



City of Westminster Licensing Committee

Date: 21 September 2016

Classification: For General Release

Title: Revision of Standard Conditions for Street Trading Licences and Penalty Point Scheme

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. Executive Summary

1.1 This report seeks approval to undertake statutory consultation on a revised set of standard conditions that, if prescribed, will apply to all street trading licences. The report also seeks approval to consult with street traders and their associations on an amended schedule to the street trading penalty point scheme to reflect the proposed changes to the standard conditions.

2. Recommendation

2.1 That:

2.1.1 The Committee give their approval for notice to be given to all holders of street trading licences of the proposed standard conditions set out in **Annex B** of the report and of the right for representations to be made in accordance with the statutory procedure set out in the City of Westminster Act 1999; and

2.1.2 The Committee give their approval for consultation to be undertaken with relevant stakeholders on the amended schedule to the street trading penalty point scheme, set out in the first three columns of the table in **Annex E**, to reflect the proposed changes to the standard conditions.

3. Standard Conditions

- 3.1 Street trading activities in the City of Westminster are regulated under the City of Westminster Act 1999 ('the Act'). A street trading licence may be granted to an individual to enable them to engage in street trading, which is defined in the Act as the carrying-on of the following activities in a street:
- 3.1.1 the selling, offering for sale, display or exposing for sale of any article (including a living thing);
 - 3.1.2 the purchasing or offering to purchase any ticket for gain or reward; and
 - 3.1.3 the supplying or offering to supply a service for gain or reward (whether or not the gain or reward accrues to the person actually carrying out the trading).
- 3.2 A street trading licence may be subject to such reasonable terms and conditions relevant to street trading as the Council specifies. These usually include the trading location, the commodities or services that may be sold or supplied at the trading location and the days and times during which street trading may be carried on.
- 3.3 In addition to those conditions that are specific to an individual licence, section 10 of the Act provides that the Council may prescribe standard conditions that are applicable to all street trading licences. The current standard conditions that have applied since 15 March 1999 are attached to the report as **Annex A**.
- 3.4 In 2013, the Council adopted its street trading policy ('the policy') that applies to all street trading licensing regimes, save for portrait artists and services/sale of goods associated with tables & chairs on the street. Some of the policies contained therein are currently applied when considering new street trading opportunities or changes to existing street trading activities (e.g. the filling of vacant pitches and the approval of new stall designs). However, the following policies have an immediate impact on existing, as well as future, activities:
- 3.4.1 The use of barriers and advertisements on a licensed pitch (POLICY ST2);
 - 3.4.2 Attendance and use of licensed pitches by licence holders (POLICY ST10); and
 - 3.4.3 The use of electricity and other services by licence holders on licensed pitches (POLICY ST11).
- 3.5 The above policies can only be applied to existing activities if they are converted in to conditions of the licence. As the policy applies to all street trading licences, it seems appropriate to incorporate these policies in to the standard conditions. To this end, a proposed set of revised standard conditions has been drafted and is attached to the report as **Annex B**.

- 3.6 In drafting the revised conditions, consultation was undertaken with Environmental Health, Trading Standards, the City Inspectors and the Fire Service. The recommendations from our partner agencies have been incorporated in to the draft conditions (**Annex B**) to ensure that street trading activities on the markets, isolated pitches and exhibition sites are adequately controlled.
- 3.7 The conditions also have been reorganised and renumbered to guide licence holders through their responsibilities whilst away from the market and then from arrival at their pitch through to the end of their trading activities. They are considered appropriate, proportionate and enforceable.
- 3.8 For ease of reference, a table comparing the existing and proposed conditions and the reasons for any additional, varied or deleted condition is included as **Annex C** to the report.
- 3.9 Prior to prescribing any standard conditions or changing any condition, the Act requires that notice in writing is first given to all holders of street trading licences who could reasonably be expected to be affected by the proposed conditions or changes to the conditions, and also to any body which appears to the Council to represent such licence holders. The notice must give details of the proposed conditions or changes to the conditions and advise that any representations may be made by a specified date which may be no less than 28 days after the notice has been given.
- 3.10 It is proposed that notice will be given to all current holders of street trading licences, any individual to whom a street trading licence is granted prior to the deadline for the submission of representations and also the West End Street Trading Association (WESTA).
- 3.11 It is proposed that the notices will be sent out no later than 29 September 2016 and the specified date by which representations may be made will be 13 November 2016. It is considered that 6 weeks will be a sufficient amount of time to allow consideration of the proposed conditions and for the submission of any representations by those who will be consulted.
- 3.12 The outcome of the consultation process will be reported at a future Licensing Committee meeting and any person who made a representation will be invited to make oral representations to the Committee in accordance with section 10(5) of the Act. If, following the consideration of any representations, the Committee are minded to prescribe any new or varied standard conditions, they will become effective 35 days after the date on which they were prescribed.

4. Street Trading Penalty Point Scheme

- 4.1 On 01 August 1996, following agreement with all street trading associations, the Council introduced a penalty point scheme to deal with breaches of street trading and temporary licence conditions. It sets out the Council's staged approach to enforcement in an open and transparent way and is applied where other engagement activities to achieve compliance have failed.

- 4.2 The parameters of the current scheme, that became effective on 19 April 2005, are set out in **Annex D** to the report. Each licence condition has a prescribed number of points that will be allocated to a licence holder by the City Inspectors (Markets) if they breach that condition. The number of points that may be allocated is not discretionary so if a trader breaches a condition, only the prescribed number of points may be given. The process for allocating points and the appeal provisions are also set out in the scheme (**Annex D**) and this is reflected in Part III of the Council's street trading policy.
- 4.3 Where a licence holder receives 15 penalty points in a 6 month period, they will be given a written warning. Where a licence holder receives 25 points in a 6 month period, they will be required to attend a hearing before a Licensing Sub-Committee or Licensing Officer Panel where the revocation of their licence will be considered. All relevant matters will be taken in to consideration by the Sub-Committee or Panel when reaching their decision on the appropriate course of action and the mere fact that a licence holder has received 25 points does not fetter their discretion in any way.
- 4.4 The scheme has proved an effective enforcement tool and provides for a consistent approach to enforcement. It is therefore not proposed to change the principle of the scheme but any changes to the standard conditions will require that the scheme is modified accordingly and consultation with those that will be affected is required before doing so.
- 4.5 The table attached to the report as **Annex E** sets out the number of points that will be allocated to each of the proposed conditions and provides a comparison with the existing scheme. Instead of the number of penalty points ranging from 1 to 5 points as is currently the case, either 3 or 5 penalty points have been allocated to each condition depending on its seriousness.
- 4.6 The current scheme allows a trader to breach a "1 point" condition 15 times before a written warning is given but the modified allocation of points means that only three "5 point" conditions or five "3 point" conditions could be breached before the trader receives the written warning. Non-compliance can therefore be dealt with faster whilst still taking a staged approach to enforcement and giving sufficient opportunity for a trader to modify their operation and comply with their conditions.
- 4.7 It is proposed that the first three columns of the table attached as **Annex E** will form the new schedule to the penalty point scheme shown in **Annex D**. It is further proposed that in future, the scheme will be reviewed on a 5-yearly basis and revised as necessary. Consultation on the revised scheme will be undertaken at the same time as the consultation on the revised standard conditions and the outcome of the consultation will be reported at a future Licensing Committee meeting. The decision to modify the penalty point scheme will be decision for the Cabinet Member for Housing, Regeneration, Business and Economic Development however.

5. Financial Implications

- 5.1 Any costs associated with the consultation process will be covered by the existing licence fees.

6. Legal Implications

- 6.1 The City of Westminster Act 1999 sets out the statutory process that must be followed if the Council wishes to prescribe standard conditions. This is set out in paragraphs 3.9 and 3.12 above. The statutory process will be followed and full and proper consideration will be given to any representations received to avoid any judicial challenges.
- 6.2 Similarly, consultation with street traders will be undertaken on the revised penalty point scheme and any comments received will be taken in to consideration before the revised scheme is finalised to avoid any individual challenges where points are allocated.

7. Staffing Implications

- 7.1 The consultation processes will be undertaken by existing staff members. There are no further staffing implications resulting from this report.

8. Reason for Decision

- 8.1 The Council adopted its street trading policy in 2013. Certain provisions of the policy cannot be applied to street trading activities unless they are incorporated in to the conditions of the licence. The decision will allow the statutory consultation process to commence which is required prior to the existing conditions being changed.
- 8.2 The penalty point scheme will need to be updated to reflect any changes to the standard conditions but consultation with the trade will first be required. The decision will allow the consultation process to commence.

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.

Annexes

- Annex A - Standard Conditions that have applied to street trading licences since 15 March 1999
- Annex B - Proposed street trading standard conditions
- Annex C - Table comparing existing standard conditions with proposed standard conditions
- Annex D - Currently Penalty Point Scheme (Effective 19 April 2005.)
- Annex E - Comparison of existing Schedule to the Penalty Point Scheme with the Proposed Schedule to the Penalty Point Scheme

Background Papers

- City of Westminster Act 1999
- Westminster City Council's Street Trading Policy 2013



City of Westminster

REGULATIONS MADE BY THE WESTMINSTER CITY COUNCIL PURSUANT TO SECTION 27(3) OF THE LONDON LOCAL AUTHORITIES ACT 1990 PRESCRIBING STANDARD CONDITIONS APPLICABLE TO STREET TRADING LICENCES EFFECTIVE FROM 15 MARCH 1999

(These Standard Conditions remain in force and, with effect from 26 May 1999, apply to all street trading licences by virtue of the provisions of section 32(1) of the City of Westminster Act 1999).

- Definitions**
- 1 In the Regulations unless the context otherwise requires the following expressions shall have the following meanings:
- (i) “Street Trading” shall have the meaning ascribed in Section 21(1) of the London Local Authorities Act 1990.
 - (ii) “The Council” means the Westminster City Council.
 - (iii) “Licensed Street Trader” means any person who is licensed for street trading under Part III of the London Local Authorities Act 1990.
 - (iv) “Advertisement” means any word, letter, model, sign, placard, board, notice, whether illuminated or not, in the nature, and employed wholly or partly for the purposes of advertisement, announcement or direction and includes any hoarding or similar structure or any balloon used, or adapted for use for the display of advertisements, and references to the display of advertisement shall be constructed accordingly.
 - (v) “Assistant” means a person employed by and acting under the directions of a trader to assist him/her about the business of the stall and whose name and address has been notified to the City Council.
 - (vi) “Awning” means a sheet of canvas or other material, used as a protection against the weather, which projects as an extension of the roof beyond the structure of the stall.
 - (vii) “Goods” means any goods, wares or merchandise for sale at a stall.

- (viii) “Licensed street trading pitch” means a pitch in any street authorised as a place at which street trading may be engaged in by a street trader, and includes any temporary alternative place approved by the Council or a duly authorised officer of the Council.
- (ix) “Pitch Limits” means the authorised ground markings defining the area within which a street trading stall is to be contained.
- (x) “Refuse” includes any waste material.
- (xi) “Stall” means any structure used by a trader for the display of goods, or in connection with his or her business, and which occupies a licensed street trading pitch; and includes all goods offered or to be offered for sale and any additional structure or equipment used as part of the stall or business. On “isolated pitches” this also includes all rubbish created as a result of the business.
- (xii) “Premises” means any shop, house or block of flats immediately behind the licensed pitch.
- (xiii) “Trader” means a person in whose name a current licence is held authorising street trading from a licensed street trading pitch.

General

- 2 The grant of a street trading licence shall not be deemed to give any approval or consent which may be needed under any By-law, enactment or regulation other than Part III of the London Local Authorities Act 1990.

For the avoidance of doubt this includes the requirement to seek and obtain planning permission and/or advertisement consent.
- 3 The marginal notes inserted in these Regulations are inserted for the purpose of convenience only and shall not in any way affect the meaning or construction thereof.
- 4 (a) These conditions may be dispensed with or modified by the Council in any individual case by means of a licence variation in accordance with the statutory requirements.

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| | | (b) | Where in these conditions there is reference to the consent or agreement of the Council such consent or agreement may be given on such terms and conditions and subject to such restrictions as may be so specified. |
| | | (c) | If a trader wishes any of the terms of a licence to be varied or the Council's agreement under these rules application must be made in writing to the Council in accordance with the statutory requirements. |
| Change of Address | 5 | | Traders shall notify, in writing, the Council of any permanent change of address as soon as it occurs. |
| Position | 6 | | The trader shall trade only from the position which is indicated on the licence. |
| Size | 7 | | The trading area shall not exceed the dimensions specified on the licence and any pitch limits marked on the ground during trading hours except during immediate re-stocking. The width of the pitch at the Bayswater Road and Green Park Exhibition shall be eighteen inches from the back edge of the footway. |
| Commodities | 8 | | Only those goods specified on the licence may be sold on the licensed street trading pitch. |
| Days and Times | 9 | | Trading may only take place on the days and during the times specified on the licence. |
| Nature and Type of Receptacle | 10 | | Only those receptacles approved by an authorised officer of the Licensing Service shall be used by the trader. |
| Conduct | 11 | | Traders and any assistants employed by them shall ensure the public and Council officers are treated fairly and with courtesy. |
| | 12 | | Traders shall ensure that their staff are competent, courteous and helpful. |
| Display of Licence Plate etc. | 13 | | Traders shall at all times display a plate supplied by the Council indicating the licensed pitch number of the stall. This plate shall be kept prominently and permanently exhibited on the stall together with the name, or business name of the trader. |

- 14 No advertisement shall be displayed on the licensed pitch which relates to any goods, commodities or services other than those offered for sale or provided on that pitch.
- Refuse**
- 15 The trader shall ensure that all refuse arising as a result of the activities of the trader shall be placed in suitable covered containers approved by the Council and provided by the trader, unless otherwise provided by the Council, and shall be kept exclusively for that purpose. Such refuse containers shall be kept as clean as is reasonably possible.
- NOTE:** This condition shall not apply to licence holders at the Bayswater Road Exhibition and Green Park Exhibition unless the Council requires it in any particular case.
- 16 Refuse containers shall be emptied whenever necessary into any vehicle, container or compactor provided by the Council for that purpose.
- Sale of Food**
- 17 All traders operating stalls on which food is sold shall comply with the Food Safety Act 1990 and the Food Hygiene (Markets, Stalls and Delivery Vehicles) Regulations 1966.
- Safety of Equipment**
- 18 Heat producing equipment (e.g. braziers) shall be so placed within the trading area as to offer maximum safety to the public. The position of such equipment in relation to other goods or materials shall be agreed with the Council's officers.
- Services and Amenities**
- 19 The only connection between stalls on the footway and other stalls or premises shall be for the purposes of electric lighting or other agreed services; and any such electrical or other connections shall be readily detachable and the detailed arrangements agreed with the Council.
- 20 All electric power supplies shall have the appropriate consent from the Council before seeking installation from the LEB.
- 21 All electrical cables that are suspended over the public footway shall have a minimum clearance of 2.6m (8'6") from the footway surface, and 5.1m (18'6") from the surface of the carriageway.

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| | 22 | Where mobile electrical generators are employed they shall be so positioned that: |
| | | (a) they do not present a danger to the passing public; |
| | | (b) they do not present a fire or similar hazard risk to the stall or goods displayed thereon; |
| | | (c) they do not cause any noise or fume nuisance; |
| | | (d) any inflammable fuel is stored away from the stall in a London Fire Brigade approved container. |
| | 23 | All electrical wiring and components shall comply with the basic LEB specification and be earthed and insulated accordingly. Electrical power shall only be used for the purposes of lighting and the operation of electrical scales and tills and the testing of electrical goods. |
| Head Room | 24 | The distance above ground level of any part of any roof, awning, or supports of the stall or goods suspended from any of these, shall (unless a dispensation has been granted by the Council) be at least 2.6m (8'6"). The roof awning or any other projection shall be contained within the pitch area unless agreed by the Council. |
| | | At the Bayswater Road and Green Park Exhibitions awnings with a minimum height of 6 feet 6 inches and a maximum height of 9 feet will be permitted provided they are made of soft materials. The maximum forward projection of such awnings over the footway shall be 3 feet 6 inches at the Green Park Exhibition and 3 feet at the Bayswater Road Exhibition and no awning shall come within 3 feet of the kerb. |
| Limits of Display etc | 25 | All goods, containers (except refuse containers used solely for the purpose) or other articles shall be contained within the licensed pitch area and height and shall not project beyond. |
| Removal | 26 | Stalls shall be easily and immediately removable. |
| | 27 | Traders or their assistants shall remove the stall and goods for so long as may be necessary in the event of an emergency or in exercise of the Council's powers and duties, if reasonably required to do so by a police officer or a duly authorised officer of the Council. |

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| | 28 | Stalls and goods shall be removed from the public highway to the place of storage, as stated on the application form, or such other alternative place subsequently agreed by the Council in writing, within one and a half hours of either the time prescribed on the licence for the end of trading on that day or the time trading actually ceases (unless consent has been granted for a later removal time) whichever is the earlier provided that all stalls and goods shall be removed from Rupert Street Market by 6.30pm. | | | | | | | | | | | | | | | | | | | | | |
| Traders' Vehicle | 29 | A licensed trader shall not leave his vehicle in the street in which he trades, apart from in approved parking spaces such as meter bays, except for the purpose of loading and unloading goods. Such loading and unloading shall be carried out as quickly as possible and the vehicle removed immediately on completion. This condition shall not apply when waiting restrictions are not in force. | | | | | | | | | | | | | | | | | | | | | |
| Damage | 30 | Traders must not intentionally permit stalls or accessories to cause damage to the carriageway or footway. | | | | | | | | | | | | | | | | | | | | | |
| Assistance to Council Officers | 31 | Traders shall give every assistance to Council officers in carrying out their duties. | | | | | | | | | | | | | | | | | | | | | |
| Storage | 32 | Traders shall notify the Council in writing of any change of address or addresses at which the stall and perishable goods are stored. Such notice shall be given within 7 days of the change. | | | | | | | | | | | | | | | | | | | | | |
| Change of Assistant | 33 | Traders shall, if required, notify the Council in writing of the name of any assistant which they employ on the stall; details of any change of assistant or any other relevant information regarding assistants. | | | | | | | | | | | | | | | | | | | | | |
| Commencement Times | 34 | <p>Bayswater Road and Green Park Exhibitions Licensed exhibitors shall not begin setting up their pitches before 7am but shall have their exhibits in place by 10.30am.</p> <p>All Other Pitches Permanent traders shall have arrived at their pitches, put their stalls in position and started setting up by the following times:</p> <table border="0"> <tr> <td>Bell Street</td> <td>:</td> <td>9.00am</td> </tr> <tr> <td>Church Street</td> <td>:</td> <td>9.00am</td> </tr> <tr> <td></td> <td></td> <td>(10.00 am Sunday)</td> </tr> <tr> <td>Berwick Street</td> <td>:</td> <td>10.00am</td> </tr> <tr> <td>Rupert Street</td> <td>:</td> <td>10.00am</td> </tr> <tr> <td>Strutton Ground</td> <td>:</td> <td>11.00am</td> </tr> <tr> <td>Tachbrook Street</td> <td>:</td> <td>10.00am</td> </tr> </table> | Bell Street | : | 9.00am | Church Street | : | 9.00am | | | (10.00 am Sunday) | Berwick Street | : | 10.00am | Rupert Street | : | 10.00am | Strutton Ground | : | 11.00am | Tachbrook Street | : | 10.00am |
| Bell Street | : | 9.00am | | | | | | | | | | | | | | | | | | | | | |
| Church Street | : | 9.00am | | | | | | | | | | | | | | | | | | | | | |
| | | (10.00 am Sunday) | | | | | | | | | | | | | | | | | | | | | |
| Berwick Street | : | 10.00am | | | | | | | | | | | | | | | | | | | | | |
| Rupert Street | : | 10.00am | | | | | | | | | | | | | | | | | | | | | |
| Strutton Ground | : | 11.00am | | | | | | | | | | | | | | | | | | | | | |
| Tachbrook Street | : | 10.00am | | | | | | | | | | | | | | | | | | | | | |

If the pitch is not utilised by the licensed trader by the above time without the prior approval of the Council or its representative, the Council may at its discretion re-let the pitch for that day.

Note: It is the Council's policy normally to only re-let pitches in its street markets.

All traders shall have commenced trading, with all goods contained within the pitch area within one hour of the time shown above and in the case of Strutton Ground all traders vehicles shall be out of the market by 11.30am.

Traders shall not commence setting up their pitches before 7am on weekdays and 8am on Sundays.

Radios, Etc. 35 Traders shall not use or permit to be used on the licensed area or within the immediate vicinity any radio, cassette player or other equipment or apparatus to produce music or other sound except within a closed vehicle and at a reasonable volume.

Insurance 36 Traders shall take out third party insurance cover with a minimum liability of at least £2,000,000 or to the cover mutually agreed between the Council and the relevant street traders or exhibitors' Association.

Own Work 37 **Bayswater Road Exhibition only**
Subject to any personal dispensation which may have been granted to individual traders, all exhibitors must display in a prominent position so that it may easily be read by potential customers a notice indicating that all works of art and craft on display or for sale are entirely the original works of the trader licensed for that pitch.

For avoidance of doubt, the reference to original work shall not include copies or prints or reproductions of any kind.

NOTES:

- (i) Licensees should also be aware that the display of such a notice would constitute an offence contrary to Section 1 of the Trade Descriptions Act 1968 if the indication given is false. Such a notice must not be displayed unless the works on display or for sale conform to the indication given in the notice.

- (ii) A failure to display the notice as required by the condition will be taken into account by the Council if allegations are made to the effect that the works on display or for sale are not the original works of the trader concerned.

- (iii) Inspection will be carried out on a regular basis by consumer protection officers so as to ensure compliance with the Trade Descriptions Act 1968. The display of a notice in breach of the terms of that Act is likely to result in the institution of prosecution proceedings and may lead to revocation of the licence.



City of Westminster

STANDARD CONDITIONS PRESCRIBED BY THE WESTMINSTER CITY COUNCIL PURSUANT TO SECTION 10(1) OF THE CITY OF WESTMINSTER ACT 1999 THAT ARE APPLICABLE TO STREET TRADING LICENCES AS AND FROM *****

Definitions

In the conditions unless the context otherwise requires the following expressions shall have the following meanings:

- (i) “Street Trading” shall have the meaning ascribed in Section 2 of the City of Westminster Act 1999
- (ii) “The Council” means the Westminster City Council.
- (iii) “Licensed Street Trader” or “Trader” means the person who is licensed under Section 21 of the City of Westminster Act 1999 to carry-on street trading.
- (iv) “Advertisement” means any word, letter, model, sign, placard, board, notice, whether illuminated or not, in the nature, and employed wholly or partly for the purposes of advertisement, announcement or direction and includes any hoarding or similar structure or any balloon used, or adapted for use for the display of advertisements, and references to the display of advertisement shall be constructed accordingly.
- (v) “Awning” means a sheet of canvas or other material, used as a protection against the weather, which projects as an extension of the roof beyond the structure of the stall.
- (vi) “Counterfeit” means any goods bearing a mark identical to or likely to be mistaken for a registered name, mark or logo which has been produced without the authorisation of the registered trade mark holder.
- (vii) “Electrical Supply” means either an electrical supply in the vicinity of a licensed pitch that is accessible through an electricity supply point provided by the Council or an electrical supply of a nearby premises.
- (viii) “Goods” means any goods, wares, merchandise or other articles that are offered, displayed or exposed or possessed for sale or supply on a stall.

- (ix) “Licensed street trading pitch” means a pitch in any street authorised as a place at which a street trader may engage in street trading, and includes any temporary alternative place approved by the Council or a duly authorised officer of the Council.
- (x) “Pitch Limits” means the authorised ground markings defining the area within which a street trading stall is to be contained.
- (xi) “Premises” means any business, residential or vacant premises immediately behind the licensed pitch.
- (xii) “Receptacle” or “Stall” means any structure occupying a licensed street trading pitch that is used by the trader for the display of goods or in connection with his or her business and includes all goods offered or to be offered for sale and any additional structure or equipment used as part of the stall or business. On “isolated pitches” this also includes all rubbish created as a result of the business.
- (xiii) “Refuse” includes any waste material.
- (xiv) “Registered Assistant” or “Assistant” means a person who the trader has registered with the Council as an assistant to assist them in the business of the stall.
- (xv) “Service” means a service offered for gain or reward.

Change of Details

- 1 The trader shall notify the Council in writing of any permanent change of their name, address, telephone number and/or e-mail address within 7 days of the change occurring.

Storage

- 2 The trader shall provide suitable and adequate premises for the storage of their receptacle when trading is not taking place.

The trader shall provide suitable and adequate provision for the storage of any perishable goods whilst at the licensed pitch, transporting the goods to/from the licensed pitch and away from the licensed pitch when trading is not taking place.

The trader shall notify the Council in writing of any change of address or addresses at which the stall and perishable goods are stored when trading is not taking place within 7 days of the change occurring.

- Registered Assistants**
- 3 At any one time, the licence holder shall have no more than three assistants registered with the Council per licensed pitch.
- 4 The trader shall provide the Council with written notification of any change in the name, address and/or telephone number of any of their registered assistants within 7 days of the change occurring.
- 5 The trader shall notify the Council in writing if a registered assistant ceases to work for them within 7 days of them ceasing.

- Attendance**
- 6 No trading shall take place unless the trader or a registered assistant is present on the stall.

NOTE:

It is the obligation of the trader to make full personal use of the street trading licence which means that the licensed trader must personally attend at the stall during the hours and on the days that the licence authorises street trading to be carried on. A registered assistant can be present when the trader is temporarily unable to attend at the stall or if the trader can provide exceptional reasons as to why he or she was unable to be present for a longer period but a failure to make full personal use of the licence is a ground for revoking the street trading licence in its own right.

- 7 All registered assistants shall carry photographic identification, such as their Passport, Photo-card Driving Licence or National Identity Card, when working under this licence. The assistant shall produce their photographic identification for inspection by a Council Officer on request.

- Days and Times**
- 8 Trading shall only take place on the days and during the times specified on the licence.

- Trading Location**
- 9 Trading shall only take place at the location stated on the licence or other such temporary location agreed with the Council.

- Commodities**
- 10 Only those goods specified on the licence shall be sold, offered for sale, displayed or exposed for sale, and only those services specified on the licence shall be supplied or offered for supply on the licensed street trading pitch.

- 11 The trader shall ensure that there are no counterfeit goods present on the pitch or in any associated storage facilities.
- 12 The trader shall keep a record of the name, address and contact number of the suppliers of their goods, such that the supplier of any item on the pitch can be contacted if required. The suppliers' contact details shall be provided to a Council Officer on request.
- Nature and Type of Receptacle**
- 13 The trader shall only trade from a receptacle that has been approved by an authorised officer of the Licensing Service and that is set-up in accordance with the approved design and layout. The trader shall maintain their receptacle to minimise any deterioration in its appearance following the approval by the Licensing Service and shall remove any defacement from their receptacle as soon as is reasonably practicable.
- 14 Receptacles used for the sale of food shall be maintained and regularly cleaned to ensure that food is protected from risk of contamination.
- Insurance**
- 15 The trader shall have third party public liability insurance cover that is effective throughout the time that the licence is in effect that covers the trader and all registered assistants whilst working on the stall. The insurance cover shall have a minimum liability of £2,000,000 or to the cover mutually agreed between the Council and the relevant street traders' or exhibitors' Association.
- 16 No trading shall take place unless a copy of the current public liability insurance certificate or other similar evidence that proves the existence of the effective policy is available on the stall. The copy of the insurance policy certificate, or similar evidence, shall be made immediately available for inspection by a Council Officer on request.
- Commencement Times**
- 17 **Bayswater Road and Green Park Exhibitions**
Licensed exhibitors shall not begin setting up their pitches before 7am but shall have their exhibits in place no later than 10.30am on the days that they are licensed to trade.

All Other Pitches

The trader shall not commence setting up their pitch before 7am on weekdays & Saturdays or before 8am on Sundays.

When trading at the following location, the trader shall have arrived at their pitch, put their stall in position and started setting up by the following times:

Bell Street : 09.00am
Church Street : 09.00am
Berwick Street : 10.00am
Maida Hill : 10.00am
Rupert Street : 10.00am
Strutton Ground : 11.00am
Tachbrook Street : 10.00am

The trader shall have commenced trading with all goods contained within the pitch area within one hour of the times set out above.

Size and Set-up of Stall

18 The trading area shall not exceed the dimensions specified on the licence and where applicable, any pitch limits marked on the ground, except during immediate re-stocking of the stall. The width of the pitch at the Bayswater Road and Green Park Exhibition shall be eighteen inches from the back edge of the footway.

All goods, containers (except refuse containers used solely for the purpose) and other articles shall be contained within the licensed pitch area and height and shall not project beyond.

19 The trader shall not connect any part of their stall, advertisements or goods for sale to any other stall or to any electricity bollard, socket pillar, lamp post or other street furniture, except for an electric cable connected to an electrical supply point.

20 No barriers shall be used on or around a licensed pitch unless specific consent for their use has been obtained from the Council

Head Room

21 **At the Bayswater Road and Green Park Exhibitions** awnings with a minimum height of 6 feet 6 inches and a maximum height of 9 feet shall be permitted provided they are made of soft materials. The maximum forward projection of such awnings over the footway shall be 3 feet 6 inches at the Green Park Exhibition and 3 feet at the Bayswater Road Exhibition. No awning shall come within 3 feet of the kerb.

- Display of Licence Plate etc.**
- 22 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.
- 23 The trader shall, at all times that they are trading, display a plate supplied by the Council indicating the licensed pitch number of the stall. This plate shall be kept prominently exhibited on the stall together with the name or business name of the trader.
- Pricing**
- 24 The trader shall ensure that all goods displayed on the pitch or services offered on the pitch are priced in such a manner that customers can determine their price without assistance from the trader.
- Notices & Advertisements**
- 25 All advertisements shall be located within the licensed pitch and shall occupy no more than 10% of the surface area of each side of the stall. Advertisements on low screens, aprons or valances below table top level shall occupy no more than 10% of each panel.
- 26 The name of the stall and goods or services on offer shall only be displayed:
- (i) In the case of a kiosk or mobile stall, on a frieze or similar designed high-level place that is equivalent to a fascia sign on a shop front.
 - (ii) In the case of a gazebo, tensioned stall roof or umbrella with a valance, on the valance or on a board inside the stall.
- 27 No advertisement shall be displayed on the licensed pitch that relates to any goods, commodities or services other than those offered for sale or provided on that pitch.
- 28 No advertisements comprising of three-dimensional representations of products (such as, but not limited to, replica ice cream cones, coffee cups or chocolate bars), shall be displayed on the stall.
- 29 No free-standing advertisements shall be located outside of the pitch area.
- 30 No A-board or other free-standing advertisement shall be located within the licensed pitch unless it is part of the stall design that has been approved by the Council.

31 No notices shall be displayed in the licensed pitch that would restrict a consumer's statutory rights, such as "No refunds" or "No returns".

32 **Bayswater Road Exhibition only – Own Work**
Subject to any personal dispensation which may have been granted to individual traders, the exhibitor shall display a notice indicating that all works of art and craft on display or for sale are entirely the original works of the trader licensed for that pitch. This notice shall be displayed in a prominent position so that it may easily be read by potential customers at all times that the trader is trading.

For avoidance of doubt, the reference to original work shall not include copies or prints or reproductions of any kind.

Traders' Vehicle

33 **Markets**
When trading on the Berwick Street, Maida Hill, Rupert Street, Strutton Ground and Tachbrook Street markets, the trader shall remove their vehicles, unless they are the licensed receptacles, and all other items used for the setup of the stall by the time prescribed in any relevant traffic management order for the pedestrianisation of the street.

When trading on the Church Street market, the trader shall remove their vehicles, unless they are the licensed receptacles, and all other items used for the setup of the stall by 10 am.

Prior to the time prescribed in the relevant traffic management order for the pedestrianisation of the street or 10am in the case of the Church Street market, the trader shall not leave their vehicle in the street in which they trade unless the vehicle is:

- i) the licensed receptacle;
- ii) parked in approved parking spaces such as meter bays; or
- iii) temporarily parked for the purpose of loading and unloading goods during the set-up of the stall.

Loading and unloading shall be carried out as quickly as possible and the vehicle shall be removed immediately on completion.

The trader shall not return their vehicle to the market until 4pm or the time period prescribed in the relevant traffic management order for the pedestrianisation of the street has ended, whichever is later.

Other traders

The trader shall not leave his vehicle in the street in which he trades unless the vehicle is:

- (i) the licensed receptacle;
- (ii) temporarily parked for the purpose of loading and unloading goods during the set-up of the stall; or
- (iii) parked in approved parking spaces such as meter bays.

Loading and unloading shall be carried out as quickly as possible and the vehicle shall be removed immediately on completion.

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| Sale of Food | 34 | No trading shall take place that involves the sale of food unless the trader is complying with all current food safety and food standards legislation. |
| | 35 | If authorised to sell food, the trader shall provide a First Aid box on their stall that is readily available for use at all times that they are trading. |
| Health & Safety | 36 | The trader must ensure the safety of themselves and other users of the market and must comply with all relevant and current legal requirements for health and safety (including, but not limited to, those relating to electrical, gas and fire safety). |
| Safety of Equipment | 37 | Heat producing equipment (e.g. braziers) shall be so placed within the trading area as to offer maximum safety to the public. The position of such equipment in relation to other goods or materials shall be agreed with the Council's officers. |
| Services and Amenities | 38 | Where an electrical supply has been provided by the Council for use by the trader: <ul style="list-style-type: none">(i) No electrical supply other than that provided by the Council shall be used by the trader on the stall;(ii) The trader shall ensure that all electrical equipment in use on the stall is compatible with the electrical supply and does not either individually or in combination, exceed the rating (maximum amperage) of the supply;(iii) The trader shall be liable for the fees incurred in their use of the electrical supply and shall pay all such fees within 4 weeks of them becoming due;(iv) The trader and their assistant(s) shall take care when using or working nearby any electrical supply point. The trader shall be liable for any costs incurred in repairing electrical supply points due to their or their assistants' reckless behaviour or deliberate misuse of the electrical supply. |

- 39 The trader shall only use the electrical supply of a premises where no electrical supply point is provided by the Council. In such cases:
- (i) the trader shall obtain the written consent of the bill payer and the Council in advance of connecting to the supply;
 - (ii) all supply lines shall be overhead with clearance of at least 2.6m and no cables shall be trailed along the ground;
 - (iii) the trader shall ensure that their supply lines are securely installed and suitably protected from damage and water ingress.

40 A generator shall only be used where no electricity supply has been provided by the Council and the Council has given consent for the use of a generator by the trader. In such cases, only a diesel-powered generator shall be used. The generator shall be located within the licensed pitch and so positioned that:

- (i) it is not accessible by the public and does not present a danger to the passing public;
- (ii) It is kept away from combustible materials and is provided with adequate ventilation;
- (iii) it does not present a fire or similar hazard risk to the stall or goods displayed thereon; and
- (iv) it does not cause any noise or fume nuisance.

When refuelling fuel tanks, the generator shall be switched off, all persons shall be moved away from the generator and a fire extinguisher shall be positioned near to the generator.

Only one fuel-can with a capacity of no more than 5 litres shall be stored in the licensed pitch at any one time. It shall be of an approved type for carrying fuel oil. The can shall be stored away from any possible heat source.

Electrical Safety

41 All electrical connections shall comply with the current edition of the Institute of Engineering & Technology (IET) Wiring Regulations. The equipment shall be constructed and maintained to prevent danger in compliance with the Electricity at Work Regulations 1989, or any Act/Regulations amending or replacing the same. Appropriate safety devices such as 30mA Residual Current Devices shall be used where necessary, particularly where the electrical equipment will be exposed to adverse conditions or will be used in association with hand held devices.

The trader shall arrange for all electrical equipment 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.

Gas Safety

- 42 The trader 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 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.

- 43 All LPG cylinders, regulators and change-over devices shall be located in the open air or housed in a separate well ventilated, fire-resistance compartment. Any such compartment shall be ventilated at low level to the external air and shall have an exclusive access from outside the receptacle to enable safe access to shut off the cylinders in case of fire. The compartment shall be clearly marked "LPG – Highly Flammable – No Smoking".

Cylinders shall be stored well away from drains, waste water pits and soak-a-ways and shall be protected from tampering and/or accidental damage. Pipes, fittings and fixtures shall be provided with appropriate compression crimped joints. No slip-on rubber hosing shall be used without means of securing them and no hosing secured by work-drive "jubilee clip" type fittings shall be used.

Fire Safety

- 44 No trading shall take place unless adequate fire fighting equipment is provided on the stall that is appropriate for the goods on sale, equipment in use and size of the stall. The trader shall provide as a minimum:
- (i) a Class A fire extinguisher of at least 4.5ltrs if they are authorised to sell non-food commodities;
 - (ii) a fire blanket and a Class B extinguisher (Foam or Dry Powder, as appropriate) of at least 4kg/4lt size if they are authorised to use cooking facilities;

- (iii) a class F type fire extinguisher if they are authorised to use a deep fat fryer;
- (iv) a dry powder or carbon dioxide fire extinguisher with a capacity of 4kg if they have received consent from the Council to use a generator.

The trader shall ensure that all fire fighting equipment has been adequately tested by a competent person and is in good working order.

45 The trader shall be familiar with the operation of their fire safety equipment and shall position it on the stall so that it is readily available for use at all times that they are trading.

46 The trader shall ensure that their assistants are all aware of what to do in the event of a fire.

47 The trader shall keep the pitch clean and tidy and shall avoid a build-up of combustible materials.

Conduct

48 The trader and their assistants shall treat the public and Council Officers fairly and with courtesy.

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:

- (i) Indecent behaviour towards the public or other traders;
- (ii) Acts of violence against any person (including other traders) 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 trader;
- (v) Touching, moving or interfering with another trader's stall.

Assistance to Council Officers

50 The trader and their assistants shall give every assistance to Council Officers in carrying out their duties.

Radios, Etc.

51 The trader shall not use or permit to be used on the licensed area or within the immediate vicinity any radio or other equipment or apparatus to produce music or other amplified sound except within a closed vehicle and at a reasonable level.

Damage

52 The trader shall not intentionally permit their stall or accessories to cause damage to the carriageway or footway and shall leave the trading pitch in a clean condition at the end of each trading period.

Refuse

- 53 The trader shall ensure that all refuse arising as a result of their activities, including waste water and oil, is placed in suitable covered containers that are kept exclusively for that purpose and that approved by the Council. Such refuse containers shall be provided by the trader, unless otherwise provided by the Council, and shall be kept as clean as is reasonably possible.

NOTE: This condition shall not apply to licence holders at the Bayswater Road Exhibition and Green Park Exhibition unless the Council requires it in any particular case.

- 54 Refuse containers for any non-liquid waste shall be emptied whenever necessary into any vehicle, container or compactor provided by the Council for that purpose. Refuse containers for waste water and oil shall be removed by the trader at the end of their trading period for disposal.

Removal

- 55 The trader or their assistants shall remove the stall and goods for so long as may be necessary in the event of an emergency or in exercise of the Council's powers and duties when reasonably required to do so by a duly authorised officer of the Council, a police officer or an officer of any other emergency service.

- 56 When trading on the Church Street, Berwick Street, Maida Hill, Rupert Street, Strutton Ground or Tachbrook Street markets, the trader shall not remove their receptacle from the licensed pitch until 4pm on any day that they are trading, unless they are required to do so by a Council Officer or an Officer of an emergency service.

- 57 Unless trading on Rupert Street, the trader shall remove their stall and goods from the public highway to the place of storage, as stated on the application form or such other alternative place subsequently agreed by the Council in writing, within one and a half hours of either the time prescribed on the licence for the end of trading on that day or the time trading actually ceases (whichever is the earlier) unless prior consent has been granted by the Council for a later removal time or for the receptacle to remain in situ between consecutive trading periods.

If trading on Rupert Street, the trader shall remove their stall and goods from the public highway to the place of storage, as stated on the application form or such other alternative place subsequently agreed by the Council in writing, no later than 6.30pm.

Informatives

General

- 1 The grant of a temporary street trading licence shall not be deemed to give any approval or consent which may be needed under any By-law, enactment or regulation other than Section 21 of the City of Westminster Act 1999.

For the avoidance of doubt this includes the requirement to seek and obtain planning permission and/or advertisement consent.

- 2 The marginal subtitles inserted in these conditions are for the purpose of convenience only and shall not in any way affect the meaning or construction thereof.

- 3 These conditions may be dispensed with or modified by the Council in any individual case by means of a licence variation in accordance with the statutory requirements.

- 4 Where in these conditions there is reference to the consent or agreement of the Council such consent or agreement may be given on such terms and conditions and subject to such restrictions as may be so specified.

- 5 If a trader wishes any of the terms of a licence to be varied or the Council's agreement under these rules application must be made in writing to the Council in accordance with the statutory requirements.

Advertisements

- 6 No illuminated advertisement shall be displayed on the outside of the stall or kiosk without an express consent under the Town and Country Planning (Control of Advertisements)(England) Regulations 2007

Re-letting of Pitches

- 7 If the pitch is not utilised by the licensed trader by the times set out in the standard conditions without the prior approval of the Council or its representative, the Council may at its discretion re-let the pitch for that day.

Note: It is the Council's policy normally to only re-let pitches in its street markets.

Services and Amenities

- 8 All electrical supply points provided by the Council for use by the trader shall remain the property and responsibility of the Council or its representatives.

Annex C

| | Existing Condition No. | Existing Condition | Proposed Condition No. | Proposed Condition | Reason for Amendment/Insertion |
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| Definitions | | In the Regulations unless the context otherwise requires the following expressions shall have the following meanings: | | In the conditions unless the context otherwise requires the following expressions shall have the following meanings: | |
| | (i) | "Street Trading" shall have the meaning ascribed in Section 21(1) of the London Local Authorities Act 1990. | (i) | "Street Trading" shall have the meaning ascribed in Section 2 of the City of Westminster Act 1999 | Part III of the London Local Authorities Act 1990 ceased to have effect in the City of Westminster on commencement of the City of Westminster Act 1999. All licences granted under the 1990 Act are now deemed to be granted under the 1999 Act by virtue of section 32(1) of the City of Westminster Act 1999. |
| | (ii) | "The Council" means the Westminster City Council. | (ii) | "The Council" means the Westminster City Council. | |
| | (iii) | "Licensed Street Trader" means any person who is licensed for street trading under Part III of the London Local Authorities Act 1990. | (iii) | "Licensed Street Trader" or "Trader" means the person who is licensed under Section 21 of the City of Westminster Act 1999 to carry-on street trading. | All traders are now deemed to be licensed under the City of Westminster Act 1999. |
| | (xiii) | "Trader" means a person in whose name a current licence is held authorising street trading from a licensed street trading pitch. | | | |
| | (iv) | "Advertisement" means any word, letter, model, sign, placard, board, notice, whether illuminated or not, in the nature, and employed wholly or partly for the purposes of advertisement, announcement or direction and includes any hoarding or similar structure or any balloon used, or adapted for use for the display of advertisements, and references to the display of advertisement shall be constructed accordingly. | (iv) | "Advertisement" means any word, letter, model, sign, placard, board, notice, whether illuminated or not, in the nature, and employed wholly or partly for the purposes of advertisement, announcement or direction and includes any hoarding or similar structure or any balloon used, or adapted for use for the display of advertisements, and references to the display of advertisement shall be constructed accordingly. | |

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| | (vi) | “Awning” means a sheet of canvas or other material, used as a protection against the weather, which projects as an extension of the roof beyond the structure of the stall. | (v) | “Awning” means a sheet of canvas or other material, used as a protection against the weather, which projects as an extension of the roof beyond the structure of the stall. | |
| | | | (vi) | “Counterfeit” means any goods bearing a mark identical to or likely to be mistaken for a registered name, mark or logo which has been produced without the authorisation of the registered trade mark holder. | The conditions now make reference to counterfeit goods on the advice of Environmental Health. |
| | - | - | (vii) | “Electrical Supply” means either an electrical supply in the vicinity of a licensed pitch that is accessible through an electricity supply point provided by the Council or an electrical supply of a nearby premises. | The proposed conditions cover the use of electricity by licence holders as set out in Policy ST11 of the Street Trading Policy. |
| | (vii) | “Goods” means any goods, wares or merchandise for sale at a stall. | (viii) | “Goods” means any goods, wares, merchandise or other articles that are offered, displayed or exposed for sale on a stall. | The statutory definition of street trading includes goods that are “ <i>offered, displayed or exposed for sale on a stall</i> ” |
| | (viii) | “Licensed street trading pitch” means a pitch in any street authorised as a place at which street trading may be engaged in by a street trader, and includes any temporary alternative place approved by the Council or a duly authorised officer of the Council. | (ix) | “Licensed street trading pitch” means a pitch in any street authorised as a place at which a street trader may engage in street trading, and includes any temporary alternative place approved by the Council or a duly authorised officer of the Council. | |
| | (ix) | “Pitch Limits” means the authorised ground markings defining the area within which a street trading stall is to be contained. | (x) | “Pitch Limits” means the authorised ground markings defining the area within which a street trading stall is to be contained. | |
| | (xii) | “Premises” means any shop, house or block of flats immediately behind the licensed pitch. | (xi) | “Premises” means any business, residential or vacant premises immediately behind the licensed pitch. | The type of premises that a trader may make a connection to in order to access an electrical supply may not be limited to a shop house or block of flats. |

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| | (xi) | “Stall” means any structure used by a trader for the display of goods, or in connection with his or her business, and which occupies a licensed street trading pitch; and includes all goods offered or to be offered for sale and any additional structure or equipment used as part of the stall or business. On “isolated pitches” this also includes all rubbish created as a result of the business. | (xii) | “Receptacle” or “Stall” means any structure occupying a licensed street trading pitch that is used by the trader for the display of goods or in connection with his or her business and includes all goods offered or to be offered for sale and any additional structure or equipment used as part of the stall or business. On “isolated pitches” this also includes all rubbish created as a result of the business. | The conditions refer to “receptacle” which has the same meaning as “stall”. |
| | (x) | “Refuse” includes any waste material. | (xiii) | “Refuse” includes any waste material. | |
| | (v) | “Assistant” means a person employed by and acting under the directions of a trader to assist him/her about the business of the stall and whose name and address has been notified to the City Council. | (xiv) | “Registered Assistant” or “Assistant” means a person who the trader has registered with the Council as an assistant to assist them in the business of the stall. | The proposed conditions require that assistants are registered with the Council in accordance with policy ST10. |
| | - | - | (xv) | “Service” means a service offered for gain or reward. | The conditions now refer to services as the statutory definition of street trading includes these. |
| Change of Details | 5 | Traders shall notify, in writing, the Council of any permanent change of address as soon as it occurs. | 1 | The trader shall notify the Council in writing of any permanent change of their name, address, telephone number and/or e-mail address within 7 days of the change occurring. | The Council needs to be able to contact and communicate with traders so correct contact details are essential. Allowing 7 days to notify the Council seems a more realistic expectation. |
| Storage | 32 | Traders shall notify the Council in writing of any change of address or addresses at which the stall and perishable goods are stored. Such notice shall be given within 7 days of the change. | 2 | The trader shall provide suitable and adequate premises for the storage of their receptacle when trading is not taking place. The trader shall provide suitable and adequate provision for the storage of any perishable goods whilst at the licensed pitch, transporting the goods to/from the licensed pitch and away from the licensed pitch when trading is not taking place. | The requirement to provided suitable and adequate storage has been inserted on the advice of Environmental Health. |

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| | | | | The trader shall notify the Council in writing of any change of address or addresses at which the stall and perishable goods are stored when trading is not taking place within 7 days of the change occurring. | |
| Registered Assistants | - | - | 3 | At any one time, the licence holder shall have no more than three assistants registered with the Council per licensed pitch. | This is prescribed in the criteria under Policy ST10. |
| | 33 | Traders shall, if required, notify the Council in writing of the name of any assistant which they employ on the stall; details of any change of assistant or any other relevant information regarding assistants. | 4 | The trader shall provide the Council with written notification of any change in the name, address and/or telephone number of any of their registered assistants within 7 days of the change occurring. | Contact details for assistants are required as part of the registration process. These should be updated when changes occur so that assistants can be contacted when necessary. |
| | - | - | 5 | The trader shall notify the Council in writing if a registered assistant ceases to work for them within 7 days of them ceasing. | This will prevent assistants who no longer work for a trader attempting to engage in unlawful street trading. |
| Attendance | - | | 6 | No trading shall take place unless the trader or a registered assistant is present on the stall. | This is prescribed in Policy ST10(ii) |
| | - | - | 7 | All registered assistants shall carry photographic identification, such as their Passport, Photo-card Driving Licence or National Identity Card, when working under this licence. The assistant shall produce their photographic identification for inspection by a Council Officer on request. | The criteria under Policy ST10 require that assistants show registration cards when trading. Such cards are not currently issued and therefore alternative identification is required to prove their identity when trading. |
| Days and Times | 9 | Trading may only take place on the days and during the times specified on the licence. | 8 | Trading shall only take place on the days and during the times specified on the licence. | |
| Trading Location | 6 | The trader shall trade only from the position which is indicated on the licence. | 9 | Trading shall only take place at the location stated on the licence or other such temporary location agreed with the Council. | This gives scope for a temporary move of trading location where pitches are obstructed, without the trader breaching the condition of their licence. |

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| Commodities | 8 | Only those goods specified on the licence may be sold on the licensed street trading pitch. | 10 | Only those goods specified on the licence shall be sold, offered for sale, displayed or exposed for sale, and only those services specified on the licence shall be supplied or offered for supply on the licensed street trading pitch. | The statutory definition of street trading includes services so the services that may be provided should be limited to those specified on the licence in the say way as the commodities are restricted. |
| | | | 11 | The trader shall ensure that there are no counterfeit goods present on the pitch or in any associated storage facilities. | This condition has been included following an investigation by the Trading Standards service in to the sale of counterfeit goods on the markets which resulted in the revocation of a number of licences. |
| | | | 12 | The trader shall keep a record of the name, address and contact number of the suppliers of their goods, such that the supplier of any item on the pitch can be contacted if required. The suppliers' contact details shall be provided to a Council Officer on request. | This condition has been included on advice of Trading Standards to assist with any investigation in to the sale of counterfeit goods. |
| Nature and Type of Receptacle | 10 | Only those receptacles approved by an authorised officer of the Licensing Service shall be used by the trader. | 13 | The trader shall only trade from a receptacle that has been approved by an authorised officer of the Licensing Service and that is set-up in accordance with the approved design and layout. The trader shall maintain their receptacle to minimise any deterioration in its appearance following the approval by the Licensing Service and shall remove any defacement from their receptacle as soon as is reasonably practicable. | Stalls are required to be sturdy and weighted down to withstand poor weather conditions. As a result, most stalls are not immediately removable. The condition requiring this has therefore been removed. The requirement to maintain stalls has been included to ensure that licence holders take responsibility for the appearance of their stalls once licensed. |
| | 26 | Stalls shall be easily and immediately removable. | | | |
| | | | 14 | Receptacles used for the sale of food shall be maintained and regularly cleaned to ensure that food is protected from risk of contamination. | This condition has been included on the advice of Environmental Health |

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| Insurance | 36 | Traders shall take out third party insurance cover with a minimum liability of at least £2,000,000 or to the cover mutually agreed between the Council and the relevant street traders or exhibitors' Association. | 15 | The trader shall have third party public liability insurance cover that is effective throughout the time that the licence is in effect that covers the trader and all registered assistants whilst working on the stall. The insurance cover shall have a minimum liability of £2,000,000 or to the cover mutually agreed between the Council and the relevant street traders' or exhibitors' Association. | The existing condition has been updated to require that the trader has public liability insurance that is effective throughout the time licence has effect. This will therefore cover all trading activities throughout the lifetime of the licence. |
| | - | - | 16 | No trading shall take place unless a copy of the current public liability insurance certificate or other similar evidence that proves the existence of the effective policy is available on the stall. The copy of the insurance policy certificate, or similar evidence, shall be made immediately available for inspection by a Council Officer on request. | The trader should be able to prove to a City Inspector that their insurance policy is effective. |
| Commencement Times | 34 | <p>Bayswater Road and Green Park Exhibitions Licensed exhibitors shall not begin setting up their pitches before 7am but shall have their exhibits in place by 10.30am.</p> <p>All Other Pitches</p> <p>Permanent traders shall have arrived at their pitches, put their stalls in position and started setting up by the following times:</p> <p>Bell Street : 9.00am Church Street : 9.00am (10.00 am Sunday)</p> <p>Berwick Street : 10.00am Rupert Street : 10.00am</p> | 17 | <p>Bayswater Road and Green Park Exhibitions Licensed exhibitors shall not begin setting up their pitches before 7am but shall have their exhibits in place no later than 10.30am on the days that they are licensed to trade.</p> <p>All Other Pitches The trader shall not commence setting up their pitch before 7am on weekdays & Saturdays or before 8am on Sundays.</p> <p>When trading at the following location, the trader shall have arrived at their pitch, put their stall in position and started setting up by the following times: Bell Street : 09.00am Church Street : 09.00am</p> | <p>Sunday trading is not permitted on the Church Street Market so reference to a Sunday commencement time has been removed.</p> <p>The information on the re-letting of pitches has been removed from the condition and inserted as an informative below.</p> |

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| | | <p>Strutton Ground : 11.00am Tachbrook Street : 10.00am</p> <p>If the pitch is not utilised by the licensed trader by the above time without the prior approval of the Council or its representative, the Council may at its discretion re-let the pitch for that day. Note: It is the Council's policy normally to only re-let pitches in its street markets.</p> <p>All traders shall have commenced trading, with all goods contained within the pitch area within one hour of the time shown above and in the case of Strutton Ground all traders vehicles shall be out of the market by 11.30am.</p> <p>Traders shall not commence setting up their pitches before 7am on weekdays and 8am on Sundays.</p> | | <p>Berwick Street : 10.00am Maida Hill : 10.00am Rupert Street : 10.00am Strutton Ground : 11.00am Tachbrook Street : 10.00am</p> <p>The trader shall have commenced trading with all goods contained within the pitch area within one hour of the times set out above.</p> | |
| Size | 7 | <p>The trading area shall not exceed the dimensions specified on the licence and any pitch limits marked on the ground during trading hours except during immediate re-stocking. The width of the pitch at the Bayswater Road and Green Park Exhibition shall be eighteen inches from the back edge of the footway.</p> | 18 | <p>The trading area shall not exceed the dimensions specified on the licence and where applicable, any pitch limits marked on the ground, except during immediate re-stocking of the stall. The width of the pitch at the Bayswater Road and Green Park Exhibition shall be eighteen inches from the back edge of the footway. All goods, containers (except refuse containers used solely for the purpose) and other articles shall be contained within the licensed pitch area and height and shall not project beyond.</p> | The two existing conditions are largely the same and have therefore been combined |
| | 25 | <p>All goods, containers (except refuse containers used solely for the purpose) or other articles shall be contained within the licensed pitch area and height and shall not project beyond.</p> | | | |

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| | 19 | The only connection between stalls on the footway and other stalls or premises shall be for the purposes of electric lighting or other agreed services; and any such electrical or other connections shall be readily detachable and the detailed arrangements agreed with the Council. | 19 | The trader shall not connect any part of their stall, advertisements or goods for sale to any other stall or to any electricity bollard, socket pillar, lamp post or other street furniture, except for an electric cable connected to an electrical supply point. | Connections between stalls should not be necessary. Stalls should be independent and not require connection to street furniture for stabilisation or display of goods. |
| | | | 20 | No barriers shall be used on or around a licensed pitch unless specific consent for their use has been obtained from the Council. | This condition is specified in the criteria under Policy ST2. |
| Head Room | 24 | The distance above ground level of any part of any roof, awning, or supports of the stall or goods suspended from any of these, shall (unless a dispensation has been granted by the Council) be at least 2.6m (8'6"). The roof awning or any other projection shall be contained within the pitch area unless agreed by the Council. At the Bayswater Road and Green Park Exhibitions awnings with a minimum height of 6 feet 6 inches and a maximum height of 9 feet will be permitted provided they are made of soft materials. The maximum forward projection of such awnings over the footway shall be 3 feet 6 inches at the Green Park Exhibition and 3 feet at the Bayswater Road Exhibition and no awning shall come within 3 feet of the kerb. | 21 | At the Bayswater Road and Green Park Exhibitions awnings with a minimum height of 6 feet 6 inches and a maximum height of 9 feet will be permitted provided they are made of soft materials. The maximum forward projection of such awnings over the footway shall be 3 feet 6 inches at the Green Park Exhibition and 3 feet at the Bayswater Road Exhibition and no awning shall come within 3 feet of the kerb. | The minimum height requirement has been removed as this forms part of the stall design approval for market and isolated pitch traders under Policy ST1. Traders are only permitted to use an approved receptacle by virtue of proposed condition 13. |

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| Display of Licence Plate etc. | - | - | 22 | 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. | The Act requires that, at all times that they are engaging in street trading, a licence holder carries the licence or an approved form of identity issued by the council and that they produce this on request. This condition specifies that it is the licence that they shall produce. |
| | 13 | Traders shall at all times display a plate supplied by the Council indicating the licensed pitch number of the stall. This plate shall be kept prominently and permanently exhibited on the stall together with the name, or business name of the trader. | 23 | The trader shall, at all times that they are trading, display a plate supplied by the Council indicating the licensed pitch number of the stall. This plate shall be kept prominently exhibited on the stall together with the name or business name of the trader. | |
| Pricing | - | - | 24 | The trader shall ensure that all goods displayed on the pitch or services offered on the pitch are priced in such a manner that customers can determine their price without assistance from the trader. | This has been included on the advice of Trading Standards. |
| Notices & Advertisements | 14 | No advertisement shall be displayed on the licensed pitch which relates to any goods, commodities or services other than those offered for sale or provided on that pitch. | 25 | All advertisements shall be located within the licensed pitch and shall occupy no more than 10% of the surface area of each side of the stall. Advertisements on low screens, aprons or valances below table top level shall occupy no more than 10% of each panel. | These conditions are specified in the criteria under Policy ST2. |
| | | | 26 | The name of the stall and goods or services on offer shall only be displayed: (i) In the case of a kiosk or mobile stall, on a frieze or similar designed high-level place that is equivalent to a fascia sign on a shop front. | |

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| | | | | (ii) In the case of a gazebo, tensioned stall roof or umbrella with a valance, on the valance or on a board inside the stall. | |
| | | | 27 | No advertisement shall be displayed on the licensed pitch that relates to any goods, commodities or services other than those offered for sale or provided on that pitch. | |
| | | | 28 | No advertisements comprising of three-dimensional representations of products (such as, but not limited to, replica ice cream cones, coffee cups or chocolate bars), shall be displayed on the stall. | |
| | | | 29 | No free-standing advertisements shall be located outside of the pitch area. | |
| | | | 30 | No A-board or other free-standing advertisement shall be located within the licensed pitch unless it is part of the stall design that has been approved by the Council. | |
| | | | 31 | No notices shall be displayed in the licensed pitch that would restrict a consumer's statutory rights, such as "No refunds" or "No returns". | This has been included on the advice of Trading Standards. |
| | 37 | Bayswater Road Exhibition only Subject to any personal dispensation which may have been granted to individual traders, all exhibitors must display in a prominent position so that it may easily be read by potential customers a notice indicating that all works of art and craft on display or for sale are entirely the original works of the trader licensed for that pitch. For avoidance of doubt, the reference to original work shall not include copies or prints or reproductions of any kind. | 32 | Bayswater Road Exhibition only Subject to any personal dispensation which may have been granted to individual traders, all exhibitors must display in a prominent position so that it may easily be read by potential customers a notice indicating that all works of art and craft on display or for sale are entirely the original works of the trader licensed for that pitch. For avoidance of doubt, the reference to original work shall not include copies or prints or reproductions of any kind. | |

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| <p>Traders' Vehicle</p> | <p>29</p> | <p>A licensed trader shall not leave his vehicle in the street in which he trades, apart from in approved parking spaces such as meter bays, except for the purpose of loading and unloading goods. Such loading and unloading shall be carried out as quickly as possible and the vehicle removed immediately on completion. This condition shall not apply when waiting restrictions are not in force.</p> | <p>33</p> | <p>Markets</p> <p>When trading on the Berwick Street, Maida Hill, Rupert Street, Strutton Ground and Tachbrook Street markets, the trader shall remove their vehicles, unless they are the licensed receptacles, and all other items used for the setup of the stall by the time prescribed in any relevant traffic management order for the pedestrianisation of the street.</p> <p>When trading on the Church Street market, the trader shall remove their vehicles, unless they are the licensed receptacles, and all other items used for the setup of the stall by 10 am.</p> <p>Prior to the time prescribed in the relevant traffic management order for the pedestrianisation of the street or 10am in the case of the Church Street market, the trader shall not leave their vehicle in the street in which they trade unless the vehicle is:</p> <ul style="list-style-type: none"> i) the licensed receptacle; ii) parked in approved parking spaces such as meter bays; or iii) temporarily parked for the purpose of loading and unloading goods during the set-up of the stall. <p>Loading and unloading shall be carried out as quickly as possible and the vehicle shall be removed immediately on completion.</p> <p>The trader shall not return their vehicle to the market until 4pm or the time period prescribed in the relevant traffic management order for the</p> | <p>Traders who leave their vehicles and other items used in the setting up of stalls can interfere with other traders who are setting up and also members of the public wishing to use the market/street.</p> <p>The proposed condition is more prescriptive to enable the set-up of the stalls to be managed more effectively.</p> |
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| | | | | <p>pedestrianisation of the street has ended, whichever is later.</p> <p>Other traders The trader shall not leave his vehicle in the street in which he trades unless the vehicle is:</p> <ul style="list-style-type: none"> i) the licensed receptacle; ii) temporarily parked for the purpose of loading and unloading goods during the set-up of the stall; or iii) parked in approved parking spaces such as meter bays. <p>Loading and unloading shall be carried out as quickly as possible and the vehicle shall be removed immediately on completion.</p> | |
| Sale of Food | 17 | All traders operating stalls on which food is sold shall comply with the Food Safety Act 1990 and the Food Hygiene (Markets, Stalls and Delivery Vehicles) Regulations 1966. | 34 | No trading shall take place that involves the sale of food unless the trader is complying with all current food safety and food standards legislation. | This condition has been updated on the advice of Environmental Health. |
| | | | 35 | If authorised to sell food, the trader shall provide a First Aid box on their stall that is readily available for use at all times that they are trading. | This condition has been inserted on the advice of Environmental Health. |
| Health & Safety | - | - | 36 | The trader must ensure the safety of themselves and other users of the market and must comply with all relevant and current legal requirements for health and safety (including, but not limited to, those relating to electrical, gas and fire safety). | This condition has been inserted on the advice of Environmental Health. |

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| Safety of Equipment | 18 | Heat producing equipment (e.g. braziers) shall be so placed within the trading area as to offer maximum safety to the public. The position of such equipment in relation to other goods or materials shall be agreed with the Council's officers. | 37 | Heat producing equipment (e.g. braziers) shall be so placed within the trading area as to offer maximum safety to the public. The position of such equipment in relation to other goods or materials shall be agreed with the Council's officers. | |
| Services and Amenities | 20 | All electric power supplies shall have the appropriate consent from the Council before seeking installation from the LEB. | 38 | <p>Where an electrical supply has been provided by the Council for use by the trader:</p> <ul style="list-style-type: none"> (i) No electrical supply other than that provided by the Council shall be used by the trader on the stall; (ii) The trader shall ensure that all electrical equipment in use on the stall is compatible with the electrical supply and does not either individually or in combination, exceed the rating (maximum amperage) of the supply; (iii) The trader shall be liable for the fees incurred in their use of the electrical supply and shall pay all such fees within 4 weeks of them becoming due; (iv) The trader and their assistant(s) shall take care when using or working nearby any electrical supply point. The trader shall be liable for any costs incurred in repairing electrical supply points due to their or their assistants' reckless behaviour or deliberate misuse of the electrical supply. | These conditions are specified in the criteria under Policy ST11. |

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| | 21 | All electrical cables that are suspended over the public footway shall have a minimum clearance of 2.6m (8'6") from the footway surface, and 5.1m (18'6") from the surface of the carriageway. | 39 | <p>The trader shall only connect to the electrical supply of a premises where no electrical supply point is provided by the Council. In such cases:</p> <ul style="list-style-type: none"> (iv) the trader shall obtain the written consent of the bill payer and the Council in advance of connecting to the supply; (v) all supply lines shall be overhead with clearance of at least 2.6m and no cables shall be trailed along the ground; (vi) the trader shall ensure that their supply lines are securely installed and suitably protected from damage and water ingress. | |
| | 22 | <p>Where mobile electrical generators are employed they shall be so positioned that:</p> <ul style="list-style-type: none"> (a) they do not present a danger to the passing public; (b) they do not present a fire or similar hazard risk to the stall or goods displayed thereon; (c) they do not cause any noise or fume nuisance; (d) any inflammable fuel is stored away from the stall in a London Fire Brigade approved container. | 40 | <p>A generator shall only be used where no electricity supply has been provided by the Council and the Council has given consent for the use of a generator by the trader. In such cases, only a diesel-powered generator shall be used. The generator shall be located within the licensed pitch and so positioned that:</p> <ul style="list-style-type: none"> (i) it is not accessible by the public and does not present a danger to the passing public; (ii) It is kept away from combustible materials and is provided with adequate ventilation; (iii) it does not present a fire or similar hazard risk to the stall or goods displayed thereon; and (iv) it does not cause any noise or fume nuisance. | <p>The criteria under Policy ST11 specify that generators shall only be used where no electricity supply has been provided by the Council.</p> <p>The restrictions on the refuelling of generators have been included on the advice of the Fire Service.</p> |

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| | | | | <p>When refuelling fuel tanks, the generator shall be switched off, all persons shall be moved away from the generator and a fire extinguisher shall be positioned near to the generator.</p> <p>Only one fuel-can with a capacity of no more than 5 litres shall be stored in the licensed pitch at any one time. It shall be of an approved type for carrying fuel oil. The can shall be stored away from any possible heat source.</p> | |
| Electrical Safety | 23 | All electrical wiring and components shall comply with the basic LEB specification and be earthed and insulated accordingly. Electrical power shall only be used for the purposes of lighting and the operation of electrical scales and tills and the testing of electrical goods. | 41 | <p>All electrical connections shall comply with the current edition of the Institute of Engineering & Technology (IET) Wiring Regulations. The equipment shall be constructed and maintained to prevent danger in compliance with the Electricity at Work Regulations 1989, or any Act/Regulations amending or replacing the same. Appropriate safety devices such as 30mA Residual Current Devices shall be used where necessary, particularly where the electrical equipment will be exposed to adverse conditions or will be used in association with hand held devices.</p> <p>The trader shall arrange for all electrical equipment 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> | This condition is specified in the criteria under Policy ST11 and additional information has been included on the advice of Environmental Health. |

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| <p>Gas Safety</p> | - | - | 42 | <p>The trader 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.</p> <p>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>These conditions have been inserted on the advice of the Fire Service and Environmental Health.</p> |
| | - | - | 43 | <p>All LPG cylinders, regulators and change-over devices shall be located in the open air or housed in a separate well ventilated, fire-resistance compartment. Any such compartment shall be ventilated at low level to the external air and shall have an exclusive access from outside the receptacle to enable safe access to shut off the cylinders in case of fire. The compartment shall be clearly marked "LPG – Highly Flammable – No Smoking".</p> <p>Cylinders shall be stored well away from drains, waste water pits and soak-aways and shall be protected from tampering and/or accidental damage. Pipes, fittings and fixtures shall be provided with appropriate compression crimped joints. No slip-on rubber hosing shall be used without means of securing them and no hosing secured by work-drive "jubilee clip" type fittings shall be used.</p> | |

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| Fire Safety | - | - | 44 | <p>No trading shall take place unless adequate fire fighting equipment is provided on the stall that is appropriate for the goods on sale, equipment in use and size of the stall. The trader shall provide as a minimum:</p> <ul style="list-style-type: none"> • a Class A fire extinguisher of at least 4.5ltrs if they are authorised to sell non-food commodities; • a fire blanket and a Class B extinguisher (Foam or Dry Powder, as appropriate) of at least 4kg/4lt size if they are authorised to use cooking facilities; • a class F type fire extinguisher if they are authorised to use a deep fat fryer; • a dry powder or carbon dioxide fire extinguisher with a capacity of 4kg if they have received consent from the Council to use a generator. <p>The trader shall ensure that all fire fighting equipment has been adequately tested by a competent person and is in good working order.</p> | These conditions have been inserted on the advice of the Fire Service and Environmental Health. |
| | - | - | 45 | The trader shall be familiar with the operation of their fire safety equipment and shall position it on the stall so that it is readily available for use at all times that they are trading. | |
| | - | - | 46 | The trader shall ensure that their assistants are all aware of what to do in the event of a fire. | |

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| | - | - | 47 | The trader shall keep the pitch clean and tidy and shall avoid a build-up of combustible materials. | |
| Conduct | 11 | Traders and any assistants employed by them shall ensure the public and Council officers are treated fairly and with courtesy. | 48 | The trader and their assistants shall treat the public and Council Officers fairly and with courtesy. | The two former conditions are largely the same but it is considered that it would be inappropriate for the Council to control the competency or helpfulness of a trader's members of staff. |
| | 12 | Traders shall ensure that their staff are competent, courteous and helpful. | | | |
| | - | - | 49 | <p>The trader and their assistants must 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"> (i) Indecent behaviour towards the public or other traders; (ii) Acts of violence against any person (including other traders) 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 trader; (v) Touching, moving or interfering with another trader's stall. | This condition has been inserted to set out the behaviours that would not be tolerated the Council. |
| Assistance to Council Officers | 31 | Traders shall give every assistance to Council officers in carrying out their duties. | 50 | The trader and their assistants shall give every assistance to Council Officers in carrying out their duties. | Registered assistants may trade in the absence of the licence holder and it would be expected that they would provide the same assistance to Council Officers as the licence holder. |

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| Radios, Etc. | 35 | Traders shall not use or permit to be used on the licensed area or within the immediate vicinity any radio, cassette player or other equipment or apparatus to produce music or other sound except within a closed vehicle and at a reasonable volume. | 51 | The trader shall not use or permit to be used on the licensed area or within the immediate vicinity any radio or other equipment or apparatus to produce music or other amplified sound except within a closed vehicle and at a reasonable level. | |
| Damage | 30 | Traders must not intentionally permit stalls or accessories to cause damage to the carriageway or footway. | 52 | The trader shall not intentionally permit their stall or accessories to cause damage to the carriageway or footway and shall leave the trading pitch in a clean condition at the end of each trading period. | |
| Refuse | 15 | The trader shall ensure that all refuse arising as a result of the activities of the trader shall be placed in suitable covered containers approved by the Council and provided by the trader, unless otherwise provided by the Council, and shall be kept exclusively for that purpose. Such refuse containers shall be kept as clean as is reasonably possible. NOTE: This condition shall not apply to licence holders at the Bayswater Road Exhibition and Green Park Exhibition unless the Council requires it in any particular case. | 53 | The trader shall ensure that all refuse arising as a result of their activities, including waste water and oil, is placed in suitable covered containers that are kept exclusively for that purpose and that approved by the Council. Such refuse containers shall be provided by the trader, unless otherwise provided by the Council, and shall be kept as clean as is reasonably possible. NOTE: This condition shall not apply to licence holders at the Bayswater Road Exhibition and Green Park Exhibition unless the Council requires it in any particular case. | The condition has been modified to include the storage of waste water and oil to prevent traders disposing of such waste in nearby drains. |
| | 16 | Refuse containers shall be emptied whenever necessary into any vehicle, container or compactor provided by the Council for that purpose. | 54 | Refuse containers for any non-liquid waste shall be emptied whenever necessary into any vehicle, container or compactor provided by the Council for that purpose. Refuse containers for waste water and oil shall be removed by the trader at the end of their trading period for disposal. | The condition has been modified to include the removal of waste water and oil to prevent traders disposing of such waste in nearby drains. |
| Removal | 27 | Traders or their assistants shall remove the stall and goods for so long as may be necessary in the event of an emergency or in exercise of the | 55 | The trader or their assistants shall remove the stall and goods for so long as may be necessary in the event of an emergency or in exercise of the | It is considered that traders should remove their stalls on the reasonable request of an officer of any emergency service, not just a police officer. |

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| | | Council's powers and duties, if reasonably required to do so by a police officer or a duly authorised officer of the Council. | | Council's powers and duties when reasonably required to do so by a duly authorised officer of the Council, a police officer or an officer of any other emergency service. | |
| | | | 56 | When trading on the Church Street, Berwick Street, Maida Hill, Rupert Street, Strutton Ground or Tachbrook Street markets, the trader shall not remove their receptacle from the licensed pitch until 4pm on any day that they are trading, unless they are required to do so by a Council Officer or an Officer of an emergency service. | This condition has been included to assist in the management of the market and to prevent traders disrupting neighbouring traders and the public when breaking down stalls mid-way through the trading day. |
| | 28 | Stalls and goods shall be removed from the public highway to the place of storage, as stated on the application form, or such other alternative place subsequently agreed by the Council in writing, within one and a half hours of either the time prescribed on the licence for the end of trading on that day or the time trading actually ceases (unless consent has been granted for a later removal time) whichever is the earlier provided that all stalls and goods shall be removed from Rupert Street Market by 6.30pm. | 57 | Unless trading on Rupert Street, the trader shall remove their stall and goods from the public highway to the place of storage, as stated on the application form or such other alternative place subsequently agreed by the Council in writing, within one and a half hours of either the time prescribed on the licence for the end of trading on that day or the time trading actually ceases (whichever is the earlier) unless prior consent has been granted by the Council for a later removal time or for the receptacle to remain in situ between consecutive trading periods. If trading on Rupert Street, the trader shall remove their stall and goods from the public highway to the place of storage, as stated on the application form or such other alternative place subsequently agreed by the Council in writing, no later than 6.30pm. | This condition has been reworded but the meaning has not been changed. |

| Existing Condition | | | Proposed New Informative | | Reason |
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| General | 2 | <p>The grant of a street trading licence shall not be deemed to give any approval or consent which may be needed under any By-law, enactment or regulation other than Part III of the London Local Authorities Act 1990.</p> <p>For the avoidance of doubt this includes the requirement to seek and obtain planning permission and/or advertisement consent.</p> | 1 | <p>The grant of a temporary street trading licence shall not be deemed to give any approval or consent which may be needed under any By-law, enactment or regulation other than Section 21 of the City of Westminster Act 1999.</p> <p>For the avoidance of doubt this includes the requirement to seek and obtain planning permission and/or advertisement consent.</p> | The information in the existing conditions is not an enforceable condition but has been included as informatives. |
| | 3 | The marginal notes inserted in these Regulations are inserted for the purpose of convenience only and shall not in any way affect the meaning or construction thereof. | 2 | The marginal subtitles inserted in these conditions are for the purpose of convenience only and shall not in any way affect the meaning or construction thereof. | |
| | 4 (a) | These conditions may be dispensed with or modified by the Council in any individual case by means of a licence variation in accordance with the statutory requirements. | 3 | These conditions may be dispensed with or modified by the Council in any individual case by means of a licence variation in accordance with the statutory requirements. | |
| | (b) | Where in these conditions there is reference to the consent or agreement of the Council such consent or agreement may be given on such terms and conditions and subject to such restrictions as may be so specified. | 4 | Where in these conditions there is reference to the consent or agreement of the Council such consent or agreement may be given on such terms and conditions and subject to such restrictions as may be so specified. | |
| | (c) | If a trader wishes any of the terms of a licence to be varied or the Council's agreement under these rules application must be made in writing to the Council in accordance with the statutory requirements. | 5 | If a trader wishes any of the terms of a licence to be varied or the Council's agreement under these rules application must be made in writing to the Council in accordance with the statutory requirements. | |
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| Advertisements | - | | 6 | No illuminated advertisement shall be displayed on the outside of the stall or kiosk without an express consent under the Town and Country Planning (Control of Advertisements)(England) Regulations 2007 | This is specified in criterion 2(5) under Policy ST2 |
| Re-letting of Pitches | 34 | If the pitch is not utilised by the licensed trader by the above time without the prior approval of the Council or its representative, the Council may at its discretion re-let the pitch for that day. Note: It is the Council's policy normally to only re-let pitches in its street markets. | 7 | If the pitch is not utilised by the licensed trader by the times set out in condition 15 without the prior approval of the Council or its representative, the Council may at its discretion re-let the pitch for that day. Note: It is the Council's policy normally to only re-let pitches in its street markets. | This information in the existing condition is not an enforceable condition but has been provided as an informative. |
| Services and Amenities | | | 8 | All electrical supply points provided by the Council for use by the trader shall remain the property and responsibility of the Council or its representatives. | This is specified in Criterion 11(1) under Policy ST11 |



City of Westminster

PENALTY POINT SCHEME – (Effective From 19. April 2005)

On 1 August 1996, following agreement by all the Street Trading Associations, the City Council introduced a penalty point system for breach of conditions relating to street trading licences. Under this scheme, penalty points are awarded for each offence on a sliding scale between 1 (for minor breaches) and 5 (for more serious offences).

The Market Manager will issue “Licensed Pitch Inspection Reports” for breaches of licence conditions. The way in which these reports will be issued is as follows.

Licensee or Worker is present at the pitch at the time of the inspection

If the licensee or worker breach any of the Standard Conditions, the market manager will issue a “Licensed Pitch Inspection Report” indicating the nature of the breach and the number of points awarded. The licensee or the worker will be given a copy of this report and will be asked to sign as an acknowledgement that it has been issued. This does not imply that the offence has been accepted.

If the licensee or worker signs the Licensed Pitch Inspection Report the licensee will have 7 days to either:

- (1) submit a letter of mitigation; or
- (2) ask in writing for the alleged offence to be reviewed by a senior officer not directly connected with enforcement in the market.

If the licensee or worker declines to sign or refuses to take receipt of the report, an additional offence may be recorded against the licensee for a breach of SC31 “*Traders shall give every assistance to Council officers in carrying out their duties*” and additional penalty points will be awarded against the licensee. A copy of the report detailing the offences and the penalty points awarded will then be sent to the licensee’s home address and the licensee will be advised that they have 9 days to exercise their right to have the matter reviewed.

Neither the licensee nor a worker is present at the pitch at the time of the inspection

If a stall is not trading at the time of the inspection and the Market Manager is unable to serve a copy of the Licensed Pitch Inspection Report on the licensee, a copy of the Report will be sent to the licensee. The licensee will be advised that they have 9 days to exercise their right to have the matter reviewed.

Appeals Process

If a letter of mitigation or a request to have the alleged offence reviewed by a senior officer not directly connected with enforcement in the market is received, a senior officer of the Council’s Street Management Service will decide whether or not the points should be awarded.

Consequences of non-compliance

If a licensee reaches a threshold of 25 points or over within a period of six months, the matter may be referred to the Council's Licensing Sub-Committee or Licensing Officer Panel which will then consider if additional conditions should be attached to the licence or if the licence should be revoked, or if the licensee is a casual trader, their name removed from the list of approved temporary traders.

Where the Council considers that the licensee has committed a serious breach of any street trading licence condition the licensee may be required to attend the Council's Licensing Sub-Committee or Licensing Officer Panel notwithstanding the above penalty point system. Alternatively the council may consider instigating legal proceedings whereby the licensee may be prosecuted for breach of conditions.

Penalty Points Schedule

Note: The "Breach of Condition" field is provided for readability purposes only. For a full list of the standard conditions applicable to street trading in Westminster refer to **"Regulations made by the Westminster City Council pursuant to section 27(3) of the London Local Authorities Act 1990 prescribing standard conditions applicable to street trading licences effective 15 March 1999"**

| <u>Condition</u> | <u>Breach of Condition</u> | <u>Points</u> |
|------------------|---|---------------|
| SC5 | Trader fails to notify council of change of address | 2 |
| SC6 | Trader trades from a position other than that indicated on licence | 4 |
| SC7 | Trader operates stall outside dimension indicated on licence | 5 |
| SC8 | Trader selling commodities not listed on licence | 4 |
| SC9 | Trader operating on days & times not indicated on licence | 5 |
| SC10 | Trader using a receptacle not approved by Council | 2 |
| SC11 | Trader or assistant treating the public unfairly or discourteously | 5 |
| SC12 | Staff incompetent or unhelpful | 5 |
| SC13 | Licence plate not displayed prominently on the stall | 1 |
| SC14 | Advertising goods etc. other than those offered for sale on pitch | 1 |
| SC15 | Refuse not placed in containers and/or not kept as clean as possible | 4 |
| SC16 | Refuse containers not emptied when necessary | 3 |
| SC17 | Trader not complying with food Acts | 5 |
| SC18 | Heat producing equipment not placed safely within trading area | 5 |
| SC19 | Electrical connections between stalls not readily detachable and/or used for purposes other than electrical lighting or other agreed services | 4 |
| SC20 | Trader using electric power supplies not consented to by Council | 5 |
| SC21 | Electrical cables suspended do not have a minimum clearance of 8'6" or 18'6" | 5 |
| SC22 | Mobile electrical generators are positioned in a way that; is dangerous to the public, presents a fire hazard, or causes noise or fume nuisance and/or fuel is not stored in a London Fire Brigade approved container | 5 |
| SC23 | Electrical wiring and components do not comply with LEB | 5 |
| SC24 | Head room of stall is lower than 8'6" | 2 |
| SC25 | All goods, containers etc. are not contained within licensed area | 5 |
| SC26 | Stall is not easily and immediately removable | 5 |
| SC27 | Stall is not removed in the event of an emergency | 5 |
| SC28 | Stalls and goods are not removed after trading | 5 |
| SC29 | Traders' vehicle is not removed from market after loading/unloading | 5 |
| SC30 | Trader intentionally permit stalls to cause damage to footway | 4 |
| SC31 | Trader does not give every assistance to council officers | 5 |
| SC32 | Trader does not notify the council of a change in storage address details | 5 |
| SC33 | Trader does not, when required notify the council of any assistants that they employ | 2 |

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| SC34 | Trader begins setting up their pitches before their specified start time. | 3 |
| SC35 | Trader uses equipment to produce music or other sound on their pitch | 4 |
| SC36 | Trader has not taken out third party insurance | 5 |
| SC37 | Trader at Bayswater Road does not have "Own work notice" displayed | 2 |

BREACH OF CITY OF WESTMINSTER ACT 1999

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| Sect 9 ⁽⁹⁾ | Trader cannot produce licence document when requested. | 1 |
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Annex E

| New Condition No. | Breach of Condition | Proposed Points | Current Condition No. | Current Standard Condition | Current Points |
|--------------------------|---|------------------------|------------------------------|---|-----------------------|
| 1 | Trader fails to notify Council of change of name, address, telephone number or e-mail address within 7 days. | 3 | 5 | Traders shall notify, in writing, the Council of any permanent change of address as soon as it occurs. | 2 |
| 2 | Trader fails to provide adequate storage and/or fails to notify the Council of change in storage address within 7 days of the change. | 5 | 32 | Traders shall notify the Council in writing of any change of address or addresses at which the stall and perishable goods are stored. Such notice shall be given within 7 days of the change. | 5 |
| 4 | Trader fails to notify Council of change of name or contact details of their assistant(s). | 3 | 33 | Traders shall, if required, notify the Council in writing of the name of any assistant which they employ on the stall; details of any change of assistant or any other relevant information regarding assistants. | 2 |
| 5 | Trader fails to notify Council that assistant has ceased working for them. | 3 | - | - | - |
| 6 | Licence holder allows trading without licence holder or registered assistant on stall. | 5 | - | - | - |
| 7 | Registered assistant not carrying photographic ID | 5 | - | - | - |
| 8 | Trading takes place outside times authorised by the licence. | 5 | 9 | Trading may only take place on the days and during the times specified on the licence. | 5 |
| 9 | Trading takes place other than on the licensed pitch or other location agreed by WCC. | 5 | 6 | The trader shall trade only from the position which is indicated on the licence. | 4 |
| 10 | Trader selling commodities or providing services not listed on licence. | 5 | 8 | Only those goods specified on the licence may be sold on the licensed street trading pitch. | 4 |
| 11 | Trader selling or in possession of counterfeit goods. | 5 | - | - | - |

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| 12 | No record of suppliers kept and/or made available to Council Officer. | 5 | - | - | - |
| 13 | Trader using a receptacle not approved by the Council or appropriately maintained. | 5 | 10 | Only those receptacles approved by an authorised officer of the Licensing Service shall be used by the trader. | 2 |
| 14 | Receptacle for sale of food is not maintained or regularly cleaned. | 5 | - | - | - |
| 15 | Trader does not have public liability insurance covering them and assistants. | 5 | 36 | Traders shall take out third party insurance cover with a minimum liability of at least £2,000,000 or to the cover mutually agreed between the Council and the relevant street traders or exhibitors' Association. | 5 |
| 16 | Copy of public liability insurance or similar evidence not available on stall. | 5 | - | - | |

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| 17 | Trader sets up pitch before their specified start time, does not have stall in position by the prescribed time or doesn't commence trading within one hour of the prescribed set-up time. | 5 | 34 | <p>Bayswater Road and Green Park Exhibitions Licensed exhibitors shall not begin setting up their pitches before 7am but shall have their exhibits in place by 10.30am.</p> <p>All Other Pitches Permanent traders shall have arrived at their pitches, put their stalls in position and started setting up by the following times: Bell Street : 9.00am Church Street : 9.00am (10.00 am Sunday) Berwick Street : 10.00am Rupert Street : 10.00am Strutton Ground : 11.00am Tachbrook Street : 10.00am</p> <p>If the pitch is not utilised by the licensed trader by the above time without the prior approval of the Council or its representative, the Council may at its discretion re-let the pitch for that day.</p> <p>Note: It is the Council's policy normally to only re-let pitches in its street markets. All traders shall have commenced trading, with all goods contained within the pitch area within one hour of the time shown above and in the case of Strutton Ground all traders vehicles shall be out of the market by 11.30am. Traders shall not commence setting up their pitches before 7am on weekdays and 8am on Sundays.</p> | 3 |
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| 18 | Trader operates stall outside dimensions indicated on licence and/or goods are not contained in the licensed area. | 5 | 7 | The trading area shall not exceed the dimensions specified on the licence and any pitch limits marked on the ground during trading hours except during immediate re-stocking. The width of the pitch at the Bayswater Road and Green Park Exhibition shall be eighteen inches from the back edge of the footway. | 5 |
| | | | 25 | All goods, containers (except refuse containers used solely for the purpose) or other articles shall be contained within the licensed pitch area and height and shall not project beyond. | 5 |
| 19 | Trader connects to the electrical supply of a premises without consent of bill payer & Council. Supply lines lower than 2.6m and/or cables trailed along the ground. Supply lines not securely installed or suitably protected from damage and water ingress. | 5 | 20 | All electric power supplies shall have the appropriate consent from the Council before seeking installation from the LEB. | 5 |
| | | | 21 | All electrical cables that are suspended over the public footway shall have a minimum clearance of 2.6m (8'6") from the footway surface, and 5.1m (18'6") from the surface of the carriageway. | 5 |
| 20 | Barriers used without consent from Council | 3 | - | - | |

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| 21 | Bayswater Road & Green Park awning exceeds permitted dimensions. | 3 | 24 | <p>The distance above ground level of any part of any roof, awning, or supports of the stall or goods suspended from any of these, shall (unless a dispensation has been granted by the Council) be at least 2.6m (8'6"). The roof awning or any other projection shall be contained within the pitch area unless agreed by the Council.</p> <p>At the Bayswater Road and Green Park Exhibitions awnings with a minimum height of 6 feet 6 inches and a maximum height of 9 feet will be permitted provided they are made of soft materials. The maximum forward projection of such awnings over the footway shall be 3 feet 6 inches at the Green Park Exhibition and 3 feet at the Bayswater Road Exhibition and no awning shall come within 3 feet of the kerb.</p> | 2 |
| 22 | Licence and conditions not available on stall. | 5 | - | s.9(9) City of Westminster Act 1999 - Trader <i>"shall at all times while engaged in street trading carry with him, and produce on request by an authorised officer or a constable, either the licence or an approved form of identity issued by the council for the purposes of this Act."</i> | 1 |
| 23 | Licence plate not on display | 5 | 13 | Traders shall at all times display a plate supplied by the Council indicating the licensed pitch number of the stall. This plate shall be kept prominently and permanently exhibited on the stall together with the name, or business name of the trader. | 1 |
| 24 | Goods/services not appropriately priced such that the price can be determined without assistance from the trader. | 3 | - | - | - |

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| 25 | Advertisements not in pitch and/or exceed 10% of surface area of stall/panel. | 3 | - | - | |
| 26 | Name of the stall & goods or services on offer displayed other than: (i) Kiosks or mobile stall - on a frieze or similar designed high-level place equivalent to a shop front. (ii) Gazebo, tensioned stall roof or umbrella with a valance - on the valance or board inside the stall. | 3 | - | - | |
| 27 | Advertising goods etc. other than those offered for sale on pitch. | 3 | 14 | No advertisement shall be displayed on the licensed pitch which relates to any goods, commodities or services other than those offered for sale or provided on that pitch. | 1 |
| 28 | Advertisements comprising of 3D representations of products on stall. | 3 | - | - | |
| 29 | Free-standing advertisements outside pitch area | 3 | - | - | |
| 30 | A-board or other free-standing advertisement in pitch that does not have Council approval. | 3 | - | - | |
| 31 | Notices displayed that restrict a customer's statutory rights, e.g. "no refund" or "no returns" | 5 | - | - | |

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| 32 | Trader at Bayswater Road does not have "Own work notice" displayed | 3 | 37 | <p>Bayswater Road Exhibition only Subject to any personal dispensation which may have been granted to individual traders, all exhibitors must display in a prominent position so that it may easily be read by potential customers a notice indicating that all works of art and craft on display or for sale are entirely the original works of the trader licensed for that pitch. For avoidance of doubt, the reference to original work shall not include copies or prints or reproductions of any kind.</p> | 2 |
| 33 | Vehicles left in market after permitted time, whilst not being used as the licensed receptacle, not in approved parking spaces or for loading/unloading. Vehicle returned to the market after the permitted time. | 5 | 29 | <p>A licensed trader shall not leave his vehicle in the street in which he trades, apart from in approved parking spaces such as meter bays, except for the purpose of loading and unloading goods. Such loading and unloading shall be carried out as quickly as possible and the vehicle removed immediately on completion. This condition shall not apply when waiting restrictions are not in force.</p> | 5 |
| 34 | Trader not complying with all current food safety and food standards legislation. | 5 | 17 | <p>All traders operating stalls on which food is sold shall comply with the Food Safety Act 1990 and the Food Hygiene (Markets, Stalls and Delivery Vehicles) Regulations 1966.</p> | 5 |
| 35 | No first aid box | 3 | - | - | - |
| 36 | Trader not complying with all relevant and current legal requirements for health and safety (including, but not limited to, those relating to electrical, gas and fire safety). | 5 | - | - | - |

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| 37 | Heat producing equipment not placed safely within trading area. | 5 | 18 | Heat producing equipment (e.g. braziers) shall be so placed within the trading area as to offer maximum safety to the public. The position of such equipment in relation to other goods or materials shall be agreed with the Council's officers. | 5 |
| 38 | Electrical supply provided by the Council but other electrical supply used by trader. Electrical equipment not compatible with the electrical supply or exceeds the supply's rating. | 5 | - | - | |
| 39 | Trader using electrical supply of premises without consent of bill payer and Council, supply lines less than 2.6m above ground and/or supply line not securely protected from damage and water ingress. | 5 | - | - | - |
| 40 | Generator used without consent of Council. Generator is (i) accessible by the public and presents a danger to the passing public; (ii) a fire or similar hazard risk (iii) causes noise or fume nuisance. Petroleum powered generators incorrectly refuelled or with inappropriate fuel cans. | 5 | 22 | Where mobile electrical generators are employed they shall be so positioned that: (a) they do not present a danger to the passing public; (b) they do not present a fire or similar hazard risk to the stall or goods displayed thereon; (c) they do not cause any noise or fume nuisance; (d) any inflammable fuel is stored away from the stall in a London Fire Brigade approved container. | 5 |

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| 41 | Electrical connections do not comply with the current edition of the IET Wiring Regulations and/or equipment is not safe. Certificate of testing by a competent person not available on stall and/or made available for inspection. | 5 | 23 | All electrical wiring and components shall comply with the basic LEB specification and be earthed and insulated accordingly. Electrical power shall only be used for the purposes of lighting and the operation of electrical scales and tills and the testing of electrical goods. | 5 |
| 42 | Gas appliances, flues, pipe work and safety devices not maintained. Certificate of testing by a competent person not available on stall and/or made available for inspection. | 5 | - | - | - |
| 43 | LPG cylinders, regulators and change-over devices not appropriately positioned, ventilated and secured. Pipework etc. used without appropriate joints. | 5 | - | - | - |
| 44 | Trading without adequate fire safety equipment. Equipment not tested or in good working order. | 5 | - | - | - |
| 45 | Trader not familiar with the operation of their fire safety equipment and/or equipment not readily available for use on the stall. | 5 | - | - | - |
| 46 | Trader's assistants not aware of what to do in the event of a fire. | 5 | - | - | - |
| 47 | Pitch not clean and tidy. Build-up of combustible materials on stall. | 5 | - | - | - |
| 48 | Trader and/or assistants do not treat the public and Council Officers fairly and with courtesy. | 5 | 11 | Traders and any assistants employed by them shall ensure the public and Council officers are treated fairly and with courtesy. | 5 |

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| 49 | Trader and/or assistants engage in criminal activity or anti-social behaviour at the pitch. | 5 | - | - | - |
| 50 | Trader and assistants not assisting Council Officers in carrying out their duties. | 5 | 31 | Traders shall give every assistance to Council officers in carrying out their duties. | 5 |
| 51 | Trader uses equipment to produce music/sound on their pitch. | 5 | 35 | Traders shall not use or permit to be used on the licensed area or within the immediate vicinity any radio, cassette player or other equipment or apparatus to produce music or other sound except within a closed vehicle and at a reasonable volume. | 4 |
| 52 | The trader intentionally causes damage to the carriageway/footway or pitch left in unclean condition. | 5 | 30 | Traders must not intentionally permit stalls or accessories to cause damage to the carriageway or footway. | 4 |
| 53 | Refuse not placed in containers or not kept as clean as possible | 5 | 15 | The trader shall ensure that all refuse arising as a result of the activities of the trader shall be placed in suitable covered containers approved by the Council and provided by the trader, unless otherwise provided by the Council, and shall be kept exclusively for that purpose. Such refuse containers shall be kept as clean as is reasonably possible. NOTE: This condition shall not apply to licence holders at the Bayswater Road Exhibition and Green Park Exhibition unless the Council requires it in any particular case. | 4 |

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| 54 | Refuse containers not emptied when necessary. Waste water and oil not removed by the trader. | 5 | 16 | Refuse containers shall be emptied whenever necessary into any vehicle, container or compactor provided by the Council for that purpose. | 3 |
| 55 | Stall not removed in event of an emergency. | 5 | 27 | Traders or their assistants shall remove the stall and goods for so long as may be necessary in the event of an emergency or in exercise of the Council's powers and duties, if reasonably required to do so by a police officer or a duly authorised officer of the Council. | 5 |
| 56 | Receptacle on Church Street, Berwick Street, Maida Hill, Rupert Street, Strutton Ground or Tachbrook Street Markets removed before 4pm | 5 | - | - | - |
| 57 | Stall and goods not removed to place of storage after trading | 5 | 28 | Stalls and goods shall be removed from the public highway to the place of storage, as stated on the application form, or such other alternative place subsequently agreed by the Council in writing, within one and a half hours of either the time prescribed on the licence for the end of trading on that day or the time trading actually ceases (unless consent has been granted for a later removal time) whichever is the earlier provided that all stalls and goods shall be removed from Rupert Street Market by 6.30pm. | 5 |