

Title of Report:	Street Trading Applications
Committee Report Submitted To:	Environmental Services Committee
Date of Meeting:	9th November 2021
For Decision or For Information	For Decision

Linkage to Council Strategy (2021-25)	
Strategic Theme	Local Economy
Outcome	Implementation of statutory requirements
Lead Officer	Head of Health & Built Environment

Budgetary Considerations	
Cost of Proposal	N/A
Included in Current Year Estimates	N/A
Capital/Revenue	N/A
Code	N/A
Staffing Costs	N/A

Screening Requirements	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals		
Section 75 Screening	Screening Completed:	Yes/No N/A	Date:
	EQIA Required and Completed:	Yes/No N/A	Date:
Rural Needs Assessment (RNA)	Screening Completed	Yes/No N/A	Date:
	RNA Required and Completed:	Yes/No N/A	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	Yes/No N/A	Date:
	DPIA Required and Completed:	Yes/No N/A	Date:

1.0 Purpose of Report

- 1.1 To improve the application process when considering Street Trading applications.

2.0 Background (to include any previous decisions of Council)

- 2.1 The Street Trading (NI) Act 2001 regulates the activity of street trading through the granting or renewal of street trading licences. Section 6 of this Act requires Local Authorities to grant a street trading licence unless it has a mandatory reason or a discretionary reason not to do so.
- 2.2 The mandatory reasons for not granting a licence are:
The applicant is not a named individual
The applicant is underage
Where trading in the proposed area would be contrary to other legislation
Any application where the trading area is not a designated street for street trading
Where the goods proposed for sale have been designated as prohibited by a resolution of the Council
- 2.3 The discretionary reasons for not granting a licence include a provision whereby an applicant for a licence is considered to be an unsuitable person to hold a licence because of misconduct or some other reason. It is important to note, however, that the misconduct or other reason must be related to trading activities, thus preventing a Council from refusing an application because of, for example, driving offences, parking misdemeanours, etc.
- 2.4 This means that an applicant can be refused a street trading licence if Council has sufficient evidence to demonstrate the applicant has relevant offences relating to street trading activities (such as street trading without a licence, trading in breach of existing licence conditions etc). It should be noted that even if an applicant does hold a relevant trading related conviction this does not automatically mean a refusal of a licence by Council. A licence can still be granted and all applications should be assessed on their own circumstances.
- 2.5 In order to ascertain if an applicant has relevant convictions for consideration Council has asked all applicants to provide an Access NI Criminal Convictions check.
- 2.6 The Licencing Section have consulted with Legal Services who has advised that such criminal record checks will not include any relevant convictions in relation to trading activities. Any such trading related criminal cases are instigated by Local Authorities and are not included in this particular criminal check. The offences contained in the Access NI checks are convictions where cases have been instigated by the Public Prosecution Service and therefore will not include street trading offences.
- 2.7 Therefore the current arrangement of requiring an Access NI Criminal Check is of no value as it will not include relevant convictions which may be considered as part of a street trading application.

- 2.8 The Licencing Section has consulted with other Local Authorities in Northern Ireland and 2 of the 7 respondents do not require such Access NI Checks.
- 2.9 Access NI Checks are not required by Council for concessionary trading permits on Council lands.
- 2.10 The current arrangement of requiring an Access NI Check does not provide any relevant information for consideration of a street trading application and is an unnecessary burden on the administration of such applications and on applicants themselves.

3.0 Proposals

- 3.1 Therefore it is recommended Council cease requiring an Access NI Criminal Convictions check as a requirement for street trading applications.
- 3.2 Council will keep a database of relevant street trading convictions within the Borough and will check applications against this database and any relevant convictions will be considered under the discretionary grounds for refusal and an appropriate recommendation made to Council.

4.0 Recommendation

- 4.1 It is recommended that Environmental Services Committee recommends to Council to cease requiring the production of an Access NI Criminal Check as a requirement for any street trading applications.