

Date of issue: Friday 31<sup>st</sup> August 2018

<b>MEETING</b>	<b>EXTRAORDINARY MEETING OF THE LICENSING COMMITTEE</b> (Councillors Davis (Chair), S Parmar (Vice-Chair), B Bains, M Holledge, Mann, D Parmar, Qaseem, Shah, Strutton, Usmani and Wright)
<b>DATE AND TIME:</b>	MONDAY, 10TH SEPTEMBER, 2018 AT 6.30 PM
<b>VENUE:</b>	VENUS SUITE 2, ST MARTINS PLACE, 51 BATH ROAD, SLOUGH, BERKSHIRE, SL1 3UF
<b>DEMOCRATIC SERVICES OFFICER:</b> (for all enquiries)	SHABANA KAUSER 01753 787503

NOTICE OF MEETING

You are requested to attend the above Meeting at the time and date indicated to deal with the business set out in the following agenda.



**NIGEL PALLACE**  
Interim Chief Executive

**AGENDA**

**PART I**

<u>AGENDA ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>WARD</u>
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Apologies for absence.

**CONSTITUTIONAL MATTERS**

1. Declarations of Interest

*All Members who believe they have a Disclosable Pecuniary or other Pecuniary or non pecuniary Interest in any matter to be considered at the meeting must declare that interest and, having regard to the circumstances described in Section 4 paragraph 4.6 of the Councillors' Code of Conduct, leave the meeting while the matter is discussed.*



**AGENDA  
ITEM**

**REPORT TITLE**

**PAGE**

**WARD**

*The Chair will ask Members to confirm that they do not have a declarable interest. All Members making a declaration will be required to complete a Declaration of Interests at Meetings form detailing the nature of their interest.*

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|----|---|-------|---|
| 2. | Guidance on Predetermination/ Predisposition -<br>To Note | 1 - 2 | - |
|----|---|-------|---|

**LICENSING ISSUES**

- |    |  |         |     |
|----|--|---------|-----|
| 3. | Voluntary Code of Practice for Buskers and Street<br>Entertainers  | 3 - 10  | All |
| 4. | Adoption of the Provisions of Sections 50 to 61 of<br>Part III of the Food Act 1984 and Section 37 of<br>Part XII of the Local Government (Miscellaneous<br>Provisions) Act 1982 | 11 - 44 | All |
| 5. | Members Attendance Record 2018/19  | 45 - 46 | -   |
| 6. | Date of Next Meeting - 18th October 2018   | -       | -   |

**Press and Public**

You are welcome to attend this meeting which is open to the press and public, as an observer. You will however be asked to leave before the Committee considers any items in the Part II agenda. Please contact the Democratic Services Officer shown above for further details.

The Council allows the filming, recording and photographing at its meetings that are open to the public. By entering the meeting room and using the public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings. Anyone proposing to film, record or take photographs of a meeting is requested to advise the Democratic Services Officer before the start of the meeting. Filming or recording must be overt and persons filming should not move around the meeting room whilst filming nor should they obstruct proceedings or the public from viewing the meeting. The use of flash photography, additional lighting or any non hand held devices, including tripods, will not be allowed unless this has been discussed with the Democratic Services Officer.

## **PREDETERMINATION/PREDISPOSITION - GUIDANCE**

The Council often has to make controversial decisions that affect people adversely and this can place individual members in a difficult position. They are expected to represent the interests of their constituents and political party and have strong views but it is also a well established legal principle that members who make these decisions must not be biased nor must they have pre-determined the outcome of the decision. This is especially so in “quasi judicial” decisions in planning and licensing committees. This Note seeks to provide guidance on what is legally permissible and when members may participate in decisions. It should be read alongside the Code of Conduct.

### Predisposition

Predisposition is lawful. Members may have strong views on a proposed decision, and may have expressed those views in public, and still participate in a decision. This will include political views and manifesto commitments. The key issue is that the member ensures that their predisposition does not prevent them from consideration of all the other factors that are relevant to a decision, such as committee reports, supporting documents and the views of objectors. In other words, the member retains an “open mind”.

Section 25 of the Localism Act 2011 confirms this position by providing that a decision will not be unlawful because of an allegation of bias or pre-determination “just because” a member has done anything that would indicate what view they may take in relation to a matter relevant to a decision. However, if a member has done something more than indicate a view on a decision, this may be unlawful bias or predetermination so it is important that advice is sought where this may be the case.

### Pre-determination / Bias

Pre-determination and bias are unlawful and can make a decision unlawful. Predetermination means having a “closed mind”. In other words, a member has made his/her mind up on a decision before considering or hearing all the relevant evidence. Bias can also arise from a member’s relationships or interests, as well as their state of mind. The Code of Conduct’s requirement to declare interests and withdraw from meetings prevents most obvious forms of bias, e.g. not deciding your own planning application. However, members may also consider that a “non-pecuniary interest” under the Code also gives rise to a risk of what is called apparent bias. The legal test is: “whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Committee was biased’. A fair minded observer takes an objective and balanced view of the situation but Members who think that they have a relationship or interest that may raise a possibility of bias, should seek advice.

This is a complex area and this note should be read as general guidance only. Members who need advice on individual decisions, should contact the Monitoring Officer.

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**SLOUGH BOROUGH COUNCIL**

**REPORT TO:** Licensing Committee      **DATE:** 10<sup>th</sup> September 2018

**CONTACT OFFICER:** Michael Sims – Licensing Manager  
**(For all Enquiries)** (01753) 477387  
 Ginny de Haan, Service Lead – Regulatory Services  
 (01753 477912)

**WARD(S):** All

**PART I**  
**FOR DECISION**

**VOLUNTARY CODE OF PRACTICE FOR BUSKERS AND STREET ENTERTAINERS**

1. **Purpose of Report**

The purpose of the report is to update the Committee on the draft 'Code of Practice for Buskers and Street Entertainers' in Slough Town Centre, following consultation.

2. **Recommendation(s)/Proposed Action**

The Committee is requested to;

- a. To comment on the revised draft code of practice.
- b. To make any additional amendments to the draft code of practice, and
- c. To approved the draft code of practice.

3. **The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

A report was previously put before the Licensing Committee outlining that there is no legislation outside of London to regulate or control buskers or street entertainers. Slough as a diverse community welcomes the vibrancy and atmosphere that buskers and street entertainers bring to the Town Centre.

Enforcement actions to tackle problem buskers and street entertainers are limited dependant on the activities taking place.

The adoption of a 'Code of Practice for Buskers and Street Entertainers' would provide best practice guidance and information for such performers to act in a manner to promote and enhance the vibrancy of the Town Centre and assist the work done by the Town Centre Team to take forward the cleaner, safer and vibrant Town Centre agenda.

3a. **Slough Joint Wellbeing Strategy Priorities**

The proposal will contribute to the SJWS priorities of:

Priority:

1. Protecting vulnerable children

3b. **Five Year Plan Outcomes**

The proposals will contribute to the Five Year Plan with the specific outcomes of:

1. Slough children will grow up to be happy, healthy and successful.
2. Slough will be an attractive place where people choose to live, work and stay.
3. Slough will attract, retain and grow businesses and investment to provide jobs and opportunities for our residents.

4. **Other Implications**

(a) Financial

There are no financial implications of proposed action.

(b) Risk Management

Recommendation from section 2 above	Risks/Threats/ Opportunities	Current Controls	Using the Risk Management Matrix Score the risk	Future Controls
<p>a. To comment on the revised draft code of practice.</p> <p>b. To make any additional amendments to the draft code of practice, and</p> <p>c. To approved the draft code of practice.</p>	<p>The proposal for a Code Practice for Buskers and Street Entertainers will enhance the vibrancy of the Town centre and work towards a cleaner, safer and vibrant Town Centre.</p>	None	2	Once approved the 'Code of practice' will be reviewed annually.

(c) Human Rights Act and Other Legal Implications

1. Section 1 and Schedule 1 Parts I & II of The Human Rights Act 1998 apply:

Article 1 – Every person is entitled to the peaceful enjoyment of his or her possessions including the possession of licence and shall not be deprived of the possession except in the public interest.

Article 6 – That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

(d) Equalities Impact Assessment

An Equality Impact Assessment has been completed which highlights that there are no adverse or negative impacts of opportunity for any equality group or for any other reason.

(e) Workforce

None.

**5. Supporting Information**

- 5.1 Slough Borough Council welcomes buskers and street entertainers that enhance the experience, atmosphere and vibrancy of the town centre. It is in everyone's interest to have a positive relationship with all users of public spaces which includes buskers and street entertainers.
- 5.2 On 12<sup>th</sup> June 2018 a draft 'Code of Practice for Buskers and Street Entertainers' was put before the Licensing Committee and the Committee resolved that a public consultation should be conducted.
- 5.3 A public consultation was conducted between 31<sup>st</sup> July 2018 and 20<sup>th</sup> August 2018 through the SBC website and with all elected members of Slough Borough Council, the Police, pro-busking groups such as Alive Network, Keep Streets Live Campaign, the Musicians' Union, relevant SBC services, Town Centre Manager and the Town Centre Partnership Team. Responses from the consultation are attached at **Appendix B**.
- 5.4 In light of the responses from the consultation the draft 'Code of Practice' has been revised and those changes are shaded in grey. The revised draft document is attached at **Appendix A**.
- 5.5 Once the 'Code of Practice has been implemented it will be reviewed every 12 Months, or sooner, as appropriate to the changing nature of the town centre.

**6. Comments of Other Committees**

The Licensing Committee on 12<sup>th</sup> June 2018 resolved as follows:

- That a public consultation take place on the draft Code of Practice for Buskers and Street Entertainers.

**7. Conclusion**

That the Committee approve:

- a. To comment on the revised draft code of practice.

- b. To make any additional amendments to the draft code of practice, and
- c. To approve the draft code of practice.

**8. Appendices Attached**

'A' - Revised Code of Practice for Buskers and Street Entertainers.

'B' - Consultation responses.

**9. Background Papers**

None.



### Code of Practice for Buskers and Street Entertainers

Slough Borough Council welcomes buskers and street entertainment that enhances the experience and atmosphere of the town. It is in everyone's interest to have a positive relationship with all users of public spaces and these guidelines aim to support this objective.

All buskers and street entertainers who wish to perform in Slough town centre are asked to agree to follow our best practice code of conduct. The code is intended to set out a standard which, if followed, should enable busking and street entertainment to continue and thrive whilst protecting businesses, visitors and residents from excessive noise or prolonged exposure to the same performances.

**This code applies to buskers and street entertainers in Slough Town Centre every day of the year.**

#### Do:

1. Anticipate the impact that your act will have on others in the area you choose before setting up your performance; performers should be mindful of street traders and others who use the public space under licence to perform their day to day living.
  - a. If crowds are likely to gather, you are responsible for ensuring the free passage of persons not wishing to view the performance (i.e. don't let the crowd block the street between you and the shops).
2. Store your belongings and equipment neatly during the performance to avoid causing an obstruction or trip hazard to either you or members of the public.
3. Be mindful that although the town centre is largely pedestrianised, a number of vehicles are still allowed access throughout the day.
4. Be courteous if you are approached by a member of the public.
5. Protect yourselves by taking out Personal Liability Insurance (minimum cover £1,000,000.00)
6. Due to variable acoustics at any given location it is not possible to dictate a decibel level but as a guideline the sound level at 10 metres or more from the performance area should not be dominant over the level of ambient street noise.
7. Perform between 10am and 6pm; one continuous performance per act, per day lasting for a maximum of 2 hours, with no return or moving to an alternative pitch on the same day.  
 Alternative option for point 7: Perform for a maximum of 2 continuous hours then take a break for 1-1.5 hours before resuming. Performers are asked to vary their material as repeating a limited number of songs/performance pieces can increase complaints from nearby home owners and/or businesses.
8. It is illegal for any person under the age of 14 years to busk. Anyone between the age of 14 years and 18 years old wishing to perform in Slough town centre, while not encouraged, must be accompanied at all times whilst performing by their parent or legal guardian.
9. Lower the volume, move to another location or cease performing when asked by an Authorised Officer of Slough Borough Council or Thames Valley Police if your entertainment conflicts with another event or activity.

NOTE: The Observatory and Queensmere shopping centres are private shopping areas. Performing in these areas requires permission from the **Centre** Management Team

## Don't:

1. Act in a way that is likely to cause alarm, distress, harm or offense to any other persons; including but not limited to:
  - a. Begging
  - b. Preaching of an extreme nature (i.e. promoting political, religious, racist, homophobic or ideological messages)
  - c. Inappropriate / immodest dress
  - d. Inappropriate / offensive language of an extreme nature (i.e. promoting political, religious, racist, homophobic or ideological messages)
  - e. Inappropriate / offensive imagery of an extreme nature (i.e. promoting political, religious, racist, homophobic or ideological messages)
2. Perform in a manner which may be considered dangerous to themselves or the general public i.e.:
  - a. Make use of street furniture, e.g. public seats, lampposts, railings whilst performing.
  - b. Perform acts involving fire, knives, weapons, striptease or nudity, live animals (other than registered assistance animals).
3. Bring any non-performing animals (other than registered assistance animals) with you whilst you are performing.
4. Stand, sit, or spread out your equipment so as to cause an obstruction of the highway (footpath), ATM machines, entrances or exits to shops and other premises.
5. Actively collect money.
  - a. You may have a receptacle (box, hat or musical instrument case) into which you can accept donations.
  - b. You are not allowed to purport to collect for charitable or other purposes. This would be a 'street collection' requiring a permit from the Council.
    - i. Details of these regulations can be found on the council's website at <https://www.slough.gov.uk/business/licences-and-permits/charitable-collections.aspx>
6. Sell CD's, DVD's, Tapes or any other goods. This is classed as street trading and you will require a permit for this. To obtain consent please visit the Council Office in Landmark Place and obtain a permit from the Licensing Department, which will cost £10 per trading day.
  - a. Anyone who is found to be selling goods without permission will be instructed to stop performing and vacate the site; this is an offence for which you could be prosecuted and liable to a fine of up to £1,000.
  - b. Information about an application form for a street trading consent can be found on the council's website at <https://www.slough.gov.uk/business/licences-and-permits/business-and-street-trading-licences.aspx>
7. Perform within 50 metres of another busker/entertainer who is already performing.
8. Perform whilst under the influence of alcohol, solvents or drugs.
9. Leave any litter behind.

If performers are following this code, it is very unlikely that enforcement will be necessary. It should be noted that a range of statutory powers can impact on performers however these will only be used as a last resort.

This code is managed on behalf of Slough Borough Council by the Licensing Team and is available at:

<http://www.slough.gov.uk/business/licences-and-permits/>.

For more information please contact the Licensing Team at Landmark Place, High Street, Slough, SL1 1JL or telephone 01753 875664 or email [licensing@slough.gov.uk](mailto:licensing@slough.gov.uk) This code will be reviewed every 12 months or sooner as appropriate to the changing nature of the town centre.

## APPENDIX B - CONSULTATION RESPONSES

<p>(Local Business) Thanks for passing this on. Had a read through, I can note a fair few buskers/performers that would breach some of these codes, not so concerned about that but how would this be actively policed/monitored and enforced?</p>	<p><b>Response –</b> Thank you for the speedy response. In relation to you comment on policing this, the Codes of practice will be placed on the Council website and a copy provided to all buskers and street entertainers in the High Street. We will be conducting regular visit to the High Street and where there is any identified non-compliance with the Codes of practice the performers will asked to cease performing and leave the area. We will be reviewing the Code of practice 12 months after its implementation.</p>
<p>(Elected member of SBC) Thank you for the information, and I am happy to see that we are adapting to make the changes that may help the Town Centre. I am happy with the draft as long as it's compliant with the licensing act which I am sure it would be.</p>	<p>Response of thanks</p>
<p>(Elected member of SBC) The only thing i degree with is the banning of religious preaching. I think this should read extreme regions preaching</p>	<p>Response of thanks</p>
<p>(Elected member of SBC) I agree with [REDACTED] on this. There is an honourable tradition of religious preaching on Slough High Street, and I think a there is an element of civic acts of worship and remembrance there that this might unintentionally impact upon. If there needs to be any prohibition to the exercise of free speech on our High Street, I think it should be in line with legislation banning the preaching of messages of hate, in sighting bigotry, intolerance and violence.</p>	<p>Response of thanks</p>
<p>(Elected Member of SBC) I have no problem with the principle of religious organisations using our high streets providing there is no condemnation, hate preaching towards any of the accepted religions or promotion of martyrdom in the name of re of any religion.</p>	<p>Response of thanks</p>
<p>(Elected member of SBC) I support Cllr [REDACTED] view below. I believe the High Street should be available for civil acts of worship, commemorative events and potentially some processions. However, I found the presence of the street preachers a deterrent to shoppers going about their business, myself included (as they did 'harangue' people going about their business), and would support a tightening of our previous</p>	<p>Response of thanks</p>

<p>frameworks/code to stop that activity on the High Street</p>	
<p>(Elected member of SBC) I rarely use the High Street now, however I recall that years ago, not long after the High Street was closed to traffic, some Christian fundamentalists used to harangue shoppers by telling them that they were all doomed to burn in hell, were heathens, were evil, condemned to eternal damnation etc.</p> <p>I would not expect that type of 'preaching' to be acceptable. I was always surprised no one hit them, though perhaps someone did.</p> <p>Otherwise certainly accept that we need to allow acts of civil worship and similar commemorative religious events</p>	<p>Response of thanks</p>
<p>(Town centre Manager) Under DO:</p> <p>Item 6 – have you reviewed SBC’s noise policy if we have such thing in Place? <a href="http://www.slough.gov.uk/council/joint-strategic-needs-assessment/environment.aspx">http://www.slough.gov.uk/council/joint-strategic-needs-assessment/environment.aspx</a></p> <p>Item 8 – Can this clause be reviewed based on the central government advice. It states “Children under 14 aren’t allowed to busk” and I noticed in Slough high street a few buskers are our young buskers, volunteers etc. are under the age of 18. They are usually unaccompanied or in the company of another young person. [REDACTED] can advise.</p> <p>Under NOTE: change “Town Centre Management Team to “Centre Management Team” if you are referring to the shopping centres</p> <p>Under DON’T:</p> <p>Item 2 – who are you referring to “them”?</p> <p>Item 6, a. – are we able to add any level of fines if applicable?</p> <p>Item 6, b. – delete ‘and’ before ‘an application form’</p> <p>The paragraph before last, can you add your team’s email <a href="mailto:licensing@slough.gov.uk">licensing@slough.gov.uk</a> unless enquirers are only required to contact your team via phone?</p> <p>Can you please add ‘For further information, please contact: Licensing, Landmark Place, xx Windsor Road, Tel, Email, Website etc.’</p>	<p>Response of thanks</p>

**SLOUGH BOROUGH COUNCIL**

**REPORT TO:** Licensing Committee      **DATE:** 10<sup>th</sup> September 2018

**CONTACT OFFICER:** Michael Sims – Licensing Manager  
**(For all Enquiries)** (01753) 477387  
 Ginny de Haan, Service Lead – Regulatory Services  
 (01753 477912)

**WARD(S):** All

**PART I**  
**FOR DECISION**

**ADOPTION OF THE PROVISIONS OF SECTIONS 50 TO 61 OF PART III OF THE FOOD ACT 1984 AND SECTION 37 OF PART XII OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

1. **Purpose of Report**

The purpose of the report is for the Committee to formally adopt the relevant legislation pertaining to establishing and licensing markets (including temporary markets), and to note and comment on the draft Market Licensing Standard Terms and Conditions and Draft Market Policy.

2. **Recommendation(s)/Proposed Action**

The Committee is requested to;

- a. Recommend the adoption of the provisions of Sections 50 to 61 of Part III of the Food Act 1984 and Section 37 of part XII of the Local Government (Miscellaneous Provisions) Act 1982 to Full Council.
- b. Comment on and approve the draft Market Licensing Standard Terms and Conditions.
- c. Approve the draft Markets Policy following public consultation.

3. **The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

The Council recognises the importance of markets in the local economy and their contribution to the character of the area. Markets contribute to economic growth and regeneration by; creating jobs, promoting local produce, attracting tourists and adding vitality to the Town Centre.

The report details that the Council does not currently have any provisions in place to establish, regulate, control or licence markets in Slough.

Street trading is governed by Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 which has been adopted by the Council and Specifically states that ‘anything done in a market or fair’ is not classed as street trading.

In order for the Council to establish markets and licence and regulate markets within the Borough it must first adopt the relevant legislation which is contained in Sections 50 to 61 of Part III of the Food Act 1984 which affords the power to establish and the right to licence and control the frequency of markets in the local authority area, together with Section 37 of the Local Government (Miscellaneous Provisions) Act 1982 which provides for a person wanting to hold a 'temporary market' to give the local authority one months notice of his/her intention to do so, (unless the proceeds of the temporary market are applied solely or principally for charitable, sporting, social or political purposes, in which case not notice is required).

3a. **Slough Joint Wellbeing Strategy Priorities**

The adoption of the legislation allowing the Council to licence markets will contribute to the SJWS priorities of:

Priority:

1. Protecting vulnerable children
2. Increasing life expectancy by focusing on inequalities
3. Improving mental health and wellbeing

3b. **Five Year Plan Outcomes**

The proposals will contribute to the Five Year Plan with the specific outcomes of:

1. Slough will be an attractive place where people choose to live, work and stay.
2. Slough will attract, retain and grow businesses and investment to provide jobs and opportunities for our residents.

The proposals will also contribute to the recommendations within the Town Centre Strategy.

4. **Other Implications**

(a) Financial

There are no financial implications of proposed action.

(b) Risk Management

Recommendation from section 2 above	Risks/Threats/ Opportunities	Current Controls	Using the Risk Management Matrix Score the risk	Future Controls
a. Resolve to adopt the provisions of Sections 50 to 61 of Part III of the Food Act 1984 and Section 37 of	The ability to licence, regulate and control markets in the High Street and other areas of the Borough	None	3	Approval of a Markets Policy following consultation.

<p>the Local Government (Miscellaneous Provisions) Act 1982</p> <p>b. Recommend the adoption of the provisions of Sections 50 to 61 of Part III of the Food Act 1984 and Section 37 of the Local Government (Miscellaneous Provisions) Act 1982 to Full Council</p> <p>c. Comment on the draft Market Licensing Standard Terms and Conditions</p> <p>d. Make any amendments to and approve the Market Licensing Standard Terms and Conditions</p> <p>e. Approve the draft Markets Policy following public consultation</p>				
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(c) Human Rights Act and Other Legal Implications

1. Section 1 and Schedule 1 Parts I & II of The Human Rights Act 1998 apply:

Article 1 – Every person is entitled to the peaceful enjoyment of his or her possessions including the possession of licence and shall not be deprived of the possession except in the public interest.

Article 6 – That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

(d) Equalities Impact Assessment

An Equality Impact Assessment has been completed which highlights that there are no adverse or negative impacts of opportunity for any equality group or for

any other reason.

(e) Workforce

None.

**5. Supporting Information**

- 5.1 The Council recognises the importance of markets in the local economy and their contribution to the character of the area. Markets contribute to economic growth, and regeneration by; creating jobs, promoting local produce, attracting tourists and adding vitality to the Town Centre.
- 5.2 The Council does not currently have any provisions in place to establish, regulate, control or licence markets in Slough.
- 5.3 The definition of a temporary market in the 1982 Act is – ‘*A concourse of buyers and sellers and will comprise of not less than five stalls, stands, vehicles, (whether movable or not) or pitches from which articles are sold*’.
- 5.4 Street trading is governed by Schedule 4 Local Government (Miscellaneous Provisions) Act 1982 which has been adopted by the Council and specifically states that ‘anything done in a market or fair’ is not classed as street trading.
- 5.5 In order for the Council to establish and hold markets within its area and the right to licence and control the frequency markets, it must first adopt the relevant legislation which is, the provisions of Sections 50 to 61 of Part III of the Food Act 1984. A copy of this legislation is attached at **Appendix A**.
- 5.6 With regards to ‘Temporary Markets’ the Council needs to adopt Section 37 of Part XII of the Local Government (Miscellaneous Provisions) Act 1982 which requires any person intending to hold a temporary market to notify the Council in advance by giving it one months notice of its intention to do so, (unless the proceeds of the temporary market are applied solely or principally for charitable, sporting, social or political purposes, in which case notice is required). A copy of this legislation is attached at **Appendix B**.
- 5.7 Section 37 of the 1982 Act also states that once the Council has resolved to adopt these provisions, within 14 days of the passing of the resolution which is publicly circulated by advertising in a local newspaper in their area, those provisions shall come into force in their district on the day specified in the resolution.
- 5.8 It is best practice that information is available to those affected to understand the requirements of the Council licensing markets. Therefore a draft ‘Markets Policy’ has been developed in conjunction with the Council’s Communications Team who will be responsible to this licensing regime. The ‘Markets Policy’ is attached at **Appendix C**.
- 5.9 The Committee are asked to approve the draft ‘Markets Policy’ which was subject to a public consultation between 30<sup>th</sup> July 2018 and 20<sup>th</sup> August 2018. Others consulted on the draft Markets policy were all members of Cabinet, ward members for Central Ward, the NABMA (The National Association of British Market Authorities), the NMTF (National Market Traders Association) and other UK Local Authority Market Operators. In addition, relevant Council Service areas



responsible for licensing, economic regeneration, and town centres operations were also consulted.

5.10 Responses to the consultation have been very limited and only minor amendments have been made to the draft policy document which are shaded in grey.

5.11 The responsibility of the Council is to ensure that those individuals to whom permission to trade is granted are conducting their business in a proper and safe manner. In doing so, it is necessary for the Council to specify terms and conditions that must be complied with. These conditions reflect the need to protect the public and for the avoidance of nuisance. Again, in conjunction with the Communications Team, 'Market Licensing Standard Terms and Conditions' have been developed which are attached at **Appendix D**.

5.12 These terms and conditions are similar to those already in place for street trading and as approved by the Licensing Committee following consultation in 2016 and will therefore ensure a consistency for compliance in both licensing regimes. The Committee is asked to formally approve and adopt these terms and conditions.

## **6. Comments of Other Committees**

None.

## **7. Conclusion**

That the Committee approve:

- a. Recommend the adoption of the provisions of Sections 50 to 61 of Part III of the Food Act 1984 and Section 37 of Part XII of the Local Government (Miscellaneous Provisions) Act 1982 to Full Council
- b. Comment on and approve the draft Market Licensing Standard Terms and Conditions.
- c. Approve the draft Markets Policy following public consultation.

## **8. Appendices Attached**

'A' - Copy of provisions of Sections 50 to 61 of Part III of the Food Act 1984

'B' - Copy of Section 37 of Part XII of the Local Government (Miscellaneous Provisions) Act 1982

'C' - Copy of Markets Policy

'D' - Copy of Market Licensing Standard Terms and Conditions.

## **9. Background Papers**

None.

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[Search Legislation](#)

Title:  Year:  Number:   
 Type:

[Search](#)
[Advanced Search](#)

## Food Act 1984

1984 c. 30 Part III

[Table of Contents](#) [Content](#) [More Resources](#)
[Previous: Part](#)
[Next: Part](#)
[Plain View](#)
[Print Options](#)

**Changes to legislation:** There are currently no known outstanding effects for the Food Act 1984, Part III.

### PART III MARKETS

#### Annotations:

##### Modifications etc. (not altering text)

- C1 [Pt. III applied \(30.1.2004\) by Hereford Markets Act 2003 \(c. iv\), ss. 1, 3\(2\)](#)  
 C2 [Pt. III applied \(2.10.2004\) by Ipswich Market Act 2004 \(c. iii\), ss. 1, 6](#)

#### 50 Establishment or acquisition.

(1) **[F1]** A local authority may—

- (a) establish a market within **[F1]** their area;
- (b) acquire by agreement (but not otherwise), either by purchase or on lease, the whole or any part of an existing market undertaking within **[F1]** their area, and any rights enjoyed by any person within **[F1]** their area in respect of a market and of tolls,

and, in either case, may provide—

- (i) a market place with convenient approaches to it;
- (ii) a market house and other buildings convenient for the holding of a market.

(2) A market shall not be established in pursuance of this section so as to interfere with any rights, powers or privileges enjoyed within **[F2]** the authority's area in respect of a market by any person, without that person's consent.

**[F3]**(3) For the purposes of subsection (2), a local authority shall not be regarded as enjoying any rights, powers or privileges within another local authority's area by reason only of the fact that they maintain within their own area a market which has been established under paragraph (a) of subsection (1) or under the corresponding provision of any earlier enactment]

#### Annotations:

##### Amendments (Textual)

- F1** Words substituted by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\), ss. 52, 54, Sch. 2 para. 2\(1\)](#)
- F2** Words substituted by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\), ss. 52, 54, Sch. 2 para. 2\(2\)](#)
- F3** [S. 50\(3\)](#) substituted by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\), ss. 52, 54, Sch. 2 para. 2\(3\)](#)

**51 Power to sell to local authority.**

- (1) The owner of a market undertaking, or of any rights in respect of a market and of tolls, whether established under, or enjoyed by virtue of, statutory powers or not, may sell or lease to a local authority the whole or any part of his market undertaking or rights, but subject to all attached liabilities.
- (2) A sale by a . . . **F4** company under this section must be authorised—
  - (a) if the company is a company within the meaning of the Companies Act [**F5** 1985], [**F6** by special resolution];
  - (b) if the company is not such a company, by a resolution passed by three-fourths in number and value of the members present, either personally or by proxy, at a meeting specially convened for the purpose with notice of the business to be transacted.

**Annotations:** **Amendments (Textual)**

- F4** Word repealed by Food Safety Act 1990 (c. 16, SIF 53:1, 2), ss. 52, 54, 59(4), Sch. 2 para. 3, Sch. 5
- F5** Figure substituted by the Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), s. 30, Sch. 2
- F6** Words in s. 51(2)(a) substituted (1.10.2007) by Companies Act 2006 (Commencement No.3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/2194), art. 1(3)(a), Sch. 4 para. 37 (with art. 12)

**52 Market days and hours.**

A market authority may appoint the days on which, and the hours during which, markets are to be held.

**53 Charges.**

- (1) A market authority may demand in respect of the market, . . . **F7**, such charges as they may from time to time determine.
- [F8]**(2) A market authority who provide—
  - (a) a weighing machine for weighing cattle, sheep or swine; or
  - (b) a cold air store or refrigerator for the storage and preservation of meat and other articles of food,
 may demand in respect of the weighing of such animals or, as the case may be, the use of the store or refrigerator such charges as they may from time to time determine.
- (3) The authority—
  - (a) shall keep exhibited in conspicuous places in the market place, and in any market house, tables stating in large and legibly printed characters the several charges payable under this Part; and
  - (b) shall keep so much of the tables as relates to charges payable . . . **F9** in respect of the weighing of animals, conspicuously exhibited at every weighing machine provided by them in connection with the market for the purpose.
- (4) A person who demands or accepts a charge greater than that for the time being authorised shall be liable to a fine not exceeding level 2 on the standard scale.
- (5) Nothing in this section applies in relation to rents charged by a market authority in respect of the letting of accommodation within their market for any period longer than one week.

**Annotations:** **Amendments (Textual)**

- F7** Words repealed by Food Safety Act 1990 (c. 16, SIF 53:1, 2), ss. 52, 54, 59(4), Sch. 2 para. 4, Sch. 5
- F8** S. 53(2) substituted by Food Safety Act 1990 (c. 16, SIF 53:1, 2), ss. 52, 54, Sch. 2 para. 4(2)
- F9** Words repealed by Food Safety Act 1990 (c. 16, SIF 53:1, 2), ss. 52, 54, 59(4), Sch. 2 para. 4(3), Sch. 5

**54 Time for payment of charges.**

- (1) Charges payable in respect of the market shall be paid from time to time on demand to an authorised market officer.
- [F10]**(2) Charges payable in respect of the weighing of cattle, sheep or swine shall be paid in advance to an authorised market officer by the person bringing the animals to be weighed.]
- (3) Charges payable in respect of animals brought to the market for sale shall be payable, and may be demanded by an authorised market officer—

- (a) as soon as the animals in respect of which they are payable are brought into the market place, and
- (b) before they are put into any pen, or tied up in the market place,

but further charges shall be payable and may be demanded in respect of any of the animals which are not removed within one hour after the close of the market.

**Annotations:** [?](#)

**Amendments (Textual)**

**F10** S. 54(2) substituted by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\), ss. 52, 54, Sch. 2 para. 5](#)

**55 Recovery of charges.**

If a person liable to pay any charge authorised under this Part does not pay it when lawfully demanded, the market authority may, by any authorised market officer, levy it by distress—

- (a) of all or any of the animals, poultry or other articles in respect of which the charge is payable, or
- (b) of any other animals, poultry or articles in the market belonging to, or in the charge of, the person liable,

and any such charge may also be recovered either summarily as a civil debt or in any court of competent jurisdiction.

**56 Prohibited sales in market hours.**

(1) A person (other than a pedlar holding a certificate under the **M1** Pedlars Act 1871) who on a market day and during market hours sells or exposes for sale any articles—

- (a) which are specified in a byelaw made by the market authority, and
- (b) which are commonly sold in the market,

and such sale or exposure for sale—

- (i) is in any place within the authority's [**F11** area], and
- (ii) is within such distance from the market as the authority may by byelaw declare,

is liable to a fine not exceeding level 2 on the standard scale.

This subsection does not apply to a sale or exposure for sale in a person's own dwelling place or shop, or in, or at the door of, any premises to a person resident in those premises.

(2) The market authority shall keep exhibited in conspicuous positions in the vicinity of the market notices stating the effect of any byelaw made under this section.

**Annotations:** [?](#)

**Amendments (Textual)**

**F11** Word substituted by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\), ss. 52, 54, Sch. 2 para. 6](#)

**Marginal Citations**

**M1** 1871 c. 96.

**57 Weighing machines and scales.**

(1) ..... **F12**

(2) A market authority in whose market cattle, sheep or swine are sold shall, unless there is in force an order of the Minister declaring that the circumstances are such as to render compliance with this subsection unnecessary—

- (a) provide to that Minister's satisfaction one or more weighing machines adapted for weighing such animals; and
- (b) appoint officers to attend to the weighing of such animals.

A weighing machine provided under this subsection shall for the purposes of section 1 of the **M2** Markets and Fairs (Weighing of Cattle) Act 1926, be deemed to have been provided for the purpose of complying with the provisions of the principal Act referred to in that Act of 1926.

**Annotations:** [?](#)

**Amendments (Textual)**

**F12** S. 57(1) repealed by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\), ss. 52, 54, 59\(4\), Sch. 2 para. 7, Sch. 5](#)

**Marginal Citations**

**M2** 1926 c. 21.

**[F1357A Provision of cold stores.**

- (1) A market authority may provide a cold air store or refrigerator for the storage and preservation of meat and other articles of food.
- (2) Any proposal by a market authority to provide under this section a cold air store or refrigerator within the area of another local authority requires the consent of that other authority, which shall not be unreasonably withheld.
- (3) Any question whether or not such a consent is unreasonably withheld shall be referred to and determined by the Ministers.
- (4) Subsections (1) to (5) of section 250 of the **M3** Local Government Act 1972 (which relate to local inquiries) shall apply for the purposes of this section as if any reference in those subsections to that Act included a reference to this section.]

**Annotations:** ?

**Amendments (Textual)**

**F13** S. 57A inserted by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\), ss. 52, 54, Sch. 2 para. 8](#)

**Marginal Citations**

**M3** 1972 c.70(81:1).

**58** ..... **F14**

**Annotations:** ?

**Amendments (Textual)**

**F14** S. 58 repealed by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\), ss. 52, 54, 59\(4\), Sch. 2 para. 9, Sch. 5](#)

**59 Information for market officer.**

The person in charge of any vehicle in which, and any other person by whom, animals, poultry or other articles are brought for sale in the market shall give to any authorised market officer such information—

- (a) as to their number and kind, or
- (b) in the case of articles on which charges are made by reference to weight, as to their weight,

as that officer may require.

**60 Market byelaws.**

A local authority who maintain a market, whether or not they are a market authority within the meaning of this Act, may make byelaws—

- (a) for regulating the use of the market place, and the buildings, stalls, pens and standings in that market place;
- (b) for preventing nuisances or obstructions in the market place, or in the immediate approaches to it;
- (c) for regulating porters and carriers resorting to the market, and fixing the charges to be made for carrying articles from the market within the district.

[**F15**(d) after consulting the [**F16**fire and rescue authority] **F17** ..., for preventing the spread of fires in the market.]

**Annotations:** ?

**Amendments (Textual)**

**F15** S. 60(d) inserted by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\), ss. 52, 54, Sch. 2 para. 10](#)

**F16** Words in s. 60(d) substituted (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\), s. 61, Sch. 1 para. 56\(2\); S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2](#)

**F17** Words in s. 60(d) repealed (1.4.2006) by [Regulatory Reform \(Fire Safety\) Order 2005 \(S.I. 2005/1541\), art. 1\(3\), Sch. 2 para. 32\(2\), Sch. 4 \(with art. 49\)](#)

**61 Interpretation of Part III, and exclusion of City of London.**

In this Part, unless the context otherwise requires—

"authorised market officer" means an officer of a market authority specially authorised by them to collect charges in their market,

"charges" includes stallage or tolls,

**[F18 [F19** "fire and rescue authority" in relation to a market, means—

- (a) where the Regulatory Reform (Fire Safety) Order 2005 applies to the market, the enforcing authority within the meaning given by article 25 of that Order; or
- (b) in any other case, the fire and rescue authority under the Fire and Rescue Services Act 2004 for the area in which the market is situated.]

"food" has the same meaning as in the Food Safety Act 1990;

"local authority" means a district council, a London borough council or a parish **[F20** council but, in relation to Wales, means a county council, county borough council] or community council;

"market authority" means a local authority who maintain a market which has been established or acquired under section 50(1) or under the corresponding provisions of any earlier enactment.]

F21

**Annotations:** [7](#)

**Amendments (Textual)**

- F18** Definitions substituted for "market authority" by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\)](#), [ss. 52, 54](#), [Sch. 2 para. 11](#)
- F19** Definition in s. 61 substituted (1.4.2006) by [Regulatory Reform \(Fire Safety\) Order 2005 \(S.I. 2005/1541\)](#), [art. 1\(3\)](#), [Sch. 2 para. 32\(3\)](#) (with [art. 49](#))
- F20** Words in s. 61 inserted (1.4.1996) by [1994 c. 19, s. 22\(3\)](#), [Sch. 9 para. 14](#) (with [ss. 54\(5\)\(7\), 55\(5\)](#), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); [S.I. 1996/396, art. 3](#), [Sch. 1](#)
- F21** Words repealed by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\)](#), [ss. 52, 54, 59\(4\)](#), [Sch. 2 para. 11](#), [Sch. 5](#)

[Previous: Part](#)

[Next: Part](#)






[Home](#) [About Us](#) [Browse Legislation](#) [New Legislation](#) [Changes To Legislation](#)[Search Legislation](#)Title:  Year:  Number:   
Type:  [Search](#)[Advanced Search](#)

## Local Government (Miscellaneous Provisions) Act 1982

1982 c. 30 Part XII Section 37

[Table of Contents](#) [Content](#) [More Resources](#) [Previous: Provision](#)[Next: Provision](#)[Plain View](#)[Print Options](#)

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to Local Government (Miscellaneous Provisions) Act 1982. Any changes that have already been made by the team appear in the content and are referenced with annotations. 

[View outstanding changes](#)

### 37 Temporary markets.

- (1) The council of a district or a London borough may resolve that the following provisions of this section shall apply to their district or borough; and if a council so resolve and within 14 days of the passing of the resolution give notice of the resolution by advertising in a local newspaper circulating in their area, those provisions shall come into force in their district or borough on the day specified in the resolution.
- (2) Subject to subsection (3) below, any person intending to hold a temporary market in a district or London borough where the provisions of this section have come into force, and any occupier of land in such a district or borough who intends to permit the land to be used as the site of a temporary market or for purposes of that market, shall give the council of the district or the borough not less than one month before the date on which it is proposed to hold the market notice of his intention to hold it or to permit the land to be so used, as the case may be.
- (3) No notice is required under subsection (2) above if the proceeds of the temporary market are to be applied solely or principally for charitable, social, sporting or political purposes.
- (4) Any notice given under subsection (2) above shall state—
  - (a) the full name and address of the person intending to hold the market;
  - (b) the day or days on which it is proposed that the market shall be held and its proposed opening and closing times;
  - (c) the site on which it is proposed that it shall be held;
  - (d) the full name and address of the occupier of that site, if he is not the person intending to hold the market.
- (5) A person who without giving the notice required by subsection (2) above holds a temporary market or permits land occupied by him to be used as the site of a temporary market shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F1</sup> level 4 on the standard scale].
- (6) In this section "temporary market" means a concourse of buyers and sellers of articles held otherwise than in a building or on a highway, and comprising not less than five stalls, stands, vehicles (whether movable or not) or pitches from which articles are sold, but does not include—
  - (a) a market or fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an enactment or order; or
  - (b) a sale by auction of farm livestock or deadstock.
- (7) A person holds a temporary market for the purposes of this section if—
  - (a)

he is entitled to payment for any space or pitch hired or let on the site of the market to persons wishing to trade in the market; or

(b) he is entitled, as a person promoting the market, or as the agent, licensee or assignee of a person promoting the market, to payment for goods sold or services rendered to persons attending the market.

(8) This section does not apply to a market held on any land in accordance with planning permission granted on an application made under <sup>[F2]</sup>Part III of the Town and Country Planning Act 1990].

**Annotations:** **Amendments (Textual)**

**F1** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#)

**F2** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), [s. 4](#), [Sch. 2 para. 56\(2\)](#)

[Previous: Provision](#)[Next: Provision](#)

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[Back to top](#)  
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## APPENDIX C

### SLOUGH BOROUGH COUNCIL MARKETS POLICY

<b>Document Number</b>	<b>01</b>
<b>Version Number</b>	<b>01</b>
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<b>Contact Officer</b>	<b>Mick Sims - Licensing Manager</b>

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<b>1.00</b>	<b>27/07/2018</b>	<b>Draft document prepared</b>
<b>2.00</b>	<b>20/08/2018</b>	<b>Amendments following Consultation</b>
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<b>Related Documents</b>	
<b>Document Title</b>	<b>Location</b>
<b>Food Act 1984</b>	<b>Statute</b>
<b>Local Government (Miscellaneous provisions) Act 1982</b>	<b>Statute</b>

**If you have any further questions about this Policy or for further information, including applications forms please contact:**

Licensing Manager  
Slough Borough Council  
Landmark Place  
High Street  
Slough  
SL1 1JL

Tel: 01753 875664  
Email: [licensing@slough.gov.uk](mailto:licensing@slough.gov.uk)

## CONTENTS

Section	
1.	Introduction
2.	Markets
3.	Legislative powers held by the Council
4.	What is a Market Event
5.	Market Operator
6.	Licensing of Markets under the Council's Markets Policy
7.	How to apply
8.	Appeals procedure
9.	Fees
10.	Other Approvals
11.	Section 37 of the Local Government (Miscellaneous Provisions) Act 1982
12.	Enforcement
13.	Partnerships

## 1. INTRODUCTION

The Council recognises the importance of markets in the local economy and their contribution to the character of the area. Markets serve an important function to the community and contribute in a number of ways to the local communities they serve.

Markets contribute to economic growth and regeneration by; creating jobs, promoting local produce and attracting tourists.

The Council's markets are described in more detail in Section 2 of this policy and they represent an important investment by the Council in delivering economic growth and regeneration creating jobs, promoting local produce, attracting tourists and Town Centre vitality.

The Council is keen to maintain regular markets in the Town Centre. This markets policy sets out the basis upon which markets are held and the process by which applications for new markets will be considered.

The Council recognises that there are many different types of market activities and this policy *adopted by the Council* is intended to cater for each type of market. In particular, this policy distinguishes between commercial markets and those that are largely community-based with a strong charitable element. Section 5 of the markets policy deals with the different types of market and the Council's approach in considering applications in respect of such markets.

In producing this policy the Council has taken the opportunity of consulting publicly and with the following organisations: NABMA (The National Association of British Market Authorities), the NMTF (National Market Traders Association) and other UK Local Authority Market Operators. In addition, the Council has consulted internally with Cabinet Members, Ward members for Central ward and the relevant Council Service areas responsible for licensing, economic regeneration, and town centres operations.

The policy will be kept under review.

## 2. MARKETS

Council operates markets principally in the High Street. However, the Council can also run any number of ad-hoc markets at locations across the Borough and establish new markets if it chooses to do so.

## 3. LEGISLATIVE POWERS HELD BY THE COUNCIL

The Council has adopted the provisions Sections 50 to 61 of Part III of the Food Act 1984, to hold markets within its area and the right to licence and control the frequency of markets within its borough. In addition the Council has adopted Section 37 of Part XII of the Local Government (Miscellaneous Provisions) Act 1982 that requires any person intending to hold a temporary market to notify the Council in advance, so that if appropriate the Council can take steps to remove the permitted development rights to hold such a market and require the operator to apply for planning permission to do so.

This right has been exercisable for many years and this policy takes into account relevant UK and European legislation.

#### **4. WHAT IS A MARKET EVENT?**

The Council's markets policy is intended to cover, principally markets in the High Street and where necessary all market events held within the borough. In order that potential market operators are fully aware of the Council's definition of a market the following guidelines are provided:

- a) The legal definition of a market is a "concourse of buyers and sellers" (this means that the public are entitled to attend market events to buy and sell).
- b) A temporary market will comprise not less than five stalls, stands, vehicles, whether moveable or not or pitches from which articles are sold.
- c) There will be an operator of the market who will be responsible for the organisation and delivery of the event.
- d) The term "market event" includes car boot sales, antique and craft markets, general markets, farmers' markets, continental style markets and charity markets.
- e) A market may sometimes be held as an integral part of a special event and where this arises the market element will fall within the Council's markets policy.

The Council's markets policy differentiates between markets of a commercial nature and community-based markets which have a strong charitable element.

This markets policy does not cover street trading activities. This activity is regulated by the Council's Licensing Team under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

#### **5. MARKET OPERATOR**

A Market Operator is defined as person, body or organisation to whom a market licence is granted by the Council.

#### **6. LICENSING OF MARKETS UNDER THE COUNCIL'S MARKETS POLICY**

The Council's consent to a market event must be given before the market takes place. Markets will only be licensed once an application for a markets licence has been approved. Any market that takes place without such a licence is in breach of the Council's markets policy and will be subject to enforcement action as described in Section 12.

The Council will consider applications in respect of the following categories of market events:

- i) Commercial markets including continental style markets
- ii) Markets with a strong charitable/community element

The criteria set out in Section 4 will be relevant in respect of both categories of market event.

##### **i) Commercial markets**

A commercial market is one which is operated for profit and where the traders are engaged in

a business activity of selling goods for their own purposes.

The Council will consider applications in respect of commercial markets having regard to the following requirements:

- a) No market will be authorised to take place within the Borough unless it can be demonstrated that the new market will not undermine the existing markets and not prejudice the overall market offer.
- b) In respect of any consent the operator must have adequate insurances, comply with trading standards guidelines, health and safety requirements and any other statutory provisions laid down by the Council, including the Market Licensing Standard Terms and Conditions.
- c) A fee will be charged for any application to the Council, The fee will be based on the size and number of traders engaged in the market event. P l e a s e refer to Section 9 in respect of fees.
- d) The goods to be sold on the market will be approved by the Council.
- e) A licensing agreement will be entered into between the operator and the Council and such licensing agreement must be concluded before the market takes place.
- f) All authorised markets will be subject to the Slough Borough Council Market Licensing Standard Terms and Conditions.
- g) The Council will insist on such other requirements as are deemed appropriate to ensure consumer and public safety standards.

ii) **Markets With A Strong Charitable/Community Element**

Some markets are organised by local communities or organisations with the intention of raising funds for a specific charity or celebrating a special event. The Council will consider applications in respect of such market events having regard to the following requirements:

- a) The markets must be operated on a non-profit making basis to assist a charity/community, and the operator shall supply relevant information to the Council evidencing the same if requested. While it is acknowledged that some traders will be selling goods for their own purposes, the Council will look for the event to have a strong charitable element in the way the event is organised.
- b) In respect of any consent the operator must have adequate insurances, comply with trading standards guidelines, health and safety requirements and any other statutory provisions laid down by the Council.
- c) A licensing agreement will be entered into between the operator and the Council and such licensing agreement must be concluded before the market takes place.
- d) All authorised markets will be subject to the Slough Borough Council Market Licensing Standard Terms and Conditions.

- e) The Council will insist on such other requirements as are deemed appropriate to ensure consumer and public safety standards.
- f) The operator must hold adequate proof that the charity they represent is registered with the Charity Commission, and also provide written permission from the charity organisation to raise funds on their behalf.

**7. HOW TO APPLY**

The application form to hold a market in respect of both, commercial markets and charity/ community-based markets can be requested from the Markets Manager at:

The Events and Commercial Manager  
 2<sup>nd</sup> Floor West  
 St Martins Place  
 Bath Road  
 Slough  
 SL1 3UF

Or via the Councils website at: <http://www.slough.gov.uk/market>

The application process will consider such matters as (but not limited to):

- Has an adequate Event Management Plan been completed with the inclusion of any relevant Risk Assessments?
- Has the operator held other events within the borough, if so how many and at what frequency?
- Has proof of any insurances/licences been provided? Including adequate Public and Employers Liability cover?
- Where applicable and if not in the High Street, has permission been granted by the venue/land owner?

The Council will aim to deal with applications for a markets licence within a period of twenty eight days from receipt of all the necessary and required information.

Please note the separate requirement for notice under s37 Local Government (Miscellaneous Provisions) Act 1982; at paragraph 11 below. An operator of a market event is therefore urged to return the application as early as possible to ensure that the Council has adequate time to consider the relevant matters in an appropriate way. In considering the application the Council will require sufficient information to deal with all the issues set out in the criteria listed above, the Market Licensing Standard terms and conditions and also covered on the application form. Failure to provide such information is likely to lead to a delay in the Council coming to a decision.

If the Council refuses an application it will set out the reasons for its decision. If the applicant wishes to appeal the decision then any appeal must be submitted within fourteen days of the Council’s written decision, refer to section 8 in respect of the appeals procedure.



**8. APPEALS PROCEDURE**

An applicant can appeal in writing against refusal, with supporting reasons, to the Communications Manager. If the appeal is not resolved at this stage, the applicant will be referred to the Council's Corporate Complaints Procedure.

**9. FEES**

A reasonable administrative fee will be charged for applications. The fee takes into consideration the time and cost to the Council of considering the application. The Fee Scale can be obtained upon request at:

The Events and Commercial Manager  
2<sup>nd</sup> Floor West  
St Martins Place  
Bath Road  
Slough  
SL1 3UF

Or via the Council's website at: ???

**10. OTHER APPROVALS**

It is important to emphasise that any approval given by the Council in respect of its market policy, does not remove the requirement for other relevant approvals to be obtained. In particular the operator of a market should ensure that where the market is being held on private land, the approval of the landowner is obtained.

Planning permission might also be required and any market operator should consult with the Council's Planning Department to ascertain whether any planning considerations are relevant.

Attention is also drawn to the provisions of the Licensing Act 2003, specifically where the sales of alcohol are to take place the stall/unit must have obtained either a Premises Licence or Temporary Event Notice for the period of the sale of alcohol.

During the hours that alcohol sales are permitted, a holder of a Personal Licence within the meaning of section 3 of the Licensing Act 2003 must be present at the point of sale.

A market licence does not constitute approval under any other statutory regime or remove the need for planning permission for the event.

**11. SECTION 37 OF PART XII OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

Slough Borough Council has approved the adoption of Section 37 of Part XII of the Local Government (Miscellaneous Provisions) Act 1982.

Section 37 of the 1982 Act deals with temporary markets and any operator of a temporary market, (together with where applicable the occupier of land on which the market is to be held), is required to give to the Council not less than one month's notice of the holding of the market.

Any notice given by the operator and the occupier of the land shall state:

- i) The full name and address of the person intending to hold the market.
- ii) The day or days on which it is proposed that the market will be held and its proposed opening and closing times.
- iii) The site on which it is proposed that the market will be held.
- iv) The full name and address of the occupier of the land if he is not the person intending to hold the market. A market licence application will also need to be completed.

It is important to emphasise that the requirements of Section 37 of the 1982 Act are quite separate to the licensing of events under the Council's Markets Policy set out in Section 5. The operator and the occupier of the land should ensure that a notice is given to the Council under the requirements of Section 37 as soon as proposals for a temporary market are under consideration. This will enable the Council to give preliminary consideration to a proposal and indicate its likely view on a subsequent application for a markets licence.

Failure to give a notice under Section 37 is a criminal offence and attracts liability on conviction to a fine in the Magistrates' Court

## **12. ENFORCEMENT**

The Council will monitor the application of its markets policy and any market event which is established will be subject to the Council's requirements.

No events or activities promoting a particular religion or political party are to take place in the High Street, Slough Town Square, Mackenzie Square or any of the council's parks or open spaces.

Any market which is not approved by the Council under Section 5 of its markets policy will be asked to close immediately and to apply for a market licence. Failure to do so will result in any future application being refused.

In addition, any market operator acting in contravention of any market license granted by the Council will run the risk of the license being terminated by the Council.

On such terms as the Council determines and, in such circumstances, the Council reserves the right to refuse any future applications for market licenses submitted by the operator concerned, or any persons or organisation associated with the operator.

## **13. PARTNERSHIPS**

Slough Borough Council works with partners to extend its offer of specialist markets and events. Partnership operators will have to demonstrate a sound knowledge in their chosen field, and be able to source and organise an exciting and varied array of traders. Examples of specialist market/events could include:

- Cultural
- Records / Vinyl / Music
- Art and Design
- Antiques
- Craft
- Horticultural
- Fashion

**MARKET LICENSING STANDARD TERMS AND CONDITIONS**  
**Section 50 of Part III of the Food Act 1984**  
**Section 37 of Part XII of the Local Government (Miscellaneous Provisions)**  
**Act 1982**

Where market events are to be held in Slough the below conditions shall be adhered to before, during and after any market event taking place.

In addition, the following information must be supplied to Slough Borough Council at least 28 days prior to the market event taking place:

- A Plan showing the proposed layout of the market (where agreed in advance)
- Proposed times and dates that the market(s) will take place.

**Market Operators and Traders**

- Full Name address and date of birth of each trader (and national insurance numbers where known)
- Type of trading to take place
- Full address of any premises where items and in particular any food stuffs are to be stored or prepared.

This information will be required for:

- A) The Slough Borough Council Food and Safety Team should any hygiene issues arise.
- B) Thames Valley Police and Slough Borough Council Trading Standards where it is suspected that illegal goods may or are being sold.

**1. General**

- 1.1 Slough Borough Council issues market licenses for markets to be held principally in the High Street. The Council can also run any number of ad-hoc markets at locations across the Borough and establish new markets if it chooses to do so.

- 1.2 The Council may at any time vary the conditions of licensing markets.
- 1.3 In addition, when dealing with an application the Council can attach any specific conditions that are considered necessary because of the type of trading. These extra conditions will be attached where the Council considers it necessary to:
- Maintain public safety.
  - Prevent nuisance and anti-social behaviour.
  - Preserve the amenity of the specific locality.
- 1.4 Should a market licence be granted, the operator and traders will be required to comply with the following terms and conditions which are attached to the licence and if breached, the licence may be revoked.

## **2. Day & Times**

- 2.1 Trading shall not be carried out on any street, place or site on any days or at any time other than those specified in the licence and trading shall take place only from the specified unit.

## **3. Use of Site**

- 3.1 The operator/trader shall not at any time cause or permit any goods, articles, structures or produce to be stored or displayed at the sides of the unit/stall, around the unit/stall, or in the gangway between any two units/stalls.

## **4. Commodities**

- 4.1 No class or classes of articles, commodities or things may be sold or exposed or offered for sale other than those specified in the consent.
- 4.2 The market operator and or trader must notify the Council in writing of any changes to items being sold or offered for sale. This must be approved by the Communications Manager at least 2 weeks prior to the items being offered for sale.
- 4.3 All commodities must comply with current Consumer Protection legislation. Further information is available at [www.slough.gov.uk/business/trading-standards/business-advice.aspx](http://www.slough.gov.uk/business/trading-standards/business-advice.aspx) or telephone 01753 875255.
- 4.4 The minimum standard to which all goods should comply is that they are safe, genuine, and as described. All goods must be accurately priced and any surcharges, of any kind, should be as bold, concise and compelling as the headline price itself. Description of services must be accurate and

transparent. The use of harassment, duress, coercion or undue influence in the sale of any goods or services will result in the immediate revocation of the licence.

## **5. Trader's Vehicles**

- 5.1 An operator/ trader shall not leave any vehicle in the street in which trading takes place, apart from in approved parking spaces, except for the purpose of loading and unloading goods. This condition shall not apply when waiting restrictions are in force.
- 5.2 The operator/trader shall not enter the site of trading other than during the times specified and setting up and dismantling the trading operation.

## **6. Offensive Material**

- 6.1 The operator/trader shall not offer for sale or display any articles or goods or anything whatsoever which are indecent or are likely to be offensive or which in any way promotes or relates to the use of drugs. The operator/trader must immediately withdraw from sale any such article or goods if required to do so by an authorised officer of the Council.
- 6.2 No events or activities promoting a particular religion or political party are to take place in the High Street, Slough Town Square, Mackenzie Square or any of the Council's parks or open spaces.

## **7. Type & Size of Unit / Stall**

- 7.1 The unit/stall used must be of a size specified in the application and of a design approved by Slough Borough Council. It will be of a temporary nature and easily removed. Its use must not cause damage to the street or endanger persons using the street.
- 7.2 The trader or operator shall notify the Communication Team in writing of any changes to the size or design of the unit/stall, and must be approved by the Communications Manager before the unit can be used for trading.
- 7.3 The operator/trader shall not park the unit or place the stall on any part of a footway other than that detailed in the market plan.
- 7.4 All tow bars will be removed or collapsed so as not to represent a hazard.
- 7.5 Generators with an output of 3.3KW and above are not permitted except with the express permission of Slough Borough Council.

7.6 A legible notice which will be provided by the Council shall be prominently displayed by a trader in or on the unit/stall to clearly show the trader or operator's name and such other details as may be prescribed by the Council.

## **8. Operator/Trader**

8.1 The operator/trader shall ensure that they have a valid certificate for a minimum **£10 Million** public liability insurance cover.

8.2 The operator shall provide full details of all traders detailed in the Application form.

8.3 The market operator must in conjunction with the Council arrange access to toilet facilities for the traders and any nominated assistants during trading hours. This must include a written arrangement with other businesses if there are no public toilets nearby.

8.4 In an emergency or when requested by a police constable or authorised officer of the Council, the unit/stall shall be temporarily removed for such period as necessary.

## **9. Conduct**

9.1 The operator/trader shall be on all occasions when carrying on the business of trading strictly sober and conduct him or herself in a proper, civil and decorous manner.

9.2 The operator/trader shall ensure the business is not conducted in such a way to cause nuisance, annoyance or danger to persons using the street or otherwise and that the public are treated fairly and with courtesy.

9.3 The operator/trader shall not directly or indirectly hawk, tout or solicit custom for or advertise by way of flyer, public address system or otherwise without written approval from the Council.

9.4 Operators or traders must not cause or allow to be caused any damage to the street surface, street furniture, lighting and landscaping within the permitted area. Traders will be responsible for the cost for repairing any such damage and repairs are only to be carried out by the Council's term maintenance contractors, (for advice and information please contact Highways by email [Highways@slough.gov.uk](mailto:Highways@slough.gov.uk) or telephone 01753 475111).

9.5 Operators or traders must not cause or allow to be caused any obstruction to any routes that provide access to emergency service vehicles and/or

personnel, fire hydrants, manholes or other street furniture etc. resulting from your business. All routes must be kept clear and visible at all times.

## **10. Trailer / Unit / Stall**

- 10.1 Any unit/stall which emits fumes shall comply with the requirements of Slough Borough Council and not present a statutory nuisance to persons using the street or occupying premises in the street.
- 10.2 The unit/stall used for trading shall be kept in a clean, and, and if applicable, roadworthy condition.
- 10.3 All fire exits must be kept clear and visible at all times.
- 10.4 Any property, building or structure near to and around any site on which trading is carried out shall not be defaced or interfered with.
- 10.5 From time to time, the Statutory Undertakers may wish to undertake works in the execution of their duties, upon or within the vicinity of the trading site, at which time an alternative location **may be** considered by the Communications Team in the interim period.
- 10.6 The operator/trader shall be responsible for complying with any Acts of Parliament, Regulations or bye-laws which affect the occupation and use of the site.
- 10.7 No unreasonable noise shall be made which may cause annoyance to persons using the street or occupying premises in the street in which trading is carried out. If it is intended to use electrical and/or gas equipment you must produce evidence of annual safety inspections of the equipment in use. These inspections should be carried out by a competent person (a Gas Safe Registered operator for gas and LPG equipment and a qualified person for electrical equipment (e.g. – an NICEIC registered contractor)).
- 10.8 The operator/trader shall be in attendance during the period when trading is taking place, except when he/she is actively engaged elsewhere on trading business concerning the licence
- 10.9 Units/stalls should not be left unattended at any time, except in emergency situations.

## **11. Equality**

- 11.1 The operator/trader shall ensure that disabled persons, persons with restricted mobility and wheelchair users can be adequately served. This

may involve but not limited to such customers being served from outside the unit/stall.

## 12. Food Hygiene

- 12.1 Where the trading is for the sale of food from a stationary unit/stall. The unit/stall must be suitable for the purpose. Management of the unit/stall must comply with all requirements of the relevant food safety laws in particular The Food Safety Act 1990, EC regulation 852/2004 and the Food Safety and Hygiene (England) Regulations 2013.
- 12.2 All food traders shall give details of the local authority with whom they have registered their food business, having regard to the EC regulation 852/2004. (Further information is available at [www.slough.gov.uk/business/environmental-health/food-hygiene-and-safety.aspx](http://www.slough.gov.uk/business/environmental-health/food-hygiene-and-safety.aspx) or telephone 01753 875255. )
- 12.3 If food is prepared, served or sold, the trader must have in place a Food Safety Management System (FSMS) that is kept under constant review. A copy of the FSMS must be produced where necessary to any authorised office of the Council.
- 12.4 If there are any significant changes to the menu or equipment used then the FSMS must be reviewed and resubmitted to the council for agreement when renewing the licence.
- 12.5 All persons handling unwrapped high risk food must have a food safety training certificate. The certificate must be accredited by the Qualifications and Curriculum Development Agency (QCDA) to the Level 2 Award. This certificate must also be produced for examination when requested by any authorised officer of the Council, Police Officer or Police Community Support Officer. This training must be renewed at intervals every three years.
- 12.6 The level 2 award food safety training certificate must be displayed conspicuously, and in such a position that it can be easily read by customers.
- 12.7 Any trader failing to achieve a 3 star rating or above following a food hygiene inspection by Slough Borough Council Food and Safety Team shall make the necessary changes to their business and apply for a rating rescore within **3 months**.
- 12.8 Continued failure to achieve a 3 star rating or above will result in the trading being refused.



- 12.9 Anybody suffering from food poisoning, diarrhoea or more than one bout of vomiting must not work in any food handling area until they have been completely well for at least 48 hours.
- 12.10 Any open cuts, spots or boils must be covered with a clean, waterproof dressing to avoid contaminating food.
- 12.11 The operator/trader will be responsible for the removal of waste at the end of each trading day. The operator/trader will be responsible for the cost of removal of any waste not removed at the end of each trading day.

### **13. Age Restrictions**

- 13.1 Where the sales of alcohol are to take place the stall/unit must have in place a Premises Licence or Temporary Event Notice for the period of the sales or alcohol.
- 13.2 During the hours that alcohol sales are permitted, a holder of a Personal Licence within the meaning of section 3 Licensing Act 2003 must be present at the point of sale.
- 13.3 The operator/trader shall at all times operate a Challenge 25 policy to prevent any customers who attempt to purchase alcohol and who appear to the staff member to be under the age of 25 years from making such a purchase without having first provided identification. Notices advertising the Challenge 25 policy shall be displayed in prominent positions on the premises;
- 13.4 In conjunction with the 'Challenge 25, proof of age scheme', the operator/trader must have a written refusals register, detailing each occasion where a challenge occurs. The log should include the date and time of the challenge and a brief description of the person challenged. The person refusing the sale shall also sign against the record of the refusal. This register is to be made available to any authorised officer of the Council, Police Officers and Police Community Support Officers on request.
- 13.5 For all other age restricted products, all persons who appear under the age of 18 shall be required to provide proof of their age, before a sale is commenced. This proof of age shall include a passport, a photo card driving licence or PASS hologram Card. No other proof of age shall be accepted.
- 13.6 Where proof of age is requested for the purposes of condition 13.4, a record in the same format as outlined at condition 13.3 above must be made.
- 13.7 There shall be no sale of alcoholic drinks in glass containers.

- 13.8 Alcohol shall only be sold in its original and sealed pre-packed container.
- 13.9 There shall be no facilities or containers for customers to decant alcohol into other containers.
- 13.10 The operator/trader shall not engage in inappropriate discounting of alcohol or irresponsible alcohol promotions.

#### **14. Liquefied Gas**

- 14.1 The operator/trader shall ensure that they comply with the requirements of the Council's guidance document on the safe use, handling, storage and transportation of Liquefied Petroleum Gas used in mobile catering units or similar units.
- 14.2 The operator/trader shall ensure that they comply with the legal requirements and guidance on the safe use, handling, storage and transportation of liquefied petroleum gas (LPG). Further information can be found at [www.ncass.org.uk/mobile-catering-home/content/get-legal/law-pages/gas-safety](http://www.ncass.org.uk/mobile-catering-home/content/get-legal/law-pages/gas-safety)

#### **15. Generators**

- 15.1 The operator/trader must not use mobile generators without written permission from the Council. Where permission is granted, the generators must be positioned so that they do not present (i) a danger to the public, (ii) a fire or similar hazard to the unit, goods displayed thereon or adjoining premises and (ii) do not give rise to a nuisance by reasons of noise, vibration, smoke or smell.
- 15.2 Combustible materials must not be stored in the vicinity of a generator and there must be suitable first aid and fire fighting appliance(s) available. Fuel must not be stored in the vicinity of a generator.
- 15.3 Generators must not be filled up during trading hours. The operator/trader must ensure the generator is filled up before trading commences.
- 15.4 The operator/trader shall ensure that any equipment, such as a generator, is in a safe working condition and suitably cordoned off to ensure that the general public do not have access to the equipment.
- 15.5 Adequate precautions shall be taken by the trader to prevent the risk of an outbreak of fire at the unit/stall. Where a power source or heating appliance is present, for example a generator or bottled gas container, a suitable fire extinguisher shall be provided, kept by the unit exit and easily

accessible in an emergency situation. In addition, a fire blanket shall be provided in units selling hot food.

- 15.6 Where applicable, the operator/trader shall provide the Council with a fire risk assessment detailing the precautions to be taken in the event of a fire.
- 15.7 Where an electrical generator or a connection is made to a permanent electricity supply the operator/trader must ensure that the electrical installation is safe. A safety certificate from a competent person or body, such as an NICEIC or ECA approved electrician, must be provided annually.
- 15.8 At no time should electric cables be draped across roadway, public footpaths or any other area to which the public have access. If electrical cables are placed on the highway they must be concealed and not cause a trip hazard.

## **16. Refuse & Waste**

- 16.1 The operator/trader shall keep the site clean and tidy and free from litter at all times and provide adequate facilities for the hygienic storage of refuse in the form of dedicated containers that cannot be used for any other purposes. The operator/trader must ensure that the containers do not become overfilled and at the end of each trading day and/or as often as may be necessary during the trading day, properly dispose of all refuse including cooking oils etc. in an authorised manner. All refuse containers must be clearly marked.
- 16.2 The operator/trader must not allow any silage water from washing of food equipment or hand washing to discharge into the ground the consent holder, must satisfy the Council that it has been disposed of appropriately.
- 16.3 No water, oils or waste material shall be discharged on to the highway or any adjacent property or into the drains.**
- 16.4 Where it is identified that waste has been illegally discharged, the operator/trader will be liable for the cost of removal or clearance of the waste, and the market licence for that stall/unit may be revoked with immediate effect
- 16.5 The operator/trader shall comply with all requirements of the Environmental Protection Act 1990 with respect to Duty of Care.
- 16.6 The operator/trader shall collect and similarly dispose of all wrappings and litter within a 5 meter radius of the site (and beyond where it is the result of the trader's activities from the site) at the end of each trading day and as

often as may be necessary during each trading day to keep and leave the street in a clean and tidy condition.

16.7 The operator/trader shall take all reasonable steps to prevent the deposit of anything whatsoever on the highway which would cause damage to the highway. This shall include localised street washing in the event of; spillage of vegetables, cooking oil, oil from vehicles, ice cream or similar materials. Drip trays should also be placed under any part of the trading unit or equipment used as part of the trading unit to prevent spillage and/or staining on the highway.

16.8 The operator/trader shall comply with any reasonable directions given by the Council from time to time regarding the handling, storage and removal of refuse.

## **17. Revocation and Refusal of a Market Licence**

17.1 In the event of any breach or non-compliance with these Terms and Conditions the Council may immediately revoke the market licence without notice and/or refuse to grant further licenses to the individuals concerned.

## **18. Convictions**

19.1 The operator/trader shall inform the Council prior to the market licence application being granted if any person is held on the Disclosure and Barring Service (DBS) Barred list and of any criminal convictions or cautions for any offence of indecency, drugs or theft. The Council has the discretion to refuse to grant a market licence to any Operator or Trader held on the DBS Barred list or with such convictions.

**GENERAL CONDITIONS DECLARATION**

I (*insert name*).....

of (*insert address*).....

.....

having applied for the grant of a market licence issued by Slough Borough Council (Licensing Authority) acknowledge receipt of a copy of the current MARKET LICENSING STANDARD TERMS AND CONDITIONS and agree to abide by all the attached conditions.

**Signed:**.....

**Print Name:**.....

**Date:**.....

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**MEMBERS' ATTENDANCE RECORD 2018/19**  
**LICENSING COMMITTEE**

<b>COUNCILLOR</b>	<b>12/06/18</b>	<b>10/09/18 (Extraordinary)</b>	<b>18/10/18</b>	<b>14/02/18</b>	<b>27/03/18</b>
<b>B Bains</b>	<b>P</b>				
<b>Davis</b>	<b>P</b>				
<b>M Holledge</b>	<b>P</b>				
<b>Mann</b>	<b>P</b>				
<b>D Parmar</b>	<b>P</b>				
<b>S Parmar</b>	<b>P</b>				
<b>Qaseem</b>	<b>P*</b> (Until 8.06pm)				
<b>Shah</b>	<b>P</b>				
<b>Strutton</b>	<b>P</b>				
<b>Usmani</b>	<b>P</b>				
<b>Wright</b>	<b>P</b>				

P = Present for whole meeting  
 Ap = Apologies given

P\* = Present for part of meeting  
 Ab = Absent, no apologies given

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