

Torbay Council's Street Trading Policy

Introduction

This policy has been written to give guidance and direction to those who have responsibility for implementing the Street Trading provisions adopted under schedule 4 Local Government (Miscellaneous Provisions) Act 1982. The current Street Trading Policy was approved 2nd October 2008.

This policy should not in any way conflict with Torbay Council's obligation to comply with the Local Government (Miscellaneous Provisions) Act 1982, but if a conflict between the Act and this Policy arises, then the Act shall prevail.

Consent and Prohibited areas.

In Torbay there are currently no licensed areas. However, there are consent and prohibited areas; 'within the meaning of the legislation' under paragraph 2 of Schedule 4, Local Government (Miscellaneous Provisions) Act 1982. In addition, Torbay Council has included, within its Street Trading Schedule, areas called 'restricted consent areas'. Permitted use of these areas is granted by Torbay Council Officers, as Torbay Council is either the land owner or the administrators of such areas.

In the case of beaches, parks, open spaces, car parks and highways the final decision for permitted use of these areas, will be determined by the Executive Head of Tourism, Leisure and Culture or any subsequent post, in consultation with any other relevant departments.

In the case of harbour land, the final decision for permitted use of this area will be determined by the Director of Marine Services or any subsequent post.

Within the Street Trading Schedule the three types of consent areas are referred to as Part A, prohibited areas, Part B, restricted consent areas and Part C, consent areas.

Restricted Consent Areas

In some areas, there will be additional restrictions, as listed below. These restrictions have been drawn up to assist Torbay Council Officers in making decisions, and to ensure that where such a conflict of interest arises, this is kept to a minimum, especially between the interests of existing traders and street trading. If an area is not listed below, then the discretion of that decision remains with the specified post holder above, dependant on the area being considered.

The key purpose of encouraging 'high quality' markets or events into Torbay is to increase the areas footfall, with the knock on effect of those people using other services and retail outlets in Torbay. The key types of markets being encouraged should be craft, farmers, French and continental markets or anything of a similar nature which upholds the emphasis on 'high quality' produce. Although there may at times be an overlap in produce and therefore some potential conflict of interest between traders, Torbay Council's primary aim is for the overall benefit to Torbay's economy. Therefore, in some cases Torbay Council may not be able to reconcile such conflicts. Where an overlap in produce occurs, existing traders in Torbay should be given priority to trade from a stall ahead of those traders from outside the area.

Although a number of street trading pitches have already been allocated in certain areas, this will not prevent 'high quality' markets, events or fairs from operating in these areas, following the grant of the required permission.

Consultation must take place with the relevant Chamber of Commerce and the emergency services where there are proposals to have 'high quality' markets or events in the town centre areas of Torbay. This will provide an opportunity for them to consult with their members and colleagues.

Consent Areas in Torbay

The list of Prohibited Areas, Consent Areas and Restricted Consent Areas are contained with Schedule 1 to this policy (see Annex 2). What follows is some additional guidance on the types of street trading that will be allowed on restricted consent land:

Restricted Consent Highways In Torquay:

All highways in Torquay have restricted consent, except the two below which are only available with regard to street trading for markets or events, as described in this document.

Lower Union Lane and Temperance Street, Torquay – Both have a single pitch at each site

Restricted Consent Highways In Paignton:

All highways in Paignton have restricted consent and are therefore only available with regard to street trading for markets or events, as described in this document.

Restricted Consent Highways In Brixham:

Only the town square in Brixham (and adjoining car park) has a restricted consent and is therefore only available with regard to street trading for markets or events, as described in this document.

Parks and Beaches in Torbay:

There are no pitches in these areas, so the locations are only available with regard to street trading for markets or events, as described in this document.

Harbour Land in Torbay:

Inner Harbour Slipway and Entrance to Beacon Quay, in Torquay and The Strand, The Quay and The Old Fish Quay, in Brixham have a restricted consent. There are no restrictions for harbour land, except for the broad principles laid down in this policy. This remains the responsibility of the Director of Marine Services.

Car Parks in Torbay

There are no pitches in these areas, so the locations are only available with regard to street trading for 'high quality' markets or events, as described in this document. This only relates to Brixham town centre car park.

'High Quality' Markets and events

All markets and events will be evaluated by Officers to ensure that stalls do not sell a similar range of produce as nearby traders, therefore reducing the likelihood of a conflict of interest arising. However, Torbay Council's primary aim is for the overall benefit to Torbay's economy and in some cases the Council may not be able to reconcile such conflicts.

Torbay Council, will liaise with the relevant Chamber of Commerce/traders representatives with regard to markets and similar events, to ensure that all aspects of the market/event have been taken into consideration. This policy will be reviewed and amended, if necessary, in the event that a Business Improvement District is set up in any area of Torbay.

Tattooists, hair braiders, painters etc

These types of trading are considered to be street trading, as defined by paragraph 1 of Schedule 4, Local Government (Miscellaneous Provisions) Act 1982. From 1st January 2009 traders trading in this type of produce or anything deemed to be of a similar nature, will be required to apply for a Street Trading consent. The granting of such a consent will potentially only relate to events that such traders are invited to attend or in consent areas (Part C).

Fees

The fees that are charged will be the annual discretionary fees, as set by Full Council on an annual basis. However, in cases where the event is predominately for charity (although if all the money generated is for charity, then the fee will be exempt absolute) or where quality markets or events are new and the fees in the early days of setting up may act as a discouragement and there is a clear benefit for the economy of Torbay, then with the permission of the Assistant Director of Environmental Health and Consumer Protection or any subsequent posts, these fees can be reduced or waived.