



# City of Westminster Licensing Committee

**Date:** 30 November 2016

**Classification:** For General Release

**Title:** Update on 'Revision of Standard Conditions for Street Trading Licences and Penalty Point Scheme' Report

**Report of:** Director of Public Protection and Licensing

**Wards Involved:** All

**Policy Context:** City of Westminster Act 1999

**Financial Summary:** Any costs associated with the decision will be covered by existing street trading licence fees.

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## 1. Update on Committee Report

- 1.1 It has been identified that three proposed amendments to the conditions that were agreed with the West End Street Trading Association have been omitted from the Committee Report. The amendments were to satisfy WESTA's concerns about the requirement for their members to keep original documents on their stalls and for licence holders to control activities around their pitches. These concerns are set-out in the table that is attached to the report as **Annex 1**.
- 1.2 To rectify these omissions, it is proposed that conditions 22, 42 and 49 of **Annex A** of the Committee Report should be amended as follows:
22. The licence holder shall keep the licence *or a copy of the licence that has been certified by a solicitor or notary as a true copy of the original licence* and a copy of the conditions on the stall at all times that they are trading. Where the licence holder leaves a registered assistant in charge of the stall, the assistant shall keep the licence and a copy of the conditions on the stall whilst trading. The licence and conditions shall be made available for inspection by a Council Officer on request.

42. The licence holder shall ensure through a system of checks and testing that all gas appliances, flues, pipe work and safety devices are maintained in a safe condition and shall make a visual inspection of these prior to them commencing trading on any day.

The licence holder shall arrange for all gas appliances, flues, pipe work and safety devices to be inspected by a competent person at appropriate intervals and shall retain **a copy of** the most recent certificate of inspection on the stall at all times that they are trading. The certificate shall be made available for inspection by a Council Officer on request.

49. The licence holder and their assistants shall not engage in any criminal activity or anti-social behaviour and, in particular, shall ~~ensure that the following do not take place~~ **not engage in the following** at the pitch:
- (i) Indecent behaviour towards the public or other licence holders;
  - (ii) Acts of violence against any person (including other licence holders) or property and/or the attempt or threat of such acts;
  - (iii) Verbal abuse and/or aggression displayed towards any person;
  - (iv) Intimidation of any other licence holder;
  - (v) Touching, moving or interfering with another licence holder's stall.

- 1.3 It is further proposed that the recommendations set out in section 2 of the Committee Report should be amended to acknowledge the amended conditions.

## 2. Amended Recommendations

- 2.1 That:

2.1.1A Conditions 22, 42 and 49 of **Annex A** of the Committee Report should be replaced with the conditions set out in paragraph 1.2 of this Update Report;

2.1.1B The Committee prescribe the standard conditions set out in **Annex A** (as amended above) of the Committee Report that will apply to all street trading licences pursuant to section 10(1) of the City of Westminster Act 1999 and that will replace the existing standard conditions that have applied to all street trading licences since 15 March 1999, once they come in to force; and

2.1.2 The Committee recommend to the Cabinet Member for Housing, Regeneration, Business and Economic Development that the schedule to the penalty point scheme is replaced with the table set out in **Annex E** of the Committee Report as and from the date that the revised standard conditions come in to force.

If you have any queries about this report or wish to inspect one of the background papers please contact Mr Robin Grey on 020 7641 4605 or via email [rgrey@westminster.gov.uk](mailto:rgrey@westminster.gov.uk).

## Annexes

- Annex 1 - Conditions that have been amended in view of the consultation responses.

### Conditions that have been amended in view of the consultation responses

Condition	Representation	WCC Response	Further Comments from the Association	Outcome
<p>22 Licence - The trader shall keep the licence and a copy of the conditions on the stall at all times that they are trading. Where the trader leaves a registered assistant in charge of the stall, the assistant shall keep the licence and a copy of the conditions on the stall whilst trading. The licence and conditions shall be made available for inspection by a Council Officer on request.</p>	<p>Members object to the original licence being kept on the pitch because of concerns about the document being stolen. It is suggested a copy of the licence be kept on the stall, and this would also remove the issue inspectors have when the licence document is not available due to it is being held with the Council for amendment etc.</p> <p>Furthermore, the introduction of the display of a plate removed the requirement for display of the licence document, and this agreement should continue for isolated pitches.</p>	<p>The licence contains information that is not included in the licence plate (e.g. hours/days of trading, commodities that may be sold).</p> <p>The proposed condition wouldn't require that the licence is kept on displayed, only that it is kept on the stall and made available for inspection by a Council Officer. However, the proposed condition could be amended to allow a copy of the licence that has been certified by a solicitor or notary to be retained on the pitch instead of the original licence, which is consistent with the Licensing Act 2003.</p>	<p>Objection withdrawn.</p>	<p>Proposed condition amended</p>
<p>42 Gas Safety - The trader shall arrange for all gas appliances, flues, pipe work and safety devices to be inspected by a competent person at appropriate intervals and shall retain the most recent certificate of inspection on the stall at all times that they are trading. The certificate shall be made available for inspection by a Council Officer on request.</p>	<p>Members object to original certificate being kept on the stall, and would suggest a copy would suffice. In respect of inspection, it is suggested this should be undertaken annually because saying at appropriate intervals could lead to confusion.</p>	<p>Agree that a copy of the certificate would be sufficient.</p> <p>However, an annual inspection may be over onerous in some circumstances and insufficient in others. The licence holder should therefore have the discretion to arrange appropriate inspections based on advice from a competent person, if necessary.</p>	<p>Objection withdrawn.</p>	<p>Proposed condition amended</p>

<p>49 The trader and their assistants shall not engage in any criminal activity or anti-social behaviour and, in particular, shall ensure that the following do not take place at the pitch:</p> <ul style="list-style-type: none"> <li>(i) Indecent behaviour towards the public or other traders;</li> <li>(ii) Acts of violence against any person (including other traders) or property and/or the attempt or threat of such acts;</li> <li>(iii) Verbal abuse and/or aggression displayed towards any person;</li> <li>(iv) Intimidation of any other trader;</li> <li>(v) Touching, moving or interfering with another trader's stall.</li> </ul>	<p>Traders cannot be responsible for actions by other traders or members of the public and should not be penalised for them engaging in the listed activities.</p>	<p>The proposed condition will be modified to require that the licence holder and their assistants should not engage in the listed behaviours.</p>	<p>Objection withdrawn</p>	<p>Proposed condition amended</p>
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