

NEWHAM COUNCIL

Markets Street Trading

POLICY

CONTENTS**Contents**

Subject	Page
Introduction	3
What is a Market?	3
Market rights	3, 4
Legislation	4, 5, 6
Aims	4, 5, 6
Councils Markets	6
Principles	6
Licences	6, 7
Monitoring & Enforcement Action	7

Introduction

The Council is committed to maintaining the balance of markets throughout Newham and ensuring there is consistency in the way markets are operated. Accordingly, the Council has decided to implement a markets policy which sets out the basis upon which markets are held and the process by which applications for markets shall be considered (“the Markets Policy”).

Newham Council recognises the valuable contribution that street trading and markets provide to the residents of the borough. The council seek to create a street trading and market environment that compliments local business and provide a sustainable, affordable offer to the local community in accordance with the strategy for Community Wealth.

Street trading provides valuable employment opportunities for local people, allowing new traders to set up their own business at a low cost with minimal overheads.

What is a Market?

The definition of a market is a concourse of buyers and sellers. In 1887 a case was brought by the Marquis of Downshire – v – O’Brien 3 L.R.19LR.380 Vice-Chancellor Chatterton who said **“A market is properly speaking, a franchise right of having a concourse of buyers and sellers to dispose of commodities in respect of which the franchise was given.”**

What make up a concourse is relevant when considering if this would constitute a market.

A concourse is classed in law as consisting of more than five stalls where the public can come buy and sell, can be classed as a market.

It is important to differentiate the rights relating to holding of a market from the actual market. The right for a local Authority to hold a market can arise in different ways and is the basis for establishing a legal market.

The legal term is an incorporeal hereditament but more commonly referred to a franchise which not only authorises a market to be held but gives the owner of the right the ability to prevent other potential market operators from interfering with the franchise. These franchise rights:-

1. Royal Charter or Letters Patent
2. Prescription or immemorial user and lost modern grant
3. Local legislation
4. General legislation
5. Other ancillary provisions.

Market Rights

The Council, by virtue of its statutory powers, enjoys market rights throughout Newham.

All markets held in Newham under its franchise are licenced and operated in accordance with the provisions of The London Local Authorities Act 1990 (as amended) .

The statutory powers afforded to the Council under the London Local Authorities Act 1990 (as amended) enable the Council to:

- a) Implement a markets policy within its area;
- b) Operate markets within Newham;
- c) Consider applications for other markets; and
- d) Determine whether such markets can be held by way of consent.

Legislation

Street trading at Newham's designated markets across the borough is for the sale, display and offering goods for reward by licenced street traders.

These activities are controlled by a standard street trading licence setting out the terms and conditions of trading under the London Local Authorities Act 1990 (as amended) (Act). Under this Act the council's responsible for granting, renewing, varying or revoking standard street trading licences.

This Act also allows the council the power to designate a street/area (unless under a temporary licence) to become a designated market.

If a borough council consider that street trading should be licensed licence streets, in their area they may from time to time pass any of the following resolutions:—

- (a) A resolution designating any street within the borough as a "licence street";
- (b) a resolution specifying in relation to any such street or any part of a street any class or classes of articles, things or services which they will, London Local Authorities Act 1990 c. vii 11 or other than which they will not, prescribe in any street trading PART III licence granted by them in respect of that Street; and may from time to time by subsequent resolution rescind of vary such resolution.

Appeals against a refusal to grant, renew or revocation of a licence can only be heard at a Magistrates Court.

AIMS

The aim of this policy is to set out the general approach of the council when considering

- Expression of interest forms
- Issuing of street trading application pack
- Issuing of standard street trading licence
- The revocation, or prosecution for breach of licence conditions.

All potential new traders must fill out an expression of interest form which can be found under Markets on the council's web site.

When the expression of interest form has been received it will be issued to a market inspector who will contact the potential trader within 7-10 working days from receipt of the form by the markets office' this may be different from when it was sent and will be stamped with the day it was received.

The decision to issue a street trading application pack will depend on the market requested and commodity. The council operate a 4 pitch rule which means no

commodity which has already been licenced can be sold within 4 pitches of that licence holder.

The council is also committed to running sustainable markets and will not licence a potential trader if the market requested is fully subscribed in a commodity.

A Street trading licence application pack is issued by the inspector which must be filled out in full and submitted in person by the person named on the application, all documents must be original.

An appointment must be made before attending the Markets office

Address:

Markets Team
Unit 7
Queen's Market
Green Street
Upton Park

Telephone: [020 8475 8971](tel:02084758971)

Email: Street.Markets@newham.gov.uk

A standard street trading licence will only be issued if the form is complete and all original documents supplied.

- National Insurance Number
- Three different, unrelated proofs of address e.g. utility bills, bank statements, etc. All proofs of address must be dated within the last three months of when the application is made. A Driving Licence is not accepted as proof of address.
- Please provide 2 recent passport sized photographs signed on the reverse
- Passport Birth Certificate (born in the UK only) Proof of entitlement to work in the United Kingdom, which must be valid for at least 6 months of the application being submitted.
- Public Liability Insurance Minimum £5,000,000, which must be valid for at least 6 months of the application being submitted - Insurance Must be in your Full name matching the Name as it appears on your Utility Bill.

Once all the relevant paperwork has been approved, a Street Trading Licence will be issued with the market you are licenced to trade at. All licensed casual/temporary traders to whom a specific pitch has not been pre- allocated shall report to the Market Inspector or authorised officer before commencement of trading for the purpose of pitch allocation.

Pitches are allocated at the discretion of the market Inspector/authorised officer whose decision is final and non-negotiable

The Street Trading Licence has a number of conditions and a licence holder shall at all times comply with these conditions. Any licence holder who contravenes any of the conditions of a street trading licence may be guilty of an offence and his/her licence may be revoked.

Any contravention of the licence conditions by an assistant shall be deemed to be a contravention by the licensee whether the licensee was present at the time of the contravention or not

The Councils Markets

All of Newham markets are designated markets and operate under the London Local Authorities Act 1990 (as amended).

- Queens Market
- Queens Square
- Stratford Indoor Market
- Stratford Outdoor (The Broadway)
- The Grove
- Kelland Rd
- Pilgrims Ways
- Woodgrange Market

Principles

Nothing in this Policy will:

- Undermine the rights of any person to make an application under the Act for a standard street trading licence and to have that application considered on its merits; or
- Override the right of any person to make objections or appeal against a decision

Licences

Temporary Licence

There are a number of activities which may require a temporary licence;

- Organised events
- Community Markets
- Charities

A temporary licence is usually granted for a day but can be granted up to 6 months dependant on what the activity/event is.

Standard Street Trading Licence

The following activities require a standard street trading licence:

- Trading from a pitch within a designated market.

There are two standard street trading licences;

- A casual licence, this is for a period of 6 months this does not entitle the trader to the same pitch.

- A permanent licence this is for a period of 12 months and entitles the trader to the same allocated pitch.

A casual trader can apply to become a permanent trader after 3 – 6 months of trading.

Monitoring & Enforcement Action

Officers will inspect all areas where street trading takes place daily, to ensure compliance, for example traders don't over pitching and staying within the area of their pitch as defined by lined areas, marked pavement.

Without prejudice to the council's powers to prosecute for any offences under the Act, the council may suspend or withdraw the licence and/or seize goods, where it is believed that there has been a serious breach of the standard street trading licence condition or the Act, such as unlicensed street trading.

The decision to revoke, suspend or withdraw a licence or to prosecute a licence holder or assistant will be made by the chair of the markets panel or by an authorised officer. The decision will take into account;

- Seriousness of the breach
- Previous trading history
- Levels of past compliance
- Traders response to previous warning