

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA
ENVIRONMENT SELECT COMMITTEE – 16 JANUARY 2024
DIRECTOR OF CLEANER, GREENER AND CULTURAL SERVICES
MARKETS ALLOCATION POLICY AND STANDARD CONDITIONS

This report has been brought to the Environment Select Committee to provide an update on the Markets Allocation Policy and Standard Conditions for Street Trading in RBKC.

The Committee is asked to note the report and make comments to the Deputy Leader, Lead Member for Employment, Culture and Enterprise

FOR DISCUSSION

1 Executive Summary

- 1.1 During the summer of 2021, a wide-ranging consultation exercise was undertaken by Kensington and Chelsea Council to inform the new Markets Plan 2022-2027. A review of the draft Markets Plan had been undertaken by the Market Streets Action Group and the trader's representative body, Portobello and Golborne Management Committee. The [Markets Plan 2022-2027](#) describes the new actions developed in response to what we heard from traders, residents and businesses, addressing both challenges and opportunities. It also offers an overview of markets and street trading within London.
- 1.2 A separate Markets Plan consultation feedback document detailing comments received and an analysis of the survey findings is available at: www.rbkc.gov.uk/business-and-enterprise/business-advice/markets-and-street-trading. When the online survey closed on 3 October 2021, a total of 213 people had engaged with the consultation exercise.
- 1.3 The Council's **Standard Conditions (See Appendix A)** set out the operating terms for our licensed traders. In Spring 2024, a revised draft of the Standard Conditions and Market Allocation Policy, will formally be consulted on for a minimum of six weeks, in accordance with the Charter for Public Participation.
- 1.4 Markets and street trading are vital parts of what makes our borough a great place to live, work and visit. As the Markets Plan 2022-2027 highlights, we want Kensington and Chelsea's markets and street trading service to be resilient and financially self-sufficient, with the capacity to evolve and thrive.

2 Recommendations

2.1 The Select Committee is recommended:

- To consider and comment upon the proposed development of the revised Standard Conditions and whether the Committee wishes to make any comments or recommendations to the Leadership Team
- To consider and comment upon the proposed development of the revised Market Allocation Policy and whether the Committee wishes to make any comments or recommendations to the Leadership Team

3 Questions to Consider

3.1

- Does the Committee have any comments or recommendations for the new Standard Conditions?
- Does the Committee have any comments or recommendations for the new Market Allocation Policy (Waiting List Policy)?

4 Main Report

Legislation

- 4.1 London's markets are typically run using one of two sets of laws; The London Local Authorities Act 1990 (LLAA/The Act) or Part III Food Act 1984. The LLAA builds on the Food Act 1984 and makes London specific responses to the regulation of street trading and protect the unique nature of London street markets.
- 4.2 In Kensington and Chelsea, all Council run street trading activity is delivered under the LLAA. The Act dictates that no profit is to be made by the Council and provides a specific structure for changes and enforcement, whilst protecting the rights of the licensed trader. Although the Act was drafted to deal with licensed isolated pitches (traders on their own, not in a market) it is also applied to markets. The Act then limits the ability to implement some of the ideas that were flagged up as potential changes during the consultation process, such as relocating existing pitches.
- 4.3 Markets set-up on non-Council streets or on private land, for example, Portobello Green Market, Acklam Village and some of the Farmers' Markets are not subject to the Act. As such, the operators of these markets, have flexibility in how they run their markets from recruiting traders to training, marketing and promotion and operating for profit.
- 4.4 The LLAA sets out what the Council can charge, as only reasonable costs related to the market operation can be collected. This includes administration, enforcement, street cleaning around trading and collecting and disposing of waste. Although this restriction on making a profit has been considered as constraining Councils' abilities to promote and invest in markets, LLAA markets can make a surplus, which the local authority can carry forward. This must be

ringfenced for the benefit of markets and traders within the financial year. On the public highway, the Council will continue to work with street trading through the LLAA to continue to protect traders and their rights.

Markets Operation

- 4.5 The Street Trading Office is funded by the fees and charges from traders in the borough and from storage unit rental charges.
- 4.6 The work of the Team covers the following:
- 350 trading sites along the length of Golborne and Portobello Road
 - The provision of the street trading at the Notting Hill Carnival of 200 + sites
 - 58 Storage Units, over 100 parking spaces for traders
 - Over 20 isolated trading sites around the borough
 - Partnerships with London Farmers Markets, The Westway Trust and Morley College
- 4.7 The Street Trading Office has a small team (6 staff) that covers a six-day operation and is active on Sundays in the summer and Christmas periods. Officers also work with community projects and activities on the markets. Across the borough, the Team assists in facilitating support for events and other street trading initiatives, assisting employment and training opportunities in a borough and on a London-wide basis
- 4.8 In 2023, Portobello and Golborne Road Market won The National Association of British Markets (NABMA) Great British Market Awards in the category of Best Large Outdoor Market.
- 4.9 The Street Trading Team support new entrepreneurs and local young people who want to start trading in the Borough. The Team run six New Youth Quake Markets each year, which allows first time young traders to experience operating their own business and work in partnership with Morley College on a specially designed “Market Traders” course.

5 Information about this Report

- 5.1 This report has been brought to the Scrutiny Committee to provide information about the revision of the Standard Conditions for Street Trading and the Market Allocation Policy. The report was requested to cover the allocation of market pitches by the Chair of the Overview and Scrutiny Committee, following a complaint regarding the transparency of the process for applying for a market pitch, especially by retail units on Portobello Rd and Golborne Rd.
- 5.2 This report includes:
- The draft **Market Allocation Policy (Appendix B)** – which sets out how pitches are allocated to new traders. This policy is being reviewed, consulted upon and if needed updated. The policy sets out the eligibility for the new pitch which is based on type of goods being sold, the

availability of pitches in that section of the market, trading experience and quality and cost of the goods being traded.

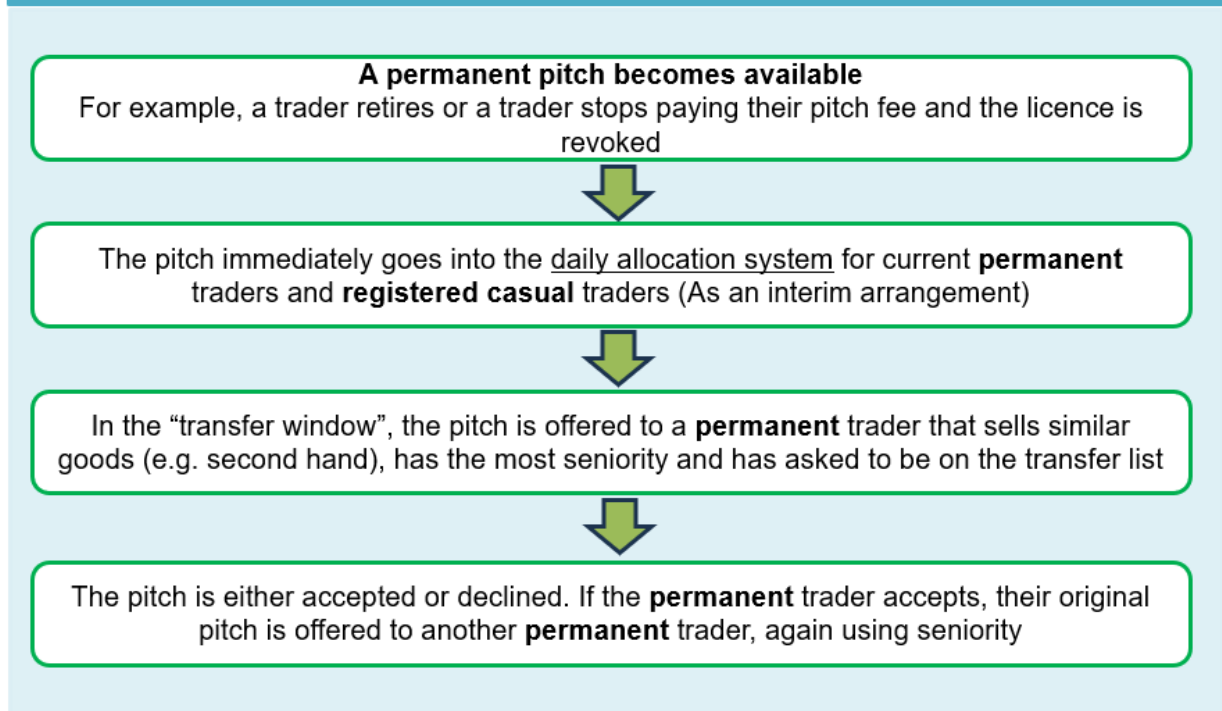
- The Market Allocation Policy will be consulted on in Spring 2024, ready for adoption later in Early Summer 2024.
- The policy encourages local young entrepreneurs to trade on Portobello Rd, via New Youth Quake and Morley College.
- The policy states “applications from owners/ operators of adjacent or nearby retail premises will not be considered, who wish to extend their offer out onto an existing designated pitch or onto a designated pitch within the footprint on Portobello Road and/or Golborne Road”. This ensures the market, and the retail offers are unique and separate, are not in competition with each other and provides longer term security to market traders on the agreed location of their pitch.
- As part of the consultation new ideas around the market allocation policy will be discussed, such as establishing a Market’s Panel to agree licence revocations and allocation of new licences.
- The **Standard Conditions** set out the operating terms for our licensed traders. In Spring 2024, a revised draft of the Standard Conditions, will formally be consulted.
- The main issues currently are regarding the size and type of gazebo some traders use, which are larger than the authorised pitch which may cause obstruction to market users and block sightlines to shops.
- Also, the time permanent traders must inform the Street Trading Office they will not be attending the market. Currently Permanent Traders need to inform the Street Trading Office by 8.30am they will not be trading that day; this then allows the office to allocate that pitch to a casual trader (if demand). There are views this should be brought forward, so an earlier time is agreed, then allowing casual traders an earlier opportunity to trade.

5.3 Market Allocation Policy Summary

A summary of the current Market Allocation Policy is below. The allocation of permanent pitches requires traders to trade successfully for at least 3 months in RBKC, as a casual trader before a permanent pitch (if available) will be offered. This will depend on the type of goods being sold as Portobello and Golborne Markets are divided in product areas, i.e Antique, Second Hand, Fruit and Veg, New Goods. Only a stall selling the relevant goods will be allowed in that section of the Market. The allocation of new pitches also depends on the “seniority” of the trader, i.e. how long they have been trading in RBKC.

- 5.4 The proposal for the updated Market Allocation Policy will include advertising the available pitches on the Council website, when they become available and outlines how the applications will be reviewed and feedback will be provided to unsuccessful applicants.

Markets Allocation – Permanent Pitches



5.5 Key decisions

A Key Decision by the Lead Member for Employment, Culture and Enterprise will be made in late Spring 2024 once the consultation has been completed on the Standard Conditions and Markets Allocation Policy and the final versions agreed.

5.6 Timescale for consideration

- Public consultation – February to April 2024
- Revised Standard Conditions and Markets Allocation Policy – adopted late May 2024

6 Further Information

The improvements to Portobello Road will be consulted on and developed at the same time as the Standard Conditions and need to ensure they both aligned.

Terry Oliver
Director for Cleaner, Greener and Cultural Services

Background Papers used in the preparation of this report:

Kensington and Chelsea Council Plan 2023-2027
Markets Plan 2022-2027

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Appendix A - Standard Conditions

Appendix B - Market Allocation Policy

Appendix C - Market Layout Plan