

**STREET TRADING AND SHOP FRONTS PROCEDURE FOR CONSIDERING
APPLICATIONS FOR PERMANENT STREET TRADING LICENCES,
RENEWALS, LICENCE VARIATIONS, REVOCATIONS AND APPLICATIONS
FOR PERMANENT SHOP FRONT LICENCES OR RENEWALS
APRIL 2020**

Introduction

This procedure describes how traders and shop front licence holders can apply for a permanent trading licence, the renewal of those licences or any variations to both temporary and permanent licences, and where the Markets Service can recommend that a licence holders licence be revoked.

Applications covered

- First time grants for permanent street trading licences, this includes licences for both market & street trading and shop front trading. Traders can apply for a permanent licence after holding a temporary licence for a minimum of six months.
- To grant or renew a licence.
- To vary a licence:
 - For a change of commodities for licenced market/street and shop front traders.
 - To request a change to permanent pitch allocation.
 - Transfer from a temporary to a permanent market/street or shop front licence.
 - To request for Succession of permanent licence to a specified individual as set out in the rights of succession.
- To recommend a refusal to grant a licence/request or revocation of a licence:
 - For a member of the panel to present a recommendation of revocation of a licence to the OLP.
 - Trader to make representations to the panel within 21 days notice of intention to revoke licence.
 - For the panel to make an independent and impartial decision on a case by case basis
- Any other street trading licence matter which the Service Area Manager for Markets and Street Trading or Markets and Street Trading Operations Manager consider should be determined by the Officer Licencing Panel.

Application Process

The Officer Licencing Panel (OLP) is held every month. The Markets and Street Trading Team Manager will advertise the date of the OLP meeting and issue a reminder of the closing date of applications at least 2 weeks prior to the closing date.

Applications for a licence can be made upto 4 weeks prior to the meeting of the OLP. Applications for a variation or permanent licence must be made in writing and the relevant forms completed and associated fees paid for in advance of the OLP hearing.

Applications by licence holders are made using the Council's application form which is available online and from the Markets Service office, which includes details of the application process and allows for the licence holder to express the reasons for requested change and/or variation.

All forms are issued by the Markets Team and available from the Markets Office.

Officer Licencing Panel

Once the closing date for applications for a meeting of the OLP is reached the Licensing & Development manager collates all the applications and sends information to the respective chair and panel members (Head of Markets and Street Trading Service, Service Area Manager , Markets & Street Trading Operations Manager, Shop Fronts Team Leader) and request in advance of the panel meeting to submit recommendations about whether to support or reject an application via the OLP form. They will also notify trading standards and environmental health, requesting any written comments within seven days where applicable to do so.

The Licensing & Development Manager prepares the report form for the OLP with their recommendations about whether to support or reject an application. If an application is not being supported by the panel members, the trader is written to, stating the reasons their application is not supported, and asking if they wish to make representations to the panel in person and giving them a minimum of 21 days' notice of the panel date.

If the panel members are recommending revoking a licence then the trader should also be written to, stating the reasons that revocation is being recommended and asked if they wish to make representations to the panel in person and giving them a minimum of 21 days' notice of the panel date.

The Licensing & Development manager prepares a full report of all the applications for the OLP, along with their recommendations and any from the respective panel members or other consulted departments (e.g. Trading Standards).

Where two or more permanent traders apply to change to the same vacant pitch, all those applications should be considered at the OLP on a case by case basis taking into

consideration the length of time a trader has held licence, the needs of the market , commodity mix and customer offering when making a decision.

The Officers Licencing Panel considers each application and any representations made by traders. Decisions of the panel are recorded and traders informed in writing. If a licence application is refused or revoked the trader is informed of their right to a review of the decision internally which will be heard by an independant Head of Service.

Requests for a decision to be reviewed are to be received in writing within 21 days of decision received. The decision from the Head of Service is final. The trader does then have the right to make an appeal to the Magistrates Court for a case to be heard if they believe they do not agree with the decision of the panel setting out their reasons for appeal and thereafter to the crown court for a hearing. The licence holder is entitled to continue trading until such time as any such appeal has been determined.

TERMS OF REFERENCE OF THE MARKETS AND STREET TRADING OFFICER LICENCING PANEL (OLP) 2020/21

Introduction

The Chair of the Officer Licencing Panel will have the responsibility for those functions under the London Local Authorities Act 1990 (as amended) as set out below.

Functions

1. To determine first time grants of permanent street trading licences, including for both market/street trading and shop front trading.
2. To determine whether to grant or renew an application for a market/street trading licence or revoke a licence.
3. To determine whether to vary a licence including but without limitation:
 - 3.1 To consider applications for a change of commodities for licenced street traders.
 - 3.2 To change pitch allocation.
 - 3.3 Transfer to a permanent licence.
4. Attach additional conditions prior to the grant or renewal of an application for a market/street or shop front trading licence.
5. Any other street trading licence matter which the Markets, Shop Fronts & Street Trading Management consider should be determined by the Officer Licencing Panel.

Panel Members

The Officer Licencing Panel shall be made up of a Chair and a panel of up to three managers of the Markets, Shop Fronts and Street Trading Service. This consists of :

- The Head of Markets and Street Trading Service (Chair)
- The Service Area Manager
- The Markets & Street Trading Operations Manager
- The Shop Fronts Team Leader

The Head of Service for Markets and Street Trading shall chair the meetings of the Officer Licencing Panel and exercise the functions listed above in consultation with the other members of the panel.

In the event that the Head of Service for Markets and Street Trading is unavailable to chair a meeting of the Officer Licencing Panel, they can delegate their authority to the Service Area Manager for Markets, Shop Fronts & Street Trading.

Appeals

Where the Officer Licensing Panel takes a decision to vary, revoke or not to grant a permanent licence, the permanent licence holder may appeal against this decision. Any appeal must be put in writing within 21 days of the date in which they were notified of the original decision by the panel.

Temporary traders do not enjoy a statutory right to appeal a decision to vary, revoke or not to grant a temporary licence. A temporary trader may instead apply for the judicial review of such a decision.

The appeal review shall be heard by an independent Head of Service. This Head of Service will hear the applicants representation which should clarify exactly why the appeal is being made and what was considered to be wrong about the original decision. They will also hear representations from the officer licensing panel specifying the grounds on which the original decision to vary, revoke or not to grant a permanent or temporary street trading licence application was based.

The independent Head of Service may come to the same decision or a different one but whatever decision made during the appeal review is final. This decision does not affect the applicants statutory right to make a further appeal to the magistrate's court.

If the applicant is aggrieved by the appeal review decision they can exercise this statutory right to lodge a further appeal to the magistrates Court and thereafter to the crown court for a hearing. The licence holder is entitled to continue trading until such time as any such appeal has been determined.