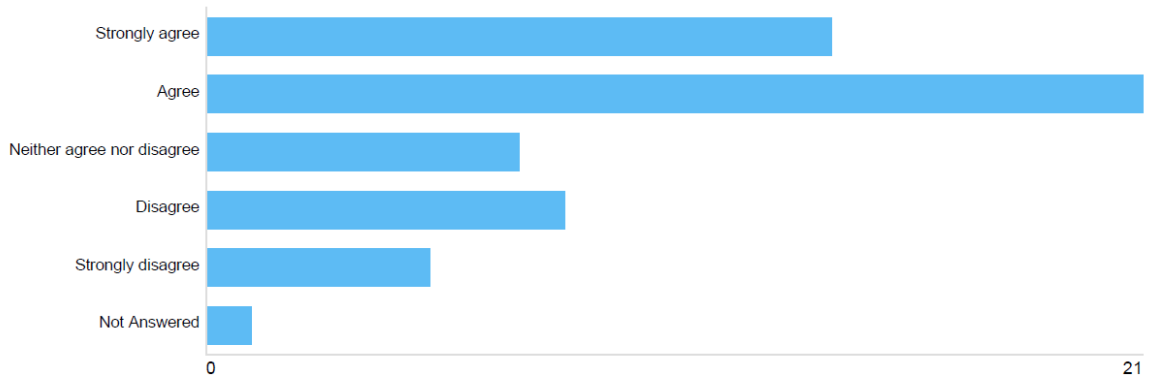
Option	Total
Strongly agree	11
Agree	8
Neither agree nor disagree	11
Disagree	16
Strongly disagree	9
Not Answered	1

**Matrix 1 - No further licences should be granted for the locations specified above unless an existing space becomes available.**



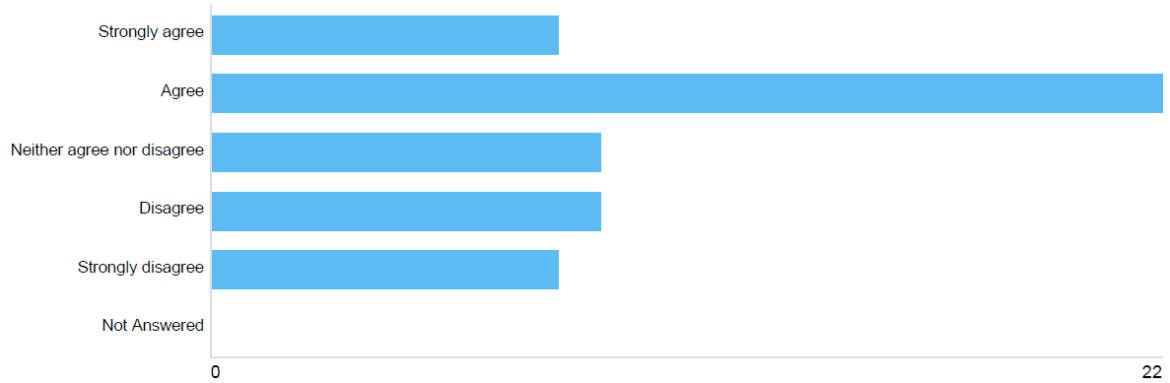
Option	Total
Strongly agree	9
Agree	16
Neither agree nor disagree	14
Disagree	9
Strongly disagree	6
Not Answered	2

**Matrix 1 - Operating plans should be developed to manage/restrict trading in areas heavily populated with existing traders and markets.**



Option	Total
Strongly agree	14
Agree	21
Neither agree nor disagree	7
Disagree	8
Strongly disagree	5
Not Answered	1

**Matrix 1 - The sale of food on High Street and Hunters Square should be relaxed for the period of the Edinburgh Festival.**



Option	Total
Strongly agree	8
Agree	22
Neither agree nor disagree	9
Disagree	9
Strongly disagree	8
Not Answered	0

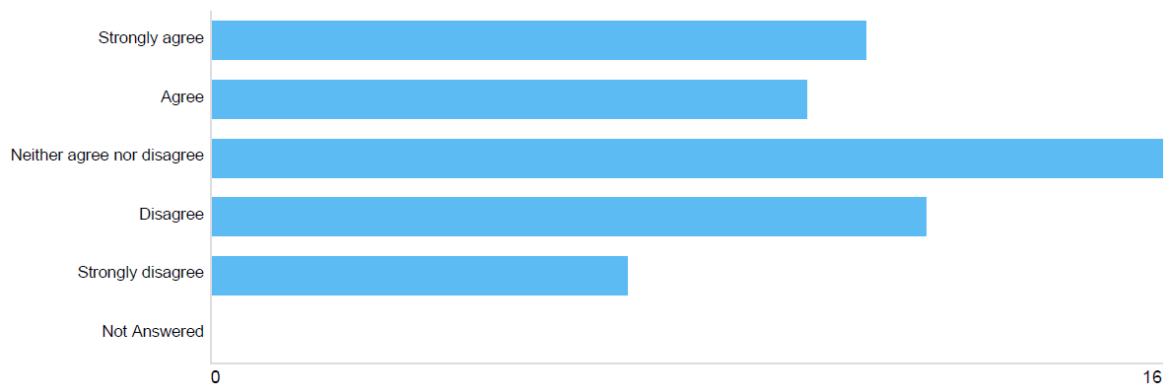
**Question 5: Please use the space below for any comments relating to the proposed restrictions.**

*Please use the space below for any comments relating to the proposed restrictions.*

There were 56 responses to this part of the question.

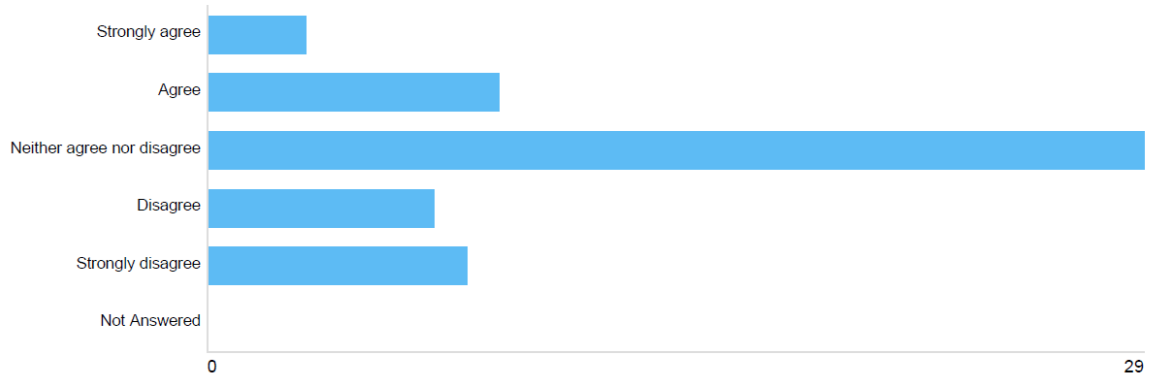
**Question 6: To what extent do you agree or disagree with the following statements relating to Mobile Trading Zones?**

**Matrix 1 - Street Traders should not be licensed for more than two zones at any one time.**



Option	Total
Strongly agree	11
Agree	10
Neither agree nor disagree	16
Disagree	12
Strongly disagree	7
Not Answered	0

**Matrix 1 - The current mobile trading zones are fit for purpose.**



Option	Total
Strongly agree	3
Agree	9
Neither agree nor disagree	29
Disagree	7
Strongly disagree	8
Not Answered	0

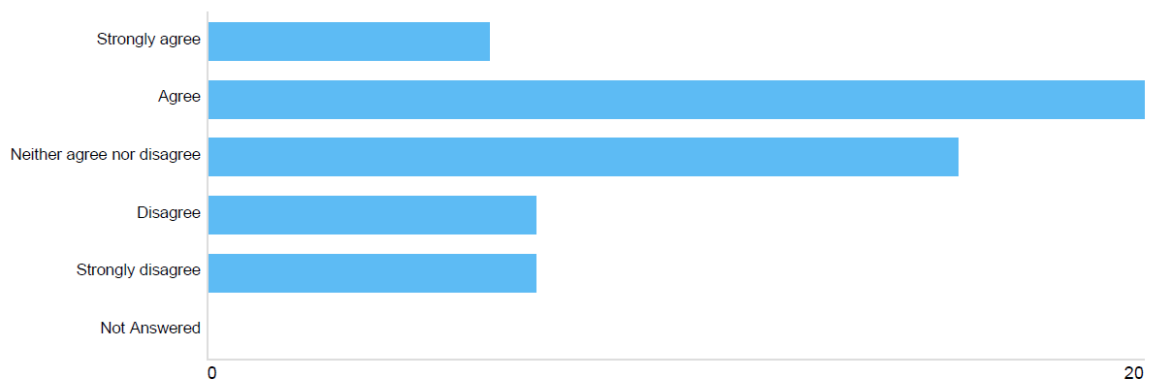
**Question 7: Please use the space below for any suggestions regarding how these mobile trading zones could be improved.**

*Please use the space below for any suggestions regarding how these mobile trading zones could be improved.*

There were 56 responses to this part of the question.

**Question 8: To what extent do you agree or disagree with the proposals above relating to the duration of licences granted?**

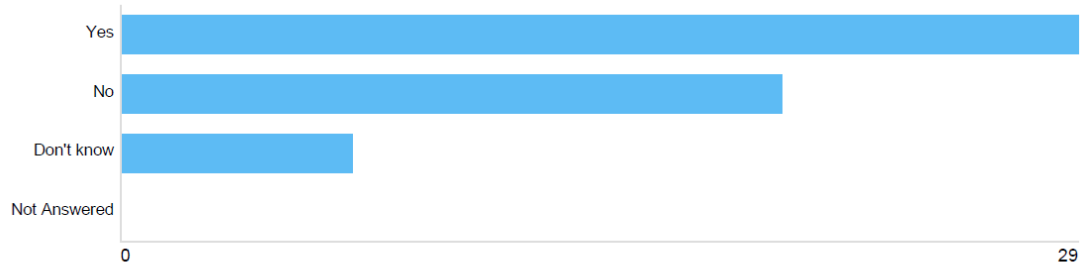
*To what extent do you agree or disagree with the proposals above relating to the duration of licences granted?*



Option	Total
Strongly agree	6
Agree	20
Neither agree nor disagree	16
Disagree	7
Strongly disagree	7
Not Answered	0

**Question 9: Given the demand for street trading and market stances do you think the Council should introduce a duty to trade?**

*Do you think the Council should introduce a duty to trade?*



Option	Total
Yes	29
No	20
Don't know	7
Not Answered	0

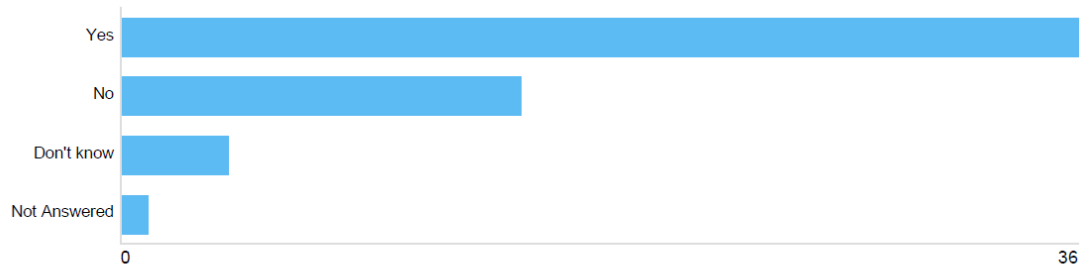
**Question 10: Please use the space below for any comments regarding the proposals relating to licence durations.**

*Please use the space below for any comments regarding the proposals relating to licence durations.*

There were 56 responses to this part of the question.

**Question 11: Do you think that the hours of operation for street trading licences proposed above are suitable?**

*Do you think that the hours of operation for street trading licences proposed above are suitable?*



Option	Total
Yes	36
No	15
Don't know	4
Not Answered	1

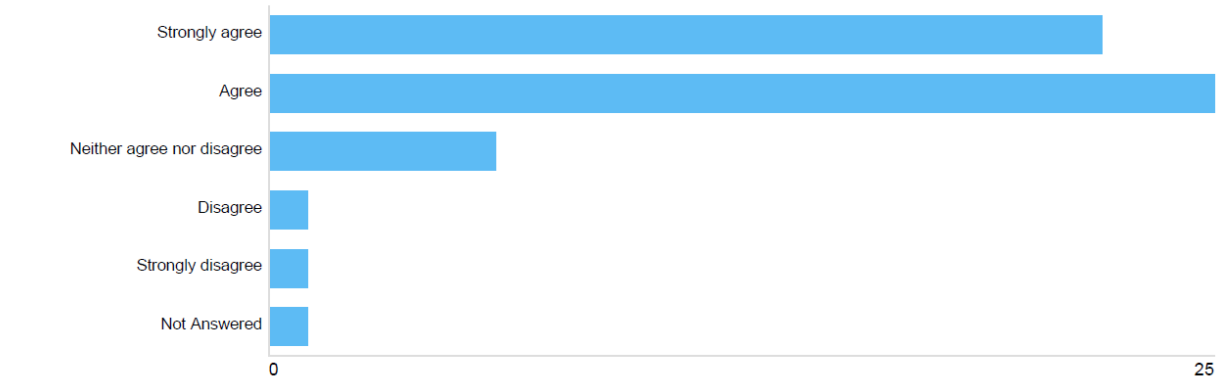
**Question 12: Please use the space below for any comments regarding the proposed hours of operation.**

*Please use the space below for any comments regarding the proposed hours of operation.*

There were 56 responses to this part of the question.

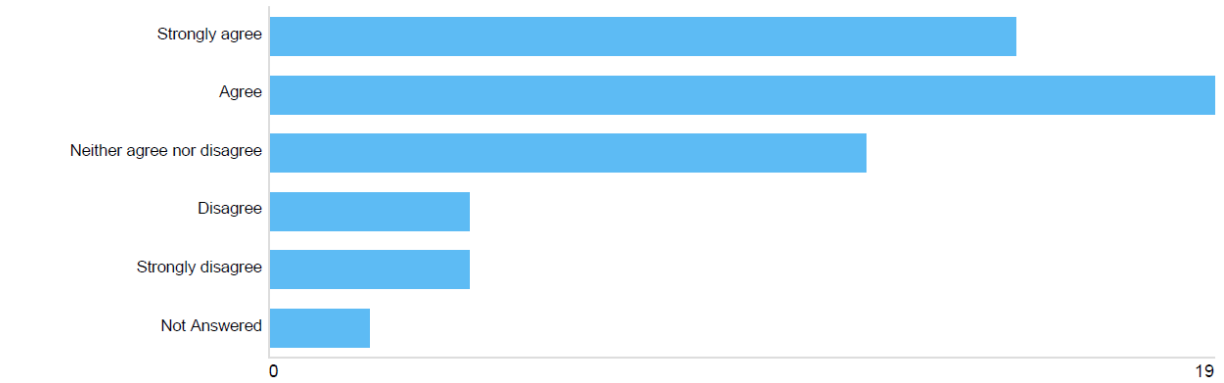
**Question 13: To what extent would you agree or disagree with the following statements about walking tours and pedicabs?**

*Matrix 1 - Walking tours should be regulated so that companies operate under a consistent licensing framework.*



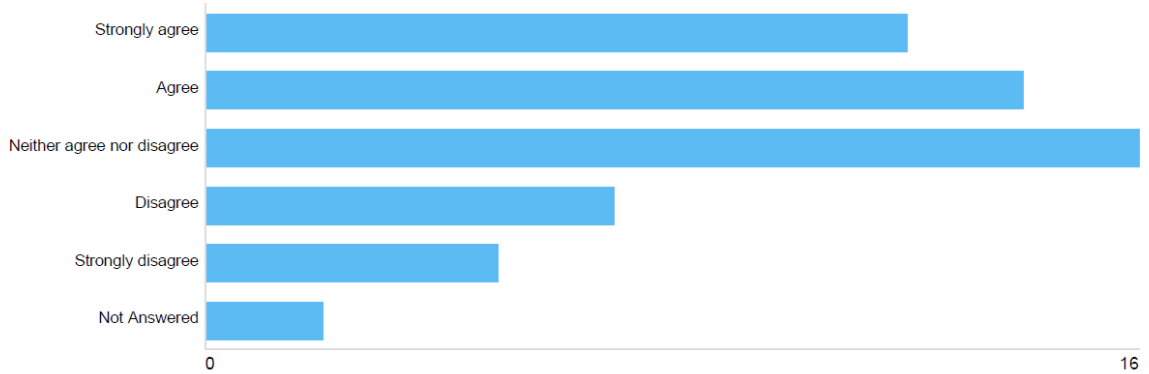
Option	Total
Strongly agree	22
Agree	25
Neither agree nor disagree	6
Disagree	1
Strongly disagree	1
Not Answered	1

*Matrix 1 - Pedicabs should be allowed to operate in the city centre.*



Option	Total
Strongly agree	15
Agree	19
Neither agree nor disagree	12
Disagree	4
Strongly disagree	4
Not Answered	2

**Matrix 1 - Pedicabs should be allowed to operate in areas out with the city centre.**



Option	Total
Strongly agree	12
Agree	14
Neither agree nor disagree	16
Disagree	7
Strongly disagree	5
Not Answered	2

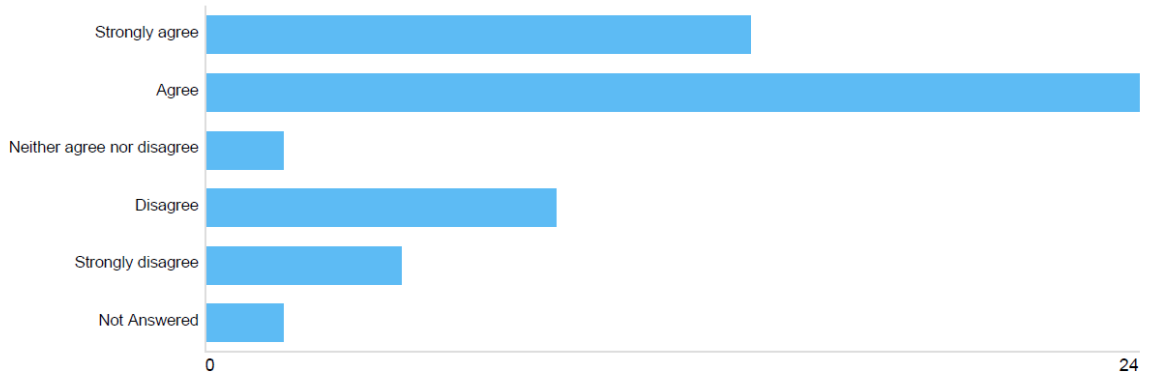
**Question 14: Do you have any specific comments relating to walking tours or pedicabs operating in the city?**

*Do you have any specific comments relating to walking tours or pedicabs operating in the city?*

There were 56 responses to this part of the question.

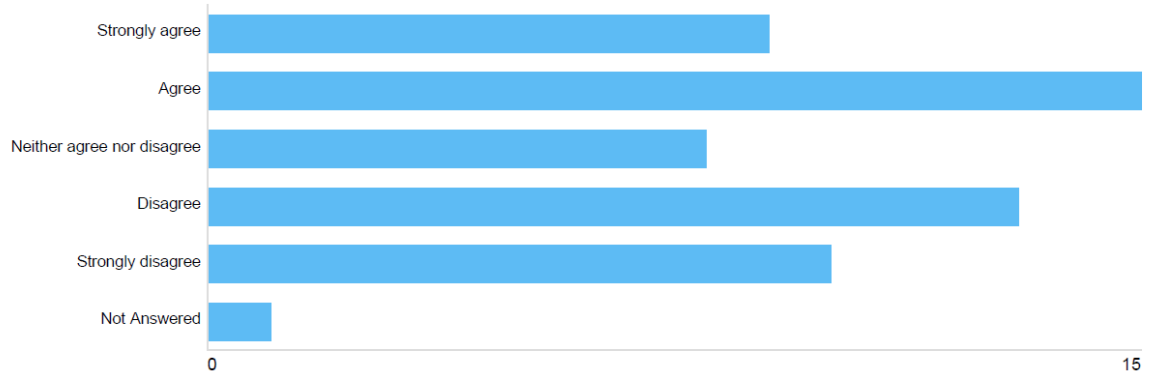
**Question 15: To what extent do you agree or disagree with the following statements regarding the proposed licensing criteria and conditions.**

**Matrix 1 - The minimum age for street trading should be restricted to 18 years.**



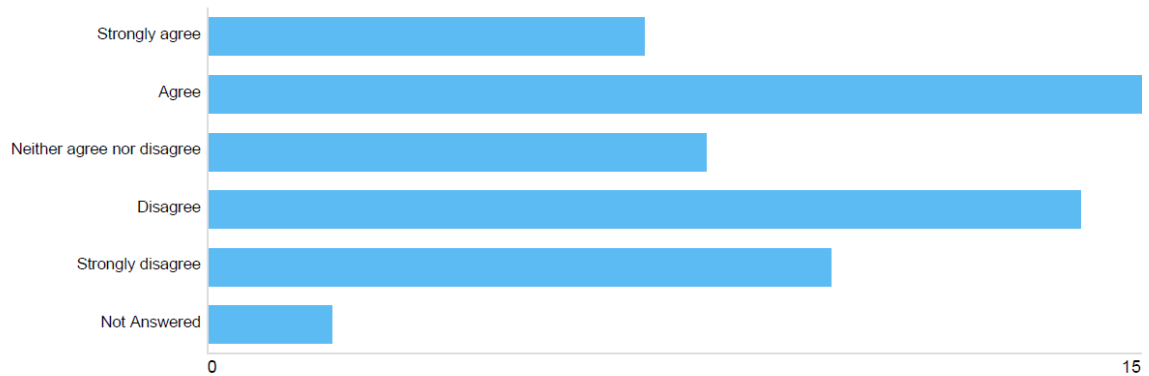
Option	Total
Strongly agree	14
Agree	24
Neither agree nor disagree	2
Disagree	9
Strongly disagree	5
Not Answered	2

**Matrix 1 - Street traders should supply both a business plan for trading and a tax reference number before granting of a licence.**



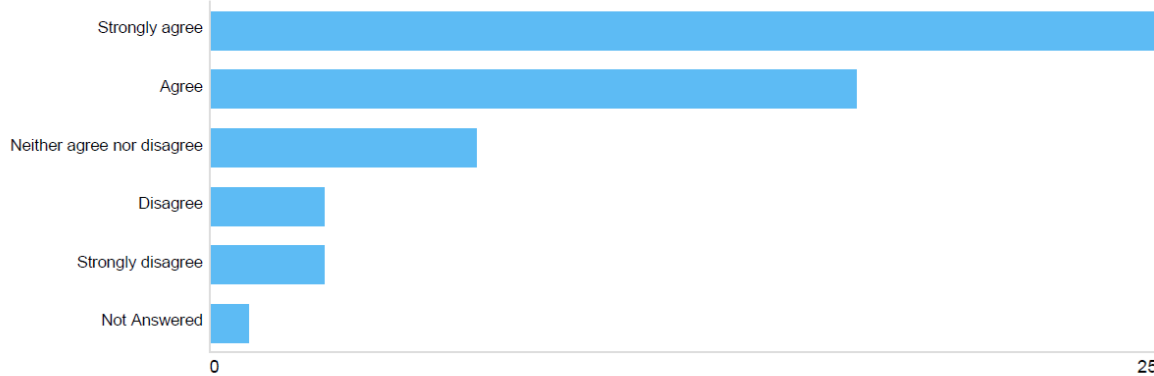
Option	Total
Strongly agree	9
Agree	15
Neither agree nor disagree	8
Disagree	13
Strongly disagree	10
Not Answered	1

**Matrix 1 - The style, variety and locations of market stalls in the city centre should be set out by the Council.**



Option	Total
Strongly agree	7
Agree	15
Neither agree nor disagree	8
Disagree	14
Strongly disagree	10
Not Answered	2

**Matrix 1 - All food packaging and utensils for use by customers should be made from biodegradable or recyclable materials.**



Option	Total
Strongly agree	25
Agree	17
Neither agree nor disagree	7
Disagree	3
Strongly disagree	3
Not Answered	1

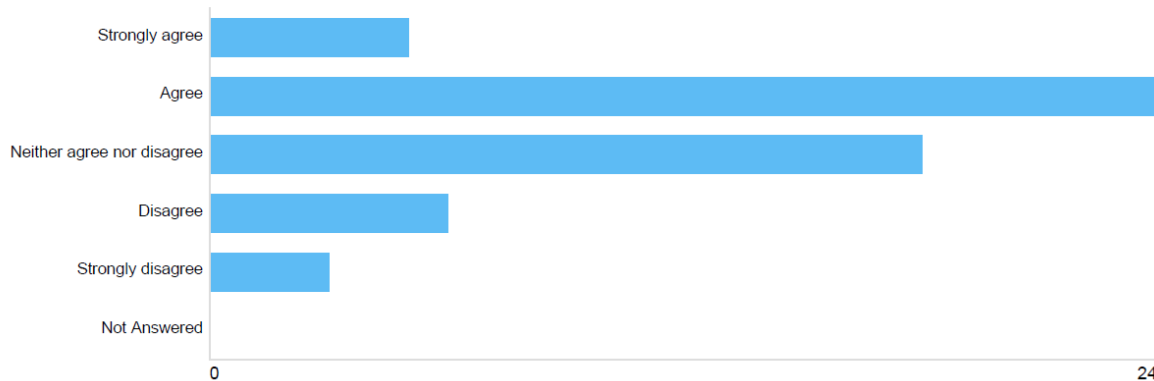
**Question 16: Please use the space below for any specific comments regarding the proposed licensing criteria and conditions.**

*Please use the space below for any specific comments regarding the proposed licensing criteria and conditions.*

There were 56 responses to this part of the question.

**Question 17: To what extent do you agree or disagree with the following statements about the policy and licence conditions?**

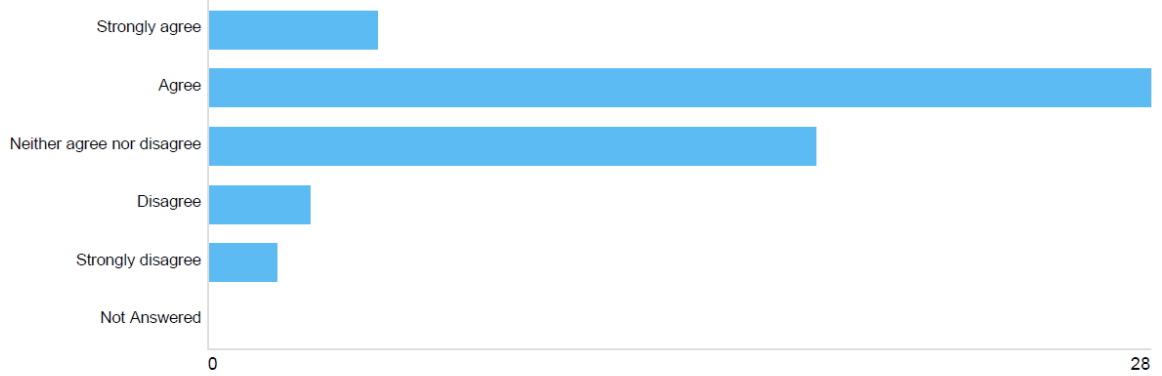
**Matrix 1 - The policy and licence conditions are clear and easy to understand**





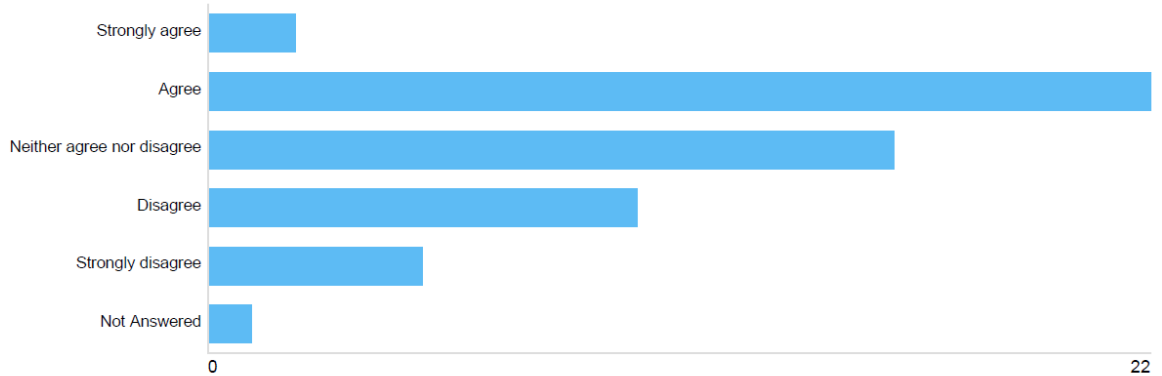
Option	Total
Strongly agree	5
Agree	24
Neither agree nor disagree	18
Disagree	6
Strongly disagree	3
Not Answered	0

**Matrix 1 - The policy and licence conditions clearly set out the responsibilities for traders**



Option	Total
Strongly agree	5
Agree	28
Neither agree nor disagree	18
Disagree	3
Strongly disagree	2
Not Answered	0

**Matrix 1 - The policy and licence conditions contain all the information you need**



Option	Total
Strongly agree	2
Agree	22
Neither agree nor disagree	16
Disagree	10
Strongly disagree	5
Not Answered	1

**Question 18: Please tell us if there are any particular sections in the draft policy or conditions that require clarification.**

*Please tell us if there are any particular sections in the conditions that require clarification.*

There were 56 responses to this part of the question.

**Question 19: Please use the space for any other comments or suggestions relating to the proposed Street Trading Policy and Licensing Conditions.**

*Please use the space for any other comments or suggestions relating to the proposed Street Trading Policy and Licensing Conditions.*

There were 56 responses to this part of the question.

## Appendix 4 – Comments attached to Questionnaire

Please use the space below for any comments relating to the proposed restrictions. - Please use the space below for any comments relating to the proposed restrictions.

- I believe well organised, managed, thoughtful markets and events add to the life of the City Centre that can give locals and visitors an interesting and invigorating experience. There are many well organised market operators and street traders in Edinburgh, that my companies Hand Up Media, Hand Up Events and Localmotive Markets exist to provide me a way to earn a living doing something I love (a privilege I know, but something I have created out of choice) but that every event done with public safety and enjoyment experience at the top of our thought process and then the reason we do what we do is a separate thing. I feel this past eighteen months of a process for licensing has been for the best reasons and intentions as there had been a few very badly run markets and events that caused for big concern and that they did not in my opinion provide visitors and locals that positive experience nor local businesses who would suffer from poorly run events and markets taking place in their vicinity. I do feel though to categorise everyone in the same way is not the way forward for City Centre events and that for well organised and managed markets and events they should be allowed to continue but with good and clear plans provided by the council or people that own the venue/land the event/market seeking to operate.  
I also feel Edinburgh Council have been pushing the smaller local operators out of the City Centre whilst making even more room for the big boys such as Underbelly, Unique Events and M & D's. They might add the glitz and frizz but scratch beneath the surface and what do you find? I have a strong opinion about this but will save for another time.  
I think there is room the big boys but that Edinburgh Council in my opinion sucking the life force from the smaller independent street traders, many local businesses to Edinburgh, these smaller businesses mostly keep the revenue made from events in Edinburgh economy and also use local suppliers, well we do.
- Sale of food on the High St and Hunters Sq should be allowed only if there are satisfactory provisions for the removal of food related litter eg enough waste bins, regular collections of rubbish, traders responsible for the waste they generate
- Ultimately all of this should focus on the experience of the user. That should be the main judgement criteria if something goes ahead or not. Is it the user's interest? If yes, then go ahead. If no, then should not go ahead
- We are not good enough at collecting street litter from street food to allow further food provision on the High Street. Bins are too often seen to be overflowing which can be quite disgusting as it attracts seagulls and worse. It does show that the public are willing to put their rubbish into bins, if collections could only keep up with this!
- If well managed and presentable there should be consideration for development of markets providing they do not restrict or endanger pedestrians or block existing shops and businesses.
- The area is nearly impassable during the Festival for a normal Edinburgh resident just trying to get from point A to point B.  
I understand the desire to offer tourists an exciting experience, but remember the dignity of Edinburgh and don't let our streets be turned into vulgar carnivals.  
Related to the food on high st and hunter sq it's already relaxed as the favorite business and a huge German food stall operate on festival time while local traders are evicted from the area. Regarding to not granting licences in layout planned areas, there should be an alternative to existing traders.  
About further licences, new spaces could be open if there was a restriction in stall's size.  
And a personal request to open an investigation on the traders who take advantage on the draw system by using multiple applications in order to take over the area leaving no chance to

smaller traders or new comers. Some traders have been operating every single week since festival was over while some other traders got only one or two weeks to operate their business. Ta

- The area in front of City Chambers is a disgrace. There is too much noise, too many stalls, and the stalls are selling goods of poor quality. There are too many street performers. The area is nearly impassable during the Festival for are a normal Edinburgh resident just trying to get from point A to point B.

I understand the desire to offer tourists an exciting experience, but remember the dignity of Edinburgh and don't let our streets be turned into vulgar carnivals.

- Not interested It will not make any difference as the local authority has already made up its mind,
- Sale of food should not be relaxed for period of Edinburgh Festival. There are many establishments around those areas already selling food. Perhaps a quality control could be introduced ... food would need to be either "better" or completely different from what is offered from existing establishments. Price control is also needed but probably outwith local authority remit.
- Regulations and conditions for licences are very important, but there must be a common sense option and ability to make decisions on the situation rather than just what the regulations state. Good management of busier trading areas is very important and not allowing companies/business or groups to dominate certain areas.
- i do not understand what you mean by formal layout - i.e. grassmarket has a formal layout but the market works well there. I would guess that you have areas in mind particularly relating to these questions but i think each and every licence application should be judged individually and there should not be 'rules'.

I think that if a market already exists in an area then there should not be another market allowed

- We should not have additional food during the festival, rather let the existing restaurants and traders profit as they are there all year round, and pay high rates already.
- The problem is finding a ratio of footfall and stalls that satisfy both. If traders are shunted to areas of less footfall the traders suffer. As for Playfair steps the only time that there are queue when traders are there is when the official Fringe operate on the Mound, creating a bottleneck at the junction of Playfair steps and The Mound.

I do not think the council should be trying to limit street traders but should limit what produce is sold. Hand crafted goods as oppose cheap imports of dubious quality which inevitably are a bad reflection on the city as a whole. However stalls costing £50/day are not going to be affordable for small craft business - therefore the council could perhaps take a leaf from other European cities like Vienna or Rhodes as to how to operate markets fairly in a historical location.

- Rather than blanket restrictions, potential and existing stances should be evaluated on a case by case basis. Our company has been trading in Parliamant Square on the Royal Mile for over fifteen years without the slightest problem to anyone. We are now an established and world famous attraction employing dozens of local people. Factors like this, for instance, should be taken into account
- i think the council should have some flexibility to take each applicant on its merit
- If there will be any changes with regards to the sale of food on the High Street this should be available to more than just the two trader who are trading at Hunter Square already although not allowed acc.to license regulations.

- These restrictions severely restrict the ability of new and small businesses to enter the scene. It heavily favours those with an existing presence and large capital, hindering the charm and diversity that independent entities offer.
- These days visitors in particular but locals too only have a certain amount of money that they are prepared or able to spend. Those who trade on the street permanently do so with much reduced overheads compared to the shops around them offering nearly always nothing that can't be found in those shops. Those who trade just in the good times are simply taking money away from shops that have to trade through the poor months. This applies particularly to the pop up markets that suddenly appear during August and at Christmas and New Year. Trading should be restricted to those who genuinely attract shoppers, in particular locals, and offer something different.
- There are enough food retailers within five minutes of the High Street to cope with even the busiest times. Irony is it has been claimed that the extra food traders reduce queueing when they are often the ones with the biggest queues. Again those paying such high rent and rates need to gain the maximum benefit in the good times and visitors should be encouraged to seek out food outlets that are nearby.
- As an Artist/Crafts person ,I consider it very important that Arts and Crafts should be fully supported by Council.I find it very disturbing that Council might not recognize that by their very nature Artists and Crafts people are not Businesspeople but individuals who have creative talent and will be denied access to some locations to sell there self made products due to the very high number of Jewelry stalls and Traders using names in Multiple applications for ONE Stall ...MORE than 50% of stalls on the High Street are silver Jewelry and because of such high numbers of one type of product Local Arts and Crafts are hardly anywhere to be seen ...Lets say I was a Pensioner Grandmother or Granddad knitting Cardigans and when I have knitted some I apply to Council to sell them by way of a Council stall... First of all the fee charged could mean that I cant afford a week at £150.00.....that to me discriminates in Favour of Businesses who can afford it and secondly can have staff to cover their trading Period {costing more money} whilst me" the Grandparent" would feel Disenfranchised... completely unable to match these traders..... ..Playfair steps is meant to be an area which has been specifically allocated for Arts and Crafts ONLY to be sold...it says so in the regulations in the guidelines for applications..This has and is being abused by License holders on a regular basis ..some stance holders have sub let there space using the employee license device that somehow legitimizes their right to" Sublet there space"As an Artist /Craft person I find the whole of the operation of Playfair steps is completely out of Control. I have direct knowledge that this is taking place and would be pleased to provide Council with Proof of this.....As an Artist/Crafts person of 42 years practicing my Craft you would think I know a thing or two about what is Art and what is Craft !! Finally I would hope that Council in there deliberations would take into account the very great contribution to our cultural heritage that MORE Arts and Crafts be made available for the enjoyment and enrichment to both Residents and Visitors alike..I am wondering if anyone will even read this.. If I don't hear from you then I will take it that you do not want to hear of impropriety,s in the already existing ways of operating this Plaifair steps

Please use the space below for any suggestions regarding how these mobile trading zones could be improved. - Please use the space below for any suggestions regarding how these mobile trading zones could be improved.

- What size are the zones? Can't really answer without having a frame of reference.
- I do not know enough about mobile trading zones you are referring?

- Please see my previous comments. This seems to be about restricting people that pay for a right of service (which can and is often refused on grounds of what makes an area busy) yet which does not apply to others.
- I do not know anything about mobile trading zones so do not really have an opinion.
- No experience of this.
- Mobile trading zones are totally inappropriate for the pedicab operators. Once a customer has alighted a pedicab they should be able to travel to their chosen destination. For example many people would prefer to travel home in a pedicab rather than to be left on a street corner which happens to be the end of that street trading zone.
- The trading zone which the rickshaw operators are forced to operate in doesn't make sense. It excludes some of the busiest hotels an extension of the area they can use makes sense to reduce traffic in specific areas. It would also free the community safety officers to actually do more work than just following them around waiting for an infringement.
- Why restrict to two zones? Public may benefit from relaxing this restriction giving a wider choice.
- The "German" market in Princes Gardens is unhygienic, smelly, crowded and stressful. The total number of stalls must be reduced. Better "behind the scenes" hygiene is needed, as there have been cases of food poisoning.

I thought the "West End Fair" in the graveyard at the corner of Lothian Rd & Princes St was very poor from the point of view of access. Though I am not handicapped, I found it difficult to navigate due to the uneven pedestrian surfaces. No one with any mobility problems would manage it. It also gets poor exposure and is dreary. Why not close off William Street during the festival, and move this Crafts Fair there? It's the real West End, after all.

I was so glad to see the purple cow not blocking Bristo Place this year. Please never allow it back there again.

I don't want to ever see those ugly white huts along George Street again. What an eyesore they were, ruined the whole of this beautiful street. I'd like to see some appropriate types of trees planted up the middle of George Street, and fewer cars. I don't mind the buses or the cycles, they're fine.

I wish \*some\* of the events at the Book Festival could be put on in the buildings surrounding Charlotte Square. I am sure there must be some larger rooms available there. I'm so tired of straining to hear my favourite authors over the noise of buses, ambulances noisy ventilation/heating systems and the noise of rain on the tent roofs. Let the bookshop and cafes remain in the park, but house the talks in proper rooms, indoors! I sometimes think the BF should move out to Jupiter Artland, which has some indoor facilities as well, or Saughton Gardens, which is a lovely, under-utilised park.

I love the street stalls by Paulozzi's Big Foot near John Lewis. They offer quality wares, they are well spaced out, and it is a pleasure to shop there. The market in Stockbridge on the other hand, is getting over-crowded and out of control. I suggest reducing the number of stalls there by a third, then it would be a pleasure to shop there. When markets get over-crowded, they get very sad. You then get stalls that get no traffic because there are just too many stalls.

I hate the circus rides that go up across from Ocean Terminal. Just feels wrong. Let's allow the area around the Scottish Gov't offices to retain some kind of dignity.

- Space should be standardised. Each can be individual and unique but must conform to standard sizes.

Get rid of the tat.

I have no views on this, as my application for a Street traders' Licence is always a one-off for a specific event; I don't feel qualified to comment on those who depend on street trading for a living.

- No experience of this.

[Please use the space below for any comments regarding the proposals relating to licence durations.](#)

- I thought street traders and market operators could only trade in the hours granted in the licence.  
As one who received a yearly pass (which came out at less than a year) and which involves me only using public areas to gather my group for less than 30 minutes, I'm not sure this applies to me.
- Broadly sensible but some further consideration is required as different forms of street trade require different types of zoning.
- Give charities annual licences too and also preferential treatment - free or greatly reduced cost licences?
- Still think all of this needs to focus on the user. Will these proposals be good for the good? What benefit is there to the user?
- We have only ever needed a temporary licence for one -off events being run over one or two days. I think a slightly more relaxed regime for this type of event would be useful
- Traders should have guidelines of trading times but if the area is busy they should be allowed to continue trading to a reasonable time to make up for lost income on days when weather is too severe to work.

Please use the space below for any comments regarding the proposed hours of operation.

- I think it depends on the nature of the event and location. Somewhere like The Royal Mile/Grassmarket during the summer months sees so many visitors and thinking about a City like Barcelona, they have fantastic street food traders through the late evening up until 1am and that people love to have a choice of eating out at a restaurant or to have something whilst on the move.  
If a street trader delivers poor quality food, not reflective of the quality Edinburgh does and should deliver, they should not be issued with a City Centre licence at all. I think to create a blanket time period does not work, it should be on an application by application basis as I do running events and markets within the City Centre.
- More late night food venues across Edinburgh city centre would drive the large numbers of late night revellers to no longer congregate in certain areas. This dispersal of people could reduce the amount of noise and reduce the flash points for late night argy-bargy.
- These seem sensible for market stalls however the current operating hours for pedicabs should be maintained.
- In summer it's light till 10pm so change the hours to better reflect the seasons.
- Street traders should be restricted as far as the amount of noise they generate. While such situations may be rare, the use of music at a street traders stall can be intrusive and the issue of music played by buskers should be considered on a case by case basis eg non-amplified music should generally be acceptable but not amplified music. The issue of bagpipers on the Royal Mile needs to be considered as the sound can be very intrusive and there needs to be a restriction on such noise as the bagpipers do collect a considerable amount of money albeit usually for charity
- As long as everything suits the person who is expected to pay for the services and keeps the streets safe.

[Do you have any specific comments relating to walking tours or pedicabs operating in the city?](#)

- They are so dangerous, I've seen them racing one another with drunken passengers, going through red lights, cutting over pedestrian crossings, and some or I guess most of them don't have a full driving licence, or public liability insurance. Also there fare structure should be a tariff, operator mile, not £30 front one end of George St to the other. Without a vat receipt.
- Think they add character and romance to the City, most other Cities have them. I do feel sorry for the people cycling them sometimes.
- I have little faith in this being done in a way which encourages new companies. I don't feel that the council are sufficiently competent to deal with walking tours as I know of many companies which simply don't register as street traders
- The cities pedicabs are an integral part of the city landscape. They offer a fun, environmentally friendly and safe alternative to late night staggering around the street. They are an easy target for the media with regards to negative press. I have operated in Edinburgh for 3 years and feel the arbitrary enforcement of a working zone hinders the ability and potential of the bikes. I feel each individual operator should be free to chose how far they are willing to cycle their pedicab. A zone as restrictive as it is forces people to break rules that are unnecessary in the first place. An extension or removal of this operating zone makes sense to everyone who rides these bikes. With over 200 riders why not consult directly with them to see how to bring forward this relationship? Operators are adults with the mental faculties to operate in a sensible manner that portrays a good image for the city of Edinburgh. Safety concerns are unfounded and the operators do their utmost to control the behavior of their passengers. Drunk people can be a nuisance when walking, stumbling and don't pay attention to the roads. In a pedicab they are in a managed environment where they are far less likely to do damage to themselves and others.
- The current mobile trading zones exclude areas such as tolcross, bristo square and fountain bridge. These areas should be added to the current zone as they are areas where we are asked to go on a regular basis. The rules could stipulate that we aren't allowed to wait or look for trade in these areas but that we are allowed to drop people off in these areas if we started the journey within the current zone.
- Contrary to the statement within the draft document, pedicabs have an excellent safety record. Particularly in recent years both riders and operators have endeavoured to work with the council to alleviate any concerns and ensure that we operate safely and within the current regulations (Although I will acknowledge that some companies are better than others in this regard).
- Pedicabs ought be allowed to compete with motorised taxi companies on an equal basis, ie that city-wide coverage be permitted. However, like taxis, disclosure scotland ought be mandatory alongside a standardised test for potential pedicab drivers. However, a driving license ought never be a requirement as road worthiness would be a factor in the mandatory test, and pedicab operation is a good option for those who cannot or will not obtain a full uk driver's license whether due to principle or cost.
- I have only recently started operating a Pedicab and so far it feels like we're an easy target for the Council to pick on. I was the subject of a telling off after only an hour for having my pedicab in a placed deemed an obstruction???
- The pedicab operators that I spoke to and interacted with are both enthusiastic and fair, fares were always negotiated before setting off. While many fares enter the cab, there are no hard feelings if they leave because the fare doesn't suit. There seems to be an impression that pedicab operators are fleecing their fares, but that is certainly not what I witnessed. There are



folk who enjoy the experience and don't mind making that investment for a bit of banter and some fun.

- As a driver who uses Grassmarket area on a weekly basis I am surprised that there are few accidents, as trying to avoid walking tours and pedicabs is quite difficult in the poor lighting just off the grassmarket.
- Edinburgh's roads are not suited to pedicabs - too many potholes, cobblestones and steep gradients and don't forget the tram lines too! Fares should also be regulated as many of these pedicabs try to rip-off tourists or the unaware.
- Safety issues for pedestrians need to be considered as far as pedicab are concerned. Pedicabs sometime travel at a great speed down Middle Meadow Walk with an instance which I witnessed where pedicabs racing with each other down the slope. There should be a Code of Conduct for pedicab drivers which emphasises pedestrian safety, as well as passenger safety
- Personally I would never use a pedicab. I think they are dangerous and those riding them are not concerned with people's safety but rather the money they earn because most I expect are paid on a commission only basis. However, I do think that choice is the best thing for the user on the ground. They have to be safe however and not be allowed over a certain speed.
- If pedicabs are allowed some type of licence for the individual pedlars- similar to cycle proficiency should be sought

[Please use the space below for any specific comments regarding the proposed licensing criteria and conditions](#)

- The 'recyclable/biodegradable materials' is an excellent idea.
- I thin there are many people younger than eighteen that would benefit from being allowed to start street trying or running markets, it would depend on their organisational plans and maturity provided to Edinburgh Council with their application.
- I think the council have other areas they should be spending their time, namely looking for people/organisations which SHOULD have a license but who do not. They aren't far away from your HQ so they don't (I imagine) need much investigation...
- Traders such as food stalls should be encouraged to minimise the litter caused by their operations as the city can be left in an awful state after busy nights in the city.
- I do not believe it is necessary for registered charities to supply a business plan or a tax reference number. Presumably registered charities would be exempt from such a requirement should it be introduced.
- As a trader for a charity I could not give a business plan or a tax reference number as I sell plants two Saturdays a year giving the total sum to the Church
- No helpers ever receive payment as they give their time freely.
- Why have an age restriction? Perhaps in the case of young child they would require adult supervision, say under 14? Less paperwork would be beneficial to all concerned.
- When we have needed a street trader licence, it has been for a period of four hours during a one off charity event. I'm sure there many similar to us who require it for such an event. When it's for a charity the cost and the red tape should be reduced.
- Previous comments about managing refuse/recycling collections apply once again, i.e. they need to be regular and frequent

Please tell us if there are any particular sections in the draft policy or conditions that require clarification

- I feel there are too many black and white decisions but appreciate rules and regulations are required to provide safe and well organised events taking place.  
One thing I have suggested earlier and as an example for Castle Street, there should be anchors in the ground, this way markets have to adhere to the layout but also helps with safety. Even with a huge amount of water bottles and leg weights, volatile winds that circulate on this street means you really could do with anchor points so market stalls can be fastened safely to the ground.
- the where to park and not to park are not stipulated in any document, the criteria for correction seems to be vague and at the whim of the council employee that is doing rounds.
- Too verbose and legally worded, too many rules, regulations and restrictions. It would be great if there was less bureaucracy, less paperwork to wade through and if things were easier to understand in general. We live in a world of red tape!
- As mentioned above, the issue of noise generated by street traders needs clarification. Noise from shops selling 'tartan tat' on or near the Royal Mile area has been a problem if you live or work nearby and hear the same piece of 'Scottish' music repeatedly so there should be a Code of Conduct regarding any music played (including by buskers) eg reducing or stopping playing music if requested by people living nearby.
- Policies are invariably difficult to read, unless you are a lawyer or used to going through these kind of documents. A short, concise, bullet point policy, that doesn't require a law degree, would be helpful. Particularly areas that could get people into a lot of trouble.
- It would be useful to know how the lottery system for High Street / Hunter Square is done.

Please use the space for any other comments or suggestions relating to the proposed Street Trading Policy and Licensing Conditions

- Thank you for this opportunity to provide opinion, I would like to see a meeting/form set up with council officials and market operators/street traders to meet up for mutual benefit. I feel I have reacted in ways I would not normally with regards licensing these past eighteen months as a result of fear, the unknown, not having anyone to speak to, uncertainties.....  
I feel it would really help confidence to have a better understanding between street traders/market operators and licensing.
- My experience isn't great. Licences aren't numbered for a calendar year, mistakes have been made in 100 percent of the years in which I've owned a license, communications have been poor, overly corporate and, with the exception of one council worker in the office, largely not very encouraging. I have consistently felt like a nuisance and haven't felt like someone who has worked hard to provide a local service, by a local taxpayer to benefit my city.
- I believe registered charities should not have to pay a fee for a street trader's licence.
- You should provide a named contact for dealing with applications.  
Recently no one got back to us with a response so hopefully you can improve your response rates and times.  
You must provide facilities to pay online or by phone as it doesn't seem reasonable to expect people to make their way to your High Street offices to pay as this is naturally a huge inconvenience for most folk.

- Having operated a Farmers' Market for over 5 years in Juniper Green on an annual licence from CEC, the administration in obtaining a licence leaves much to be desired. The process seems haphazard, lacking in feedback and opaque to the user.
- Your system is bureaucratic and unnecessarily cumbersome. It used to be that one could apply by post. That, however, changed and those applying are required to visit The Hub service area at the City Chambers. We did that in May this year. Six of us visited, and saw no less than four people in our endeavours to submit applications. We were on time with the applications, did everything required, and yet still they were almost not ready on time and your office systems did not match the organisation you expected of applicants. A poor experience overall. A pity because Council's should endeavour be the best at what they do and prove everyone wrong.
- You need to consider restricting the use of A-boards associated with street trading. They could well represent a hazard and an unacceptable additional space requirement not covered by the proposed street trading licence. Definitely one to watch.
- The lottery system and no-refund policy have prevented me from applying more so than the increase in fees or having to apply for full weeks. I cannot afford to risk losing that amount of money. Even a refund policy would help. Although this was explained at the meeting (to keep street trading licenses in line with other license types) it is a different situation as there is a draw for High Street/Hunter Square. In an ideal situation there would be a market manager on site and matching stalls provided. This would lead to a more organised and consistent feel and would set a start and end time to trading. Applicants would only pay if successful and allocated a licence.

## Appendix 5 - Written responses

**From:**

**Sent:** 03 December 2015 10:41

**To:**

**Subject:** Consultation

Dear,

I don't have a lot of time at the moment to delve into this as much as I would like to , but I do have a few items I would like to comment on from your proposed changes to street trading in Edinburgh city Centre . Please do bear in mind that street trading has been my , and many others, main income for the past 20 years, and we have a lot of experience as street traders as well as having our livelihood threatened now. Childcare, education , mortgages etc. are all under threat here. I am a local citizen, pay taxes here and used to employ 6 staff, which is reduced now to 2 due to the changes in the past 2 years. I am very concerned for my business.

### **1. Proposed Stall Sizes on High Street / Hunter Square - too small to be practical**

I feel that reducing the pitch to 2m x 2m is extreme and may well result in several businesses not being able to make money from this size of stand. Given that the £150 fee will remain the same , and will be non refundable for weeks/months not allocated, this seems too much. I think there is still room for these pitches to be 8ft x 8ft (2.5mx 2.5) and this would certainly help, with still room to accommodate proposed 14 stances, which I do think is a great idea. In hunter Square there is space for larger pitches also. Personally my current stall needs at present to be 2m deep , but has a further 30 cm overhang. it is 3m wide, and I can reduce the frontage but not the depth. The pavement is deep enough to accommodate a 2.5m depth and this will allow traders to have some space behind their tables.

### **2. Proposed Stall design.**

The picture of the small stall in the proposal document with open sides and back , very narrow table etc. Is in no way suitable for trading in Scottish weather on a regular basis. The Fringe used to use stands such as these and had to change them. We need security at the back of our tables, and it also needs to be closed off from the elements and public. I Sell high value stock and would not feel comfortable trading from one of these. I think that uniformity can be achieved by stating clearly white only tarpaulins/ covers and the dimensions of the stall. Perhaps stating it should be constructed of 1" fabricated steel and is used and weighted accordingly.

The picture you show on your proposal is the same stalls used on the farmers market , but we are selling gifts, crafts and jewellery , hats , scarves , t shirts , very different to selling meat , cheese and fish etc.

### **3. Duty to trade.**

This seems to be being proposed for the entire city centre. It is not feasible , and I do not see how it could possibly be policed city wide. Street Trading , by its very nature, relies on passing trade. That trade happens in different places at different times. No one will be trading on Playfair Steps midweek in January , February or March for example as there is

no passing trade at that time.

Perhaps for the high street, and other high demand areas. ? However , if allocations only happen at very short notice , then it is not always possible to suddenly organise a week of work. For this to work allocations will have to be made in advance.

#### **4. Monthly applications for the High Street.**

If this is to be done by ballot then it would be simply too much to risk £1200 fee to not be returned if one was not successful. If one was successful would they then not be allocated for the following months ? Again , too much to gamble not trading for a month or more as regular income is required. More clarity on this is required on this option. There is a point when one has to realise it is simply not worth it anymore . Such fees and no refund policy will push out the smaller independant traders who design and make their own products and we will see what happens to many markets around the world, the same cheap imports , as they are the ones who can afford ever increasing fees. The Christmas Market is a good example of this , and locals do notice the 'cheap' feel of everything. It used to be German and reasonable quality. NOW the price is so high only imported goods can make money there. It really will be a shame if this happens to the high street.

#### **5. Applicant is present on Stall at all times.**

As a single parent of a young child it is simply not possible for me to be present all day . I would have to have employees to assist me for me to continue my business.

#### **6. Application process.**

Unfortunatley there is still nothing in the proposed application process which stops multiple applications by business partners , spouse etc. Processing needs to happen in a more timely manner (for example I applied and paid for employee licenses for my Playfair Steps license in july - I still do not have those licenses. When I came to collect them I was told they had been lost and would be posted out, but they never have been - this kind of thing happens a lot ). Perhaps all high street applicants could be present for the draws which take place , and a day could be set aside to do all the applications early in the year . We would then all see this is a fair system and would know well in advance what we are doing for the season. There all also major discrepancies which affect trading. In july , a major trading month , I received 3 weeks in hunter square stance 11. After I had been granted stance 11 XXXXXXXXXX applied with his food stalls and was granted stances 11 and 12 - which had already been allocated to myself and another trader. XXXXXX set up his cabins regardless and we were pushed out , or into different locations at the last minute, but had paid for a weeks trading and also 2 employees. I assume XXXXX also paid for these stances and for employees. An example of something that hit us hard at a busy time in a difficult trading season.

#### **7. Allocating the spring summer season in advance.**

Ideally allocating for the whole year, at least to the fringe in january/ february so we can plan ahead. being told 24 hours before we are to trade a busy week means we lose out on sales as products are not ready (this happened to me at easter this year) . We used to apply in January and be told by Feb/ March latest our stances for the year , this meant we could plan and make the most of the summer trading. We now find (all traders) that we can not make too much stock as we never know what we are trading or when , sometimes until the day before. We then lose sales, but fees have increased. Now pitch size will decrease and fees will stay the same , we are needing to make the most. What will offset this to a degree is being able to plan several months in advance. There are factors for some of us such as childcare which makes trading with 24 hours notice impossible , yet the duty

to trade proposition may affect things. Please give us the chance to plan our seasons trading.

### **8. August trading.**

The few days before and after the Fringe are major days in our selling year - we have in the past been allowed to trade until the day before the fringe starts and a day or 2 after it finishes. This year we were not allowed to trade up to the Fringe , and new proposal suggest trading suspended for the whole of August - a 31 day month, the fringe lasts 24 days - leaving a week of trading which should be possible. A very important few days for us.

I hope this helps to give some insight into the areas which affect all High St/ Playfair Steps Traders.

I would appreciate a timescale of when any changes will come in as I will be away mid feb - mid march and do not want to miss any applications deadlines.

Yours Sincerely

From:  
Sent: 20 November 2015 14:36  
To:  
Cc:  
Subject: Submission for the City of Edinburgh Council Report on High St. street traders

Dear,

Thank you for your time today. I have given below the Gold Brothers submission for the Council's street traders licensing review.

Can you kindly confirm receipt?

Regards and thanks

Submission for the City of Edinburgh Council Report on review of Street Trader Licensing on the High St/Hunter Square from Gold Brothers

We would like the City Council to take into account a number of observations, matters effecting our businesses and our recommendations as they consider the street traders licensing review.

Firstly, its important for us to make clear that in principle we support the idea of street traders on the High St. It can bring and could make a positive contribution to the visitor experience. We also accept and understand that 'artists' are not street traders as long as they are not charging but can receive donations. We see them as positive contributors to the High St. and are a different aspect in regard Street Traders management and licensing.

The intention of our submission to the consultation is to highlight ways that this matter is not only not working well it is having a negative effect and is being abused. A key solution would be that the City Council effectively manages the street traders by enforces the licensing conditions including how many traders are present on any given day and adequately resourcing the management and enforcement of the licensing especially at weekends. If the City Council cannot properly resource this licensing it might respectfully consider reducing street trader licensing in accord with the resources it can effectively and efficiently allocate.

We must emphasis the point that businesses in the Royal Mile area have extremely high costs and a very tough competitive trading environment and we ask that this be taken into consideration as well as wider matters of retail trading conditions.

Our understanding is that there are 10 licenses (4 either side of City Chambers and two for Hunter Square). Our staff and directors have witnessed as many as 22 on a regular and even daily basis during the summer months. Council Officers have witnessed more than this. This is unacceptable and must be addressed.

It is also an important and significant observation by us and by Council Officers that the idea of a diversity of traders and regular change of street traders and the range of products they offer is undermined by street traders who are indeed all year round

businesses obtaining pitches. These are likely the most persistent offenders of ignoring licensing terms and conditions as they pitch up irrespective of how many stalls are already there. Indeed we submit that these traders don't care about the license conditions and linked to lack of management and enforcement by the City Council this brings about a set of unacceptable circumstances for easy and regular abuse as there are no consequences for these traders but there are to the established rates and tax payer businesses.

We submit that if the City Council is to make street traders licenses available in the High Street area it must properly, effectively and consistently enforce the license conditions. More than 10 units has an adverse effect on businesses on the Royal Mile in an unfair way taking into account the commitment and costs these businesses accept and have to endure to trade. The Royal Mile is one of the most expensive places in Scotland to run a business and this should be taken into account by the City Council when it deliberates the review and any council officer recommendations.

In short by all means have 10 street traders but please consistently enforce the conditions with the necessary resources including weekend.

On a particular matter our 'Dunedin' retail outlet in Hunter Square is being consistently adversely effected by street traders. The key issue is that the traders persistently position their stall north facing to the Royal Mile and not westward facing the buildings and shops in the Hunter Square which is the actual license condition.

The positioning of the licensed street trader location down the centre of the area is extremely unhelpful and detrimental to good trading for the established businesses as the street trader units block the view of the actual shops and this visual restriction negatively impacts visual awareness of actual business premises such as the catering establishments and indeed our 'Dunedin' Cashmere shop.

We have no objection to the two licensed places in Hunter Square if a fair situation is in place. We respectfully and fairly recommend that the street trader spaces be up against The Tron wall and West facing and enough distance from the corner of The Tron so as to avoid any restricting of view to any other established business premises.

We hope this is a helpful contribution to the review and are available for further discussion and onsite visits by councillor or council officers.

Sent from my iPad



**From:**

**Sent:** 17 December 2015 18:43

**To:**

**Subject:** RE: Street trading and market operators licensing consultation.

**Importance:** High

Hi Gordon

As you know, the Fringe Society has a unique relationship with the City of Edinburgh Council to manage the Fringe Street Events on the High Street and The Mound, as such we have always had event specific conditions which are not necessarily uniform to other events and commercial traders on the High Street at other times of year. The Edinburgh Festival Fringe Society is a charity and manages the Street Events on behalf of the city and the performers as a free event open to all, providing the opportunity for locals and visitors of all ages to get involved in the Fringe and enjoy the weird, the wonderful, the spectacular, the energetic and the fun of the Fringe.

### [Use of the High Street as an event space especially during the festival periods](#)

The Fringe Society facilitates the smooth running of street events on the High Street each year throughout the Edinburgh Festival Fringe dates. 2015 marked the 17th year that the Fringe Society ran the Virgin Money Street Events during the festival period. The Street Events team (comprised of a Street Events Manager, two Assistant Street Events Managers, two Mound Supervisors, a Busker Supervisor, three First Aid Stewards, an Administrator and 37 Street Event Stewards) managed 1,128 performers and over 6,700 shows over the 25-day period.

The Society manages the application process from performers and schedules all performances on a daily basis.

The Society uses the High Street in August to welcome and manage a huge range of street performances including; buskers, living statues, balloon artists, caricaturist and portrait artists, balloon artists, and Fringe performers, who come to Edinburgh many travelling internationally, to showcase their work.

The Street Events have a significant and positive reputation internationally for street performers and we attract many internationally renowned artists due to the location, the enthusiasm of crowds and the professional set up of the event.

Throughout the Fringe, the Street Events team programme daily street event performances between 11.00 and 21.00 on various pitches and stages located on the High Street (four stages, two street performer pitches, five busker pitches, four living statue pitches, one piper pitch, and one finale show pitch).

The event is true spectacle of the Fringe and an excellent showcase of what's on offer across the City. The backdrop of the historic Royal Mile with the colours of the festival is an image which is recognisable across the world.

The Fringe Society does not use or manage the High Street as an event space outside the dates of the Edinburgh Festival Fringe in August.

## Management of the space

All Fringe Street Events staff take part in event training which includes practical exercises to assess emergency procedures and a full mock evacuation of the High Street. Staff use radios to communicate sound issues, threats, emergencies, and first aid situations.

Over the years we've built up excellent relationships with Stakeholders, neighbours and the emergency services.

We manage the set up and dismantle of the whole area including all street furniture all of which is owned by the Fringe Society. 24/7 specialist security is employed to ensure the safety of the public and the security of the fixed set up, as well as a team of 47 staff to manage crowd safety, performances spaces, first aid, litter picking etc.

The Fringe Society understands and respects that the High Street is an area where people live and work and ensures that the Street Events team are available to assist residents and business with any issues or problems. Specific areas where the Street Events team are particularly vigilant are by St Giles Cathedral – understanding and respecting the services and events taking place, the Signet Library and the City Chambers as well as understanding and supporting where necessary the area around Hunter Square.

The Fringe Society also ensures that sound levels are managed and responds to issues in this area.

Street performances are carefully programmed on the most appropriate pitch or stage to suit their sound level and ensures that vocal and instrument amplification is kept to a minimum. Feedback is taken on board and changes made as appropriate.

Over the years we've also build up excellent relationships with the performers, who understand our position of support for them as well as respect for the surrounding area, and respect decisions made by Society staff.

The safety of the public is the Fringe Society's main concern when organising the Street Events. The high level of footfall means that a robust crowd management plan and constant monitoring of crowd levels is required. The Street Events team and security staff constantly monitor pedestrian traffic on the High Street and implement a one-way system during times of high pedestrian footfall in order to relieve congestion.

## Food trading in the period of the festival

Due to the current bylaw, the Fringe Society does not manage or operate any food and beverage stalls or venues during the Fringe and usually direct any enquiries from food traders to the City of Edinburgh Council or to the venues operating food outlets. There Fringe has provided opportunities for food and drinks brands to sample their products at the Fringe within the licensed areas (High Street and The Mound) but we work with the council on a case by case basis to do so.

## Standardisation of stalls and the aesthetics of the street landscape

Each August, the Fringe team provide the infrastructure and necessary permissions to operate an arts and crafts market, with 20 stalls located on West Parliament Square (and 10 on The Mound). The markets are an integral part of the Fringe Street Events and all successful market traders must meet select criteria in order to be accepted.

The Fringe Society's aim is to put together a market selling a diverse range of original, handmade, high quality goods, designed and made by the trader themselves.

Therefore, the selection criteria are as follows:

- Strictly only designer makers should apply
- Applicants can only make one application
- Applicants must be able to prove that they have made all products by hand, themselves. Any products mass-produced or imported will not be considered. (We make an exception for jewellery applicants, as long as the products are all the trader's unique designs and a proportion of the products sold are 100% made by the trader).
- Allocation of stalls in previous years will not influence the decision of the Committee.

In order to produce a market unified in appearance and appropriate for the Royal Mile, the Fringe Society supplies all stalls to Fringe market traders. New stall coverings were designed and produced in 2013 – with a triangular design based on the ceiling in St Giles and utilising flashes of colour bringing vibrancy to the previously standard beige coverings. The stalls are 2.2m square gazebos and traders are expected to trade within this footprint. In 2015, the Edinburgh Festival Fringe Society was granted a Market Operator's Licence for a maximum of 25 stalls on the High Street during the festival dates, operating between 09.00 and 21.00, and 13 stalls on The Mound. The Street Events team ensure that audiences are not encroaching on market trader space in order to make trading as efficient as possible and assist traders with packing up their products into a storage container at the end of the trading day (20:45-21.00). The stalls are set up at the beginning of the Fringe and remain in place 24/7 until the final day of trading.

The Street Events officially conclude at 21:00 each day when road barriers are lifted and stored by security, storage containers locked, and markets secured.

### [Links to other licence types i.e. street theatre and public entertainment.](#)

In 2015, the Edinburgh Festival Fringe Society was granted licences for:

- Market Operator's Licence, High Street, max. 25 stalls, 07-31 August, 09.00-21.00
- Theatre Licence, High Street, max. 3000 people, 07-31 August, 11.00-21.00
- Market Operator's Licence, Mound Precinct, max. 13 stalls, 11.00-21.00
- Theatre Licence, Mound Precinct, max. 1000 people, 07-31 August, 11.00-21.00
- Street Trader's Licence\*, Old Assembly Close, 27 July-31 August, 09.00-18.00

\*In previous years, The Fringe Society has applied for, and been granted, a temporary market operator licence from The City of Edinburgh Council for the Friends Exclusive Box Office during the Fringe. In 2015, the Society applied for the same licence in early March, the council responded to say that in order to trade for the duration of the Fringe, the Society would be required to apply for a Street Trader licence instead.

Thanks

**From:**

**Sent:** 19 November 2015 14:06

**To:**

**Subject:** Food traders consultation

Hi Gordon,

Unfortunately, because I missed an email from XXXXX, I missed this consultation deadline. However, she's advised I can still feed in to you on this, so if it's not too late, here goes.

I believe the question began because of a conversation I had with Andrew Burns and later with XXXXXX, based on evidence elsewhere of cities moving towards a ban on packaging that can be neither recycled nor composted.

I stay in a basement flat at the top of the Walk, and our front area is regularly full of these containers. While many traders are doing the right thing, others are sticking with polystyrene, presumably because it's cheaper, so giving them a competitive advantage over those who've switched packaging. I'd therefore enthusiastically support a level playing field for all traders - and less litter/pollution than the status quo. Happy to discuss further if you think it'd be useful.

Cheers

**From:**  
**Sent:** 29 November 2015 21:29  
**To:**  
**Cc:**  
**Subject:** Action from the last JGCC meeting

Hi,

Many thanks for following up on the action from the meeting on October 28 of JGCC. The response you received was forwarded to the JGCC committee ahead of its meeting on November 25 and following a discussion we make the following reply which requires further investigation:

Sadly the answer you kindly forwarded does not deal with the issues raised in terms of practicality.

Our small market attracts at best 150 visitors over a 4 hour period. The small traders never know with certainty if they will turn up until the last minute and giving advance notification on the lines proposed is simply impractical given that there are almost certainly likely to be last minute changes. Bad weather, transport or health etc. problems can change the best of intentions. However, the market manager keeps a record of actual attendance and does the relevant insurance, food hygiene etc. checks. This document can of course be inspected. If the proposed change is made I cannot see markets continuing to exist because of the unrealistic condition imposed. Even providing a provisional list of traders is a disproportionate burden with no added value because of the uncertainty of accuracy.

As regards first aid, what is the Council's interpretation of "first aider" as opposed to that of the HSE? The proposal mentions "an appointed person". **An "appointed person" is not required to hold a formal first aid at work qualification** but is simply a person who will look after first aid equipment and take charge in the event of an incident including calling for an ambulance if required. On the other hand, a **"first aider" must hold a current first aid at work certificate or equivalent**. The HSE confirms that an employer does not need to provide first aid cover for the public. Also bear in mind that, although your reply mentions "employer", we are dealing with small traders i.e. family businesses and Regulation 5 of the Health and Safety (first aid) Regulations 1981 merely requires such businesses to ensure that they can render first aid to themselves.

on behalf of JGCC

## Appendix 6: Proposed Standard Conditions – All Street Traders

1. The holder of a Street Trader's Licence shall not be less than 18 years of age.
2. The licence holder shall not carry on business on any street so as to unreasonably obstruct road users or affect their safety.
3. The licence holder shall carry on business subject to any direction which the police or authorised officers of the City of Edinburgh Council may reasonably be required to give.
4. The licence holder shall not, without the consent of the Licensing Authority, sell or offer or expose for sale any goods or carry out or offer to carry out for money or money's worth any service at any place other than as specified in their licence. In particular no goods or articles of an objectionable or indecent character shall be sold or offered or exposed for sale.
5. The licence holder shall on all occasions, when carrying on business, behave in a proper and civil manner, and shall not carry on business in such a way as to cause a nuisance or annoyance to any person.
6. The licence holder shall at all times conduct business and position any vehicle used in connection with the business in such a manner that no danger is likely to arise to any other person.
7. Where vehicles are to be used to site or locate street trading units they must follow the Highway Code at all times. This includes NOT driving over public pavements to access an area or to place the unit on a stance. Vehicles may only drive over a pavement at specific designated locations where the kerb has been lowered for this specific purpose for vehicles. Pedestrian dropped crossings should not be used. This will include any deliveries to or servicing of any unit, stance or stall.
8. The licence holder shall only trade from the location or stance detailed on the licence. Any temporary relocation of stance can only be made with the consent of the appropriate Executive Director.
9. The licence holder shall obtain all necessary and appropriate consents prior to commencing trading from any stance and in particular the consent of the owners of any land on which a stance is to be situated or which is adjacent to any stance.
10. The licence holder shall at all times when trading wear the identity card which is issued with the licence. The licence must be displayed on any vehicle or stance.
11. The licence holder shall not lend to or allow any other person to use any licence or identity card issued by the Council.
12. The licence holder shall not sub-let the use of the site to a third party.
13. Licence Holders shall have a Public Liability insurance policy to the value of £1 million

14. The licence holder shall trade only between the hours of operation stated in the licence.
15. All temporary structures shall be designed, erected and maintained to suit their intended purpose. The design and erection shall be to the satisfaction of the Council's appropriate Executive Director's
16. Traded goods must be kept on and traded from the vehicle, trailer or stall. At no time shall such goods be permitted to lie or stand on the surrounding area or be left against adjacent walls or railings.
17. Where the licence allows the holder to sell from a vehicle, kiosk or moveable stall at an approved stance, the vehicle, kiosk or moveable stall shall be capable of being speedily and easily removed.
18. At the end of trading hours on each working day, the licence holder shall immediately remove the vehicle, kiosk or moveable stall from the approved stance and all other ancillary equipment placed on or in the vicinity.
19. The licence holder shall, during business hours and at the end of each day ensure the collection and removal of any paper, garbage or other refuse which may be produced, or may accumulate in the course of trading on any pavement around the stance within a distance of 25 metres either side. If adjacent stances, to which the street trading licence conditions apply, are within 25 metres, any distance to be cleaned shall be the mid-point between the two stances.
20. Any stall or trading unit should not be connected to any utility service i.e. water, gas or electricity supplies either on a permanent or temporary basis and should not therefore be arranged by a Licence holder.
21. All generators must be used and stored in accordance with manufacturer's guidance.
22. The licence holder shall ensure that all music, amplified music and/or vocals are controlled to the satisfaction of the appropriate Executive Director.
23. The Health and Safety at Work etc Act 1974 and all other relevant health and safety legislation must be complied with at all times by the licence holder.
24. Any Authorised Officer of the City of Edinburgh, Fire Officer or, Police Constable or Council shall be permitted to enter and inspect any vehicle, trailer or stall at any time and all reasonable directions and requirements of such officers or of the City of Edinburgh Council must be complied with.
25. A Licence holder who changes his address shall within 14 days thereafter give notice thereof to the Licensing Authority and shall produce his licence to the Licensing Authority who shall update the particulars of such change of address.
26. If during the currency of the licence, the licence holder is convicted of any offence, they shall, within 28 days, provide full details of such convictions, in writing, to the Licensing Authority.



## Appendix 7: Additional Street Trading Conditions – Food Trading

1. When any vehicle, trailer or stall is trading in food, all requirements of Food Safety legislation must be complied with, to the satisfaction of the appropriate Executive Director.
2. A valid food hygiene certificate must be provided to the Licensing Authority at time of application for a licence

The licence holder shall ensure that the food hygiene certificate and relevant documentation are valid, maintained and available for inspection by any authorised officer of the Council at any time during trading hours and at any other reasonable time. Relevant documentation includes:

- Food Hygiene Training certificates for all that will be working on the stall.
  - PAT certificates (electrical safety certificates) for electrically operated equipment;
  - Gas Safety certificates for any LPG operated equipment. This must be issued by a Gas Safe registered engineer, who is registered to do LPG, Non-Domestic, and Mobile Catering; and
  - A copy of the Pressure Vessel Test for any espresso type coffee machine being used.
3. On the renewal of licence a food hygiene certificate the licence holders will provide the Licensing Authority with a copy of the new certificate.

## **Appendix 8: Additional Street Trading Conditions – Vehicles and Mobile Units**

1. The licence holder shall only trade from the vehicle or trailer detailed in the licence.
2. The vehicle or trailer shall be roadworthy and if it is to be used for trading during the hours of darkness it shall have appropriate lighting and reflectors to ensure it is visible to other road users.
3. The vehicle or trailer shall be maintained in a sound condition so as not to leak oil or other substances onto the pavements or roads. Such an occurrence may damage the integrity of the surfacing used on the pavement and road. Failure to comply may incur costs being recovered to repair any damage caused.
4. The licence holder shall not use whistles or other sound producing devices apart from chimes and loudspeakers to attract business.
5. The licence holder shall comply with all statutory provisions relating to noise and in particular with the provisions of section 62 of the Control of Pollution Act 1974 relating to the use of loudspeakers in streets.
6. Where the licence allows the holder to trade from a vehicle, kiosk or moveable stall other than at a fixed stance, the licence holder shall remain in the same place only for the time it takes to serve the queuing customers and shall then move on.

## Appendix 9: Specified Trading Zones for Mobile Street Traders

The specified zones in the City of Edinburgh local authority in which street traders are permitted to trade shall be the streets within the including and following boundaries (with the exception of Princes Street, George Street, Rose Street, the Mound Precinct and the Royal Mile.

1. Queensferry Road, Hillhouse Road, Telford Road, Groathill Road North, Ferry Road, Pennywell Road, Marine Drive.
2. Marine Drive, Pennywell Road, Ferry Road, Groathill Road North, Telford Road, Queensferry Road, Dean Park Crescent, Comely Bank Avenue, East Fettes Avenue, Ferry Road, Granton Road, Wardie Steps to Lower Granton Road.
3. Granton Road from Wardie Steps to Ferry Road, East Fettes Avenue, Comely Bank Avenue, Dean Park Crescent, Queensferry Road, Queensferry Street to Princes Street, Waterloo Place, Regent Road, Easter Road, Leith Links to Seafield Road.
4. Seafield Road, Leith Links, Easter Road, Regent Road, Waterloo Place, North Bridge, South Bridge southward to Lady Road, Peffermill Road, Duddingston Road West, Duddingston Road, Southfield Place, Brighton Place, Bath Street to Promenade.
5. Bath Street, Brighton Place, Southfield Place, Duddingston Road, Duddingston Road West, Niddrie Mains Road, Newcraighall Road.
6. Newcraighall Road, Niddrie Mains Road, Peffermill Road, Lady Road, Gilmerton Road.
7. Gilmerton Road from City Boundary, Craigmillar Park northwards to North Bridge, Princes Street, Lothian Road, Earl Grey Street, Home Street, Leven Street, Bruntsfield Place, Morningside Road, Comiston Road, Biggar Road.
8. Biggar Road, Comiston Road, Morningside Road, Bruntsfield Place, Leven Street, Home Street, Earl Grey Street, Lothian Road, Shandwick Place, West Maitland Street, Dalry Road, Ardmillan Terrace, Slateford Road, Lanark Road.
9. Lanark Road, Slateford Road, Ardmillan Terrace, Gorgie Road, Calder Road.
10. Calder Road, Gorgie Road, Dalry Road, Haymarket Terrace, West Coates, Roseburn Terrace, Corstorphine Road, St John's Road, Glasgow Road.
11. Glasgow Road, St John's Road, Corstorphine Road, Roseburn Terrace, West Coates, Haymarket Terrace, West Maitland Street, Shandwick Place, Queensferry Street, Queensferry Road.
12. In the north by the shore at South Queensferry, in the east by the Edinburgh City Boundary, in the south by the River Almond and in the west by the Edinburgh City Boundary.

13. In the north by the River Almond, in the east by the Edinburgh City Boundary, in the south by the Calder Road (A71) and in the west by the Edinburgh City Boundary.
14. In the north by the Calder Road (A71) in the east by the Edinburgh City Boundary and in the south east, south and west by the Edinburgh City Boundary.

## Appendix 10: Standard Conditions – Market Operators

1. Market operators will supply an Events Management Plan and Risk Assessment when they make an application, this will be available for inspection at any time when the market is in operation by any Authorised Officer of the City of Edinburgh, Fire Officer or, Police Constable.
2. Licence Holders shall have Market Operator Public Liability insurance with a minimum value of £5 million for any one claim.
3. Market operators will not sub-let the use of the site to a third party.
4. Any Authorised Officer of the City of Edinburgh, Fire Officer or, Police Constable shall be permitted free access to the whole of the market premises/area at any time and all reasonable directions and requirements of such officers or of the City of Edinburgh Council must be complied with. The licence holder shall obtain all necessary and appropriate consents prior to commencing trading from any stance and in particular the consent of the owners of any land on which such a stance is to be situated or which is adjacent to any such stance.
5. It is the licence holder's responsibility to inform the Council and other road users that a Market will be in place between specific dates. The License holder must give the Council a minimum of seven days notice, prior to the Market being erected, to allow notification to other road users.
6. The licence holder shall ensure that the layout of the market and its stalls conforms to the configurations shown in the plan lodged with the application and approved for licence. The licence holder shall not, without the consent of the Licensing Authority, alter or amend the site or the premises or the layout of the site or of the premises. Nor shall the licence holder increase the number of stalls within the site from that specified on the licence.
7. Exit routes must be kept free of obstruction at all times whilst the market is open.
8. Wires, ropes or cables crossing any of the public areas must be out with the reach of the public, or installed to avoid any hazard to the public.
9. No motorised vehicles shall be permitted in the area used for the market during the hours of operation.
10. The licence holder shall not permit trading out with the trading hours specified in the licence.
11. The licence holder must maintain an accurate register with individually numbered pages and entries showing:-
  - (i) The date of each occasion upon which the market is open for business to the public
  - (ii) The name, permanent address, telephone number and place of business address of each trader, the nature of the goods sold and

the registration marks of all vehicles used in connection with each trader.

- (iii) The Register must also identify, on each occasion the market is open for business, the location within the market where each trader has a trading position.

12. The licence holder shall take all reasonable steps to ensure that all details of trading unit operators which require to be registered are completed no later than four hours from the time of the market opening.
13. The licence holder shall ensure that the register and such other documents as are maintained shall be available for inspection on the licensed premises by any Police Constable, Fire Officer or Authorised Officer of the Council at any time when the market is open for business and at any other reasonable time.
14. The licence holder shall ensure that registers and such other documents as are maintained must be retained by the licence holder for a minimum of two years.
15. The operator will provide details of all individual stallholders, including equipment, scope of business and type of product to the **Licensing Manager**, at least one week before the event.
16. The licence holder shall nominate in writing to the Council a suitable person who shall be responsible for the day-to-day running of the market and shall be in charge of and present at the market at all times when the market is open for business, with the exception of reasonable absences. The licence holder shall not, without the consent of the Licensing Authority, change the nominated person responsible for the day-to-day running of the market.
17. The licence holder shall comply with all reasonable requirements of the Scottish Fire and Rescue Service relating to fire precautions and safety.
18. The licence holder shall have a fire risk assessment and written evacuation policy for the site.
19. Adequate means of escape and firefighting facilities must be maintained during all hours of operation.
20. The number of persons admitted to the premises shall be controlled to ensure there is no overcrowding or numbers in excess of the evacuation capacity of the escape routes.
21. The premises shall be adequately illuminated to the satisfaction of the Council. Any emergency or escape route lighting shall be by a Maintained System throughout the premises, kept in proper working order and in operation when the premises are open to the public.
22. A person, who is suitably qualified and equipped shall be nominated as a First Aider, and they will be in attendance in the market during trading hours and also while stalls are being erected and dismantled.

23. The licence holder or his/her agents shall take all reasonable precautions and exercise due diligence to ensure that no trader known or reasonably believed to be displaying for sale solely or mainly counterfeit merchandise (including contraband products) is permitted to trade upon the market. The licence holder or his/her agent shall also exercise due diligence in ensuring to the best of their ability that no such merchandise is displayed for sale as part of any trader's overall stock of goods.
24. The Health and Safety at Work etc Act 1974 and all other relevant health and safety legislation must be complied with at all times by the licence holder.
25. When any stall is trading in food, all requirements of the Food Safety legislation must be complied with, to the satisfaction of the appropriate Executive Director.
26. The licence holder shall ensure that the food hygiene certificate and relevant documentation are valid, maintained and available for inspection by any authorised officer of the Council at any time during trading hours and at any other reasonable time. Relevant documentation includes:
- Food Hygiene Training certificates for all that will be working on the stall.
  - PAT certificates (electrical safety certificates) for electrically operated equipment;
  - Gas Safety certificates for any LPG operated equipment. This must be issued by a Gas Safe registered engineer, who is registered to do LPG, Non-Domestic, and Mobile Catering; and
  - A copy of the Pressure Vessel Test for any espresso type coffee machine being used.
27. Adequate litter bins shall be provided by the licence holder for use by the public and shall be distributed throughout the market site. All dropped or windblown litter must be collected after close of trading and removed with the other commercial waste.
28. The licence holder shall ensure that adequate and suitable provision is made for the storage and removal of refuse and other waste from the premises; that a suitable litter bin of adequate capacity is provided outside the premises during all hours of opening.
29. The licence holder shall ensure that all music, amplified music and/or vocals are controlled to the satisfaction of the appropriate Executive Director.
30. The licence holder shall provide suitable and sufficient public sanitary accommodation on the site or in the premises for traders, their employees and the public, all to the satisfaction of the Licensing Authority.
31. All generators must be used and stored in accordance with manufactures guidance.

32. Wherever possible, all electrical and fuel controls must be made inaccessible to members of the public; failing which, there must be suitable protection in place: all electrical installations must be certified as complying with current I.E.E. Regulations.
33. All temporary structures shall be designed, erected and maintained to suit their intended purpose. The design should meet with the approval of the Council's appropriate Executive Director's.  
The licence shall not be effective until the licence holder has received final clearances from the Council's appropriate Executive Director's confirming that the premises may be operated.
34. The licence holder shall ensure that publicity material advertising events occurring on the premises is not distributed in such a manner as to produce litter.
35. The licence holder is responsible for the clearing of the area of all stalls and associated goods, debris, tools and any traffic management placed by them including all refuse as a result of the market, prior to vacating the site.

NOTE: Additional conditions may be attached at the discretion of the licensing authority.



# Regulatory Committee

2.00pm, Monday, 1 February 2016

## Licensing Customer Survey 2015

<b>Item number</b>	6.5
<b>Report number</b>	
<b>Executive/routine</b>	Executive
<b>Wards</b>	City Wide

### Executive summary

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Placing customers at the heart of the service and increasing customer satisfaction are key priorities for the Licensing Service. In order to understand service users' views, and assess levels of customer satisfaction, customer research is carried out on an annual basis.

Customers in the three main areas of licensing are telephoned and asked to participate in a short survey designed to assess their levels of satisfaction and perception of value for money.

A number of areas were highlighted for improvement, and these have been captured in an action plan. This will be used to drive further improvement of the service.

Following a full day assessment visit on 7 October 2015, the Licensing Service was awarded Customer Service Excellence Accreditation.

### Links

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<b>Coalition pledges</b>	<a href="#">P28</a>
<b>Council outcomes</b>	<a href="#">CO7</a>
<b>Single Outcome Agreement</b>	<a href="#">SO1</a>

## Licensing Customer Survey 2015

### Recommendations

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It is recommended that the Committee:

- 1.1 Notes this report,
- 1.2 Agrees the proposed action plan; and
- 1.3 Agrees proposals for future customer surveys outlined in paragraph 3.6.

### Background

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- 2.1 The City of Edinburgh Council has statutory responsibilities to license certain businesses and activities, in order to ensure that proper standards are met and that the general public interest and public safety are protected. Restructuring of the Council in 2012 saw licensing functions, previously within different service areas, move to a single service.

The Licensing Service receives approximately 20,000 licence applications each year and the volume of applications is increasing. The report outlines the results of the 2015 survey, where a number of areas were highlighted for improvements. An action plan has been developed to address these issues, and drive further improvement of the service.

- 2.2 The licensing customer survey covers Taxi, Private Hire Cars, Houses in Multiple Occupation (HMO) and Civic Licenses.
- 2.3 The Licensing Service has been undergoing a sustained period of transformational change which includes a fundamental review of structures, process, ICT support and performance management. In addition, over the past two years, areas of policy, practice and licensing conditions have been subject to ongoing review as part of a Committee agreed work plan to ensure that policies and licensing conditions are up to date and fit for purpose.

The transformational change programme continues and the results of the customer survey are key in defining areas of further improvement.

- 2.4 During the period leading up to the 2015 customer survey the review of the service structure was completed which resulted in significant turnover of staff. Call handling over this period has also been directed to the Contact Centre for a temporary period. This resulted in lower levels of performance from the service, a situation which has now been addressed.

### Customer Survey Methodology

- 3.1 The customer research is conducted by a telephone survey, designed to assess customer satisfaction across a range of measures which is carried out by an independent research company on an annual basis. Customers are randomly selected from a data base of customers who have applied for a license within the previous 18 months. Responses are then weighed by functions (Taxi, Private Hire Cars, HMO) and Civic Licenses) to reflect actual service volumes. The 2015 survey was conducted between 22 June and 23 July 2015.
- 3.2 The survey results are attached at Appendix 1.

### Survey Results

- 3.3 Customer Satisfaction with the service has reduced slightly from 6.8 in 2014 to 6.5 in 2015.

The key areas where customers have indicated they wish to see improvements are:

- quicker processing of applications
- improved feed-back and communications on progress of applications
- more helpful staff
- improved online services
- longer license period
- reduction in fees

### Service Improvements

- 3.4 Since the survey was conducted a number of service improvements have been put in place. The Licensing Service has significantly improved performance and it is anticipated that it will reach targets by the end of the financial year.

**a. Applications complete within 72 days – Target 90%**

In December 2015, performance was 85%, which is an improvement of 58% since April 2015. The Licensing Service continues to improve and performance exceeding 85% in some weeks in November and December 2015.

**b. Consultation requests circulated within 7 days – Target 95%**

In December 2015, performance was 99% which is the fifth month in a row that this target has been met and compares to the lowest performance recorded of 11% reported in September 2014.

- Permanent staff are now in post across the service with extensive training and development taking place.
- License applications and payments can now be made at the Taxi Examination Centre (TEC).
- Service assessed for Customer Service Excellence in October 2014.

3.5 The feed-back received from customers, through the survey will be further addressed through a comprehensive action plan which is attached at Appendix 2. The plan includes:

- Improved online applications, online payment and electronic document management system, to make the initial stages of the customer journey simpler.
- Use of technology to improve feedback as an application completes each stage of the process. This would include online accounts and automatic updates being emailed to clients.
- Agreed performance measures on the time taken to deal with applications are in place and improving. As previously reported, performance is improving and the time taken to complete the licence application process is reducing.
- Ongoing review of policies as part of the Committee's work plan, which wherever possible will reduce unnecessary burdens on businesses.

### **Development of Customer Survey**

3.6 In order to better understand the needs of different customer groups using the licensing service, it is proposed that further surveys will allow analysis against the future range of licence types, i.e. Taxi, Private Hire Cars, HMO and Civic Licenses.

This will allow a better understanding of the needs and views of each of these groups and allow targeted service improvement opportunities to achieve these.

3.7 The Regulatory Committee Policy work plan is addressing emerging issues and where possible simplifying and improving local licensing conditions.

### **Measures of success**

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4.1 The report highlights areas for continuous improvement. Improvements will be shown in future years' surveys and the benefits from service improvements will be realised.

### **Financial impact**

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5.1 The cost of the research amounts to £13,650 per annum. This is contained within the income from licence fees and does not affect the Council budget.

### **Risk, policy, compliance and governance impact**

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6.1 There are no direct effects arising from this report. The work undertaken to measure customer satisfaction is good practice.

### **Equalities impact**

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7.1 There is no equalities impact arising from the contents of this report.

## Sustainability impact

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8.2 There is no environmental impact arising from the contents of this report.

## Consultation and engagement

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9.1 This survey is an important step in engaging with customers of the Licensing Service.

## Background reading/external references

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[Licensing Performance Update - November 2015](#)

[Licensing Review and Performance - February 2015](#)

### Paul Lawrence

Executive Director of Place

Contact: Susan Mooney, Head of Service

E-mail [susan.mooney@edinburgh.gov.uk](mailto:susan.mooney@edinburgh.gov.uk) | Tel: 0131 529 7587

Contact: Andrew Mitchell, Community Safety Manager

E-mail [andrew.mitchell@edinburgh.gov.uk](mailto:andrew.mitchell@edinburgh.gov.uk) | Tel: 0131 469 5822

## Links

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<b>Coalition pledges</b>	P28: Further strengthen our links with the business community by developing and implementing strategies to promote and protect the economic well being of the city
<b>Council outcomes</b>	CO7: Edinburgh draws new investment in development and regeneration
<b>Single Outcome Agreement</b>	SO1: Edinburgh's Economy Delivers increased investment, jobs and opportunities for all
<b>Appendices</b>	<a href="#">Appendix 1</a> : Summary results comparison of 2013, 2014 and 2015 surveys <a href="#">Appendix 2</a> : Licensing Action Plan and Proposed Workstreams

## Appendix 1

Q2 How long have you been/were you a licence holder in Edinburgh?		
	2014	2015
<b>Unweighted base</b>	<b>1329</b>	<b>1437</b>
I have not yet received my licence and this is my first application	0%	1%
Less than six months	2%	4%
At least six months, less than one year	5%	8%
At least one year, less than three years	8%	12%
At least three years, less than five years	9%	9%
Five years or more	75%	66%
Don't know/ can't remember	1%	0%

Q3 How did you pay for your (most recent) licence? (new question not asked in 2013)		
	2014	2015
<b>Unweighted base</b>	<b>1329</b>	
Online	9%	4%
In person at cash counter	40%	49%
Cheque in post	43%	36%
Other	3%	3%
Don't know/ can't remember	5%	2%
Company paid for it	-	4%
It was free (charity)	-	2%

**Q4 (score out of 10, where 1 is 'poor' and 10 is excellent)**

	2014	2015
Ease of finding and completing the licence application forms	7.43	7.38
Paying the processing fee for your licence	8.03	7.80
The length of time to process your application and give you a licence	5.74	5.00
Being kept up to date with the progress of your licence application	5.51	4.89
The helpfulness of the licensing team	7.61	7.46
Overall, how would you rate the licensing service?	6.74	6.50

**Q5 Do you feel that the licensing service provides value for money?**

	2014	2015
<i>Yes</i>	45%	50%
<i>No</i>	46%	42%
<i>Don't know</i>	8%	7%

## Questions 6 and 7

Customers were invited to answer without options, and the tables below collate their answers.

Answers vary from year to year and therefore direct comparison of all results is not possible.

<b>Q6 Can you explain why you say that do not feel that the licensing service provides value for money? (*new codes added in 2015)</b>		
	<b>2014</b>	<b>2015</b>
<b>Unweighted base</b>	<b>603</b>	<b>616</b>
Too expensive/ not value for money	57%	68%
Length of time to process application	10%	16%
Constant changes to the requirements/ regulations are too strict	15%	13%
Poor service at office/ front desk	12%	13%
Lack of information/ not kept up to date	7%	10%
Would prefer not to have to apply every year/ extend licence period	5%	10%
Too much paperwork/ bureaucracy/ simpler process required	13%	10%
Unnecessary cost/ additional tax/ is a legal requirement only	12%	8%
*Inspectors having different rules	-	4%
*Those who do not have a licence are not punished	-	4%
Feel the licence is unnecessary/ only used infrequently	10%	3%
There should be a price reduction for renewals	4%	1%



Don't send out the licence	0%	1%
Don't know.	1%	0%
Other	2%	3%

**Q7 Do you have any suggestions for how the licensing service can be improved? (\*new codes added in 2015)**

	2014	2015
<b>Unweighted base</b>	<b>1458</b>	<b>1437</b>
Process application quicker	14%	25%
No/ happy with service	38%	22%
Inform us of any changes/ send emails/ more feedback on progress	20%	19%
Fee reduction/ less expensive	6%	14%
Improved staff/ more helpful staff	4%	13%
Improved online services	10%	11%
Extend licence period	9%	9%
Online payment method/ by post/ BACs	3%	8%
Cut down regulations/ rules	17%	7%
*Improve the office e.g. changing desk location, separate licence desk	-	4%

*Need to be stricter e.g. identify those not paying for a licence/ vet licence applicants	-	3%
*Improve the application form	-	3%
*A reminder service	-	2%
Better parking facilities in city centre	2%	1%
*Remove/ simplify the licence	-	1%
*Renewals made easier	-	1%
Other	2%	3%
Don't know	1%	1%

## Appendix 2

### Licensing Action Plan

Workstream	Remit	Method	Benefit to Customer	Estimated completion date
<b>Improved Communications with Customers</b>				
<b>ICT Improvements External Customers</b>	Introduce online applications. Introduce Electronic Document Management and improve online payment system.	Coordinate with corporate CGI plan and data protection team	<ul style="list-style-type: none"> <li>• Increased accessibility to the service</li> <li>• Value for money</li> <li>• Direct payment system</li> <li>• Improved payment options</li> </ul>	June 2016
	Introduce more efficient telephone system.	Adopt Solidus system	<ul style="list-style-type: none"> <li>• Calls answered more quickly</li> <li>• Staff have access to call history improving ability to assist customers</li> <li>• Improved customer experience</li> </ul>	September 2016
	Improve access to licence applications register.	Publish registers online	<ul style="list-style-type: none"> <li>• Increased accessibility to the service</li> <li>• Greater transparency</li> <li>• Access to real time information</li> </ul>	April 2016

<b>ICT Improvements External Internal Customers</b>	Mobile technology for enforcement staff in the field.	Source and procure a device compatible with current ICT system	<ul style="list-style-type: none"> <li>• Reassurance for licence applicants and members of the public.</li> <li>• Staff have direct access to licence information and are able to provide real time guidance and/or assistance</li> </ul>	December 2016
<b>Communications with Customers</b>	Increase use of social media.	Digital development proposal to be drafted	<ul style="list-style-type: none"> <li>• Service accessible by greater audience</li> <li>• Greater transparency</li> <li>• Improved customer experience</li> </ul>	April 2016
	Review accessibility of existing communications.	Review language and update letters etc to Plain English	<ul style="list-style-type: none"> <li>• Access to information in user friendly format</li> <li>• Improved customer experience</li> </ul>	March 2016
	Update web pages.	Add 'You Said We Did'	<ul style="list-style-type: none"> <li>• Greater understanding of how service is developing to meet needs of service users</li> <li>• Greater transparency</li> </ul>	Ongoing
	Develop customer survey to allow feedback from specific user groups.	Amend Customer Survey to target up to six different types of licence holder rather than generic survey to all licence types	<ul style="list-style-type: none"> <li>• Greater understanding of customer requirements</li> </ul>	April 2016
<b>Consultation</b>	Improve stakeholder engagement.	Introduce regular licence-specific consultation and feedback per application and/or legal representative	<ul style="list-style-type: none"> <li>• Customers have ability to influence development of policy and practice</li> <li>• Customers provided with regular feedback</li> <li>• Improved access to licensing service</li> </ul>	December 2016

		<p>Introduce quarterly meetings with trade groups</p> <p>Provide Licensing Service at Customer Hubs/Libraries to allow customers to utilise local based services to access licensing</p>	<ul style="list-style-type: none"> <li>• Improved customer experience</li> <li>• Greater transparency</li> </ul>	
<b>Improve Processing Performance</b>				
<b>Improved coordination across Council Service Areas</b>	Review and streamline processes across Council service areas.	<p>Remove duplication amongst Licensing consultees</p> <p>Introduction of APP has allowed all consultees access to Licensing records</p> <p>Merging customer records to create shared record - customer gains benefits of channel shift</p> <p>Provision of performance reports for consultees</p>	<ul style="list-style-type: none"> <li>• Creation of one stop shop improving customer experience</li> <li>• Service providers have improved access to records and have greater ability to address customer concerns</li> <li>• Improved quality of service</li> <li>• Improved customer experience</li> <li>• Value for money</li> </ul>	<p>December 2016</p> <p>March 2016</p>
	Link telephone system to electronic document management system.	Adapt system to integrate with ICT system to allow records to be automatically updated, filed and numbered	<ul style="list-style-type: none"> <li>• Improved quality of service</li> <li>• Value for money</li> </ul>	TBC - dependant on introduction of new system

<b>Feedback to Customers</b>				
<b>Improved customer feedback</b>	Increase customer satisfaction levels.	Regular consultation, working groups, surveys and communication	<ul style="list-style-type: none"> <li>• Customers have ability to influence development of policy and practice</li> <li>• Customers provided with regular feedback</li> <li>• Improved access to licensing service</li> </ul>	Ongoing
	Staff providing feedback when complete application received		<ul style="list-style-type: none"> <li>• Improved customer experience</li> <li>• Improved quality of service</li> <li>• Value for money</li> </ul>	
<b>Value for Money</b>				
<b>Move to 3 year licence periods from 1 year</b>	Identify whether periods can be extended for certain licence types.	<p>Policy work already started with view to increasing licence types for particular licence applications</p> <p>Further work required to improve the consultation and feedback experience for people affected by temporary licences.</p>	<ul style="list-style-type: none"> <li>• Improved quality of service</li> <li>• Value for money</li> <li>• Reduction in number of applications that require to be submitted</li> <li>• Greater transparency and ability to plan ahead</li> </ul>	<p>Commenced April 2015</p> <p>To be completed by September 2016</p>
<b>Discount Licence Fees for small Community groups</b>	Increase opportunities for community groups		<ul style="list-style-type: none"> <li>• Increased support for community groups</li> <li>• Improved access to Licensing Service</li> </ul>	April 2015