

Subject: Market Policy Review 2017

Report to: Management Team – 13th November 2017
Economic Committee – 20th November 2017

Report by: Jane Beck – Head of Property and Asset Management

RECOMMENDATIONS

It is recommended that Economic Committee agree;

- To adopt the revised Market Policy following its annual review and trader consultation

1. INTRODUCTION

1.1 In July 2016 Members of the Economic Development Committee approved a new Market Policy document to bring together a number of rules and guidance in relation to the operation of both the six day and two day Markets.

1.2 It was also agreed that this document would be reviewed on an annual basis.

2 MARKET POLICY CONSULTATION

2.1 Since the adoption of the Market Policy in 2016 officers kept a log of any issues or amendments to consider as part of its review in 2017. Subsequently a number of changes were made to the Policy.

2.2 This updated Policy has been issued to traders and requests for feedback, comments, questions or concerns have been requested as part of this review.

2.3 Every response has been carefully considered and as a result a number of further changes have been made to the Market Policy. Appendix 1 shows a breakdown of the responses received in relation to this Market Policy and where subsequent amendments have been made to the Market Policy. Appendix 2 show the final Market Policy. All areas that have been changed have been highlighted in this attached appendix.

3. REVIEW

- 3.1 It is clear that the new Market Policy is one that will be an evolving document and therefore this Policy will continue to be reviewed on a yearly basis, with traders being asked for feedback as part of this annual review.

4 RECOMMENDATIONS

- 4.1 It is recommended that Economic Committee agree to;

- Adopt the revised Market Policy following its annual review and trader consultation

Does this report raise any legal, financial, sustainability, equality, Crime and Disorder or Human Rights issues and, if so, have they been considered?	Issues	
	Legal	Yes and taken into account
	Financial	Yes and taken into account
	Risk	Yes and taken into account
	Sustainability	Yes and taken into account
	Crime and Disorder	Yes and taken into account
	Human Rights	No
	Every Child Matters	No
	Equality	No
	EqlA Form completed	No

APPENDIX 1 MARKET TRADERS CONSULTATION COMMENTS 2017

Traders Comment	Officers Response
Distributing of leaflets on the markets – historically when the market is on leaflets have not been allowed to be distributed around the traders stalls	Noted – See section 13.7 for this addition to the Policy
Look at the depth amnesty on the Policy (One traders stall was only 10ft deep but wanted a 32ft stall, but only pay for 27ft as he was not using his whole depth ‘amnesty’)	Officers considered this. However the depth amnesty is in relation to depth only and cannot be used for width calculations
Section 23.4 Cancelled Market Refunds – instead of waiting the whole year to give the refund at the end of the financial year to the traders and also to save the additional paperwork at the end of the year, why not instead refund the market by taking it out of the following months’ rent. This would be help the traders considerably.	<p>This has been discussed by Officers and this will be implemented.</p> <p>Noted and changed in Policy see section 26.4</p> <p>For consistency section 3.11 has also been amended</p>
It states in the Trader Licences: “THE Licensee shall pay the Council four weekly in advance such sum as may be specified by the Council from time to time as payment for the use of the site” - Do we need add this to the Policy?	Noted and added into Policy see section 4.5
<p>After talking to traders, at the North Walsham market where some also trade, they are given 4 x ‘holiday’ credits. The traders advise the Market Office at least 4 weeks in advance when they are on holiday and the credit is used appropriately for that holiday.</p> <p>We could stipulate that the ‘holiday credit’ can only be used within the financial year, it cannot be carried over to the next financial year, if not used no refund is given and the Trader will lose it.</p>	As part of a fees and charges review in October 2017 holiday entitlements for both 2 and 6 day traders was considered and agreed. This has been included into the Policy see section 3.8 and 3.9
To charge for 103 markets per year and not 104. The Easter Fair, which always happens will then be taken into account and the traders do not have to pay for a market they we all know they are unable to have. Also, paperwork does then does not have to be completed with regards to a refund.	Agreed. Calculations for 2018/19 fees will be done to reflect this.

<p>104 Markets – 64 Winter and 40 Summer Rents – change to:</p> <p>103 Market - 63 winter and 40 Summer Rents</p>	
<p>Look at having a possible introduction rent for casuals if they decide to stay and be a 2 day trader. Say pay Casual Trader rent to start and then if they decide to turn into a 2 day trader refund the difference between the casual day rate and the 2 day rate after they have been on the market for 6 months.</p>	<p>As part of the fees and charges review for 2 day traders in October 2017 a standard 30% additional charge has been incorporated for casual traders to bring charges in line with other Norfolk and Suffolk markets.</p>
<p>Holiday Section – if I went on holiday for 4 weeks would I be granted it as I could lost my pitch – advised that we take it on a case by case basis when we receive a request.</p> <p>Could wording be more suited to say that it will be reviewed case by case</p>	<p>Noted and Policy amended see section 3.9</p>
<p>Verbal comments</p> <p>“Has this been reviewed by a solicitor as it is sounding like a contract rather than a policy.”</p> <p>“By reading this we are going to be council staff and will therefore be entitled to holiday pay, sick pay, and all the benefits that council staff have”</p>	<p>This Market Policy forms part of the Council’s rules and regulations in relation to traders operating on the Market and must be adhered to. This document has been reviewed by the Council’s legal service, Nplaw.</p> <p>This Policy in no way forms an employment contract with the Council and traders.</p>
<p>We wondered if it would be possible, when a Market is cancelled could the Rent Be refunded at the next payment.</p> <p>It is a shame when the Market is cancelled, which is beyond our control. It seems a shame to have to wait such a long time for our payment.</p> <p>Thanking you in anticipation.</p>	<p>This has been discussed by Officers and this will be implemented.</p> <p>Noted and changed in Policy see section 26.4</p> <p>For consistency section 3.11 has also been amended</p>
<p>New Traders –</p> <p>Trying to keep new traders is a struggle. In order to do this perhaps we need an incentive.</p> <p>We could perhaps give them the difference between the casual trader fee and the 2 day trader fee back at the end of the financial year.</p>	<p>The fees and charges review for the 2 day traders in October 2017 has addressed this point in line with other Norfolk and Suffolk markets.</p>

<p>In sections 12:16 The council seems to want to take our freedom of speech away This is totally unacceptable we don't work for you,& in fact we pay your wages & you should be representing your constituents wishes not the other way round. We all have a duty to be able to speak out if we feel the council is in breach of protecting our rights</p>	<p>Section 13 covers conduct and behavior on the Market and is required to ensure that Traders and Officers behave appropriately both to each other, and to customers so that the reputation of the Market and Council is upheld</p>
<p>6 Day Market Traders are not the same as the 2 day traders and casual traders. 6 day traders have made a large financial investment into the market place and town centre. This level of commitment needs to be recognised.</p> <p>Section 3.8 By six day market traders only being able to close their stall for 14 days in a row, this does not allow for a 2 week holiday. This needs to be 16 days. By 2 day traders being allowed 4 consecutive markets, 2 Wednesdays 2 Saturdays, this gives 17 days.</p> <p>Section 9 This whole section needs to be a vice versa section. If the trader owns the unit, and the council wants it moved and any damages done during this, then this will be at the expense of the council, not the trader. If the trader wants it moved, then it will be at the cost of the trader.</p> <p>Section 12.3 The market management, borough council officers, and any contractors will not use abusive or bad language, shout or display threatening behaviour to the traders. The council must operate under transparency conduct, therefore open to the general public. Under the Human Right Act 1998, Freedom of speech is covered. So long as what is said is not untrue, and taking into account that this is the livelihood of the traders. In today's culture, social media and online activity is how most of communication and advertising is conducted. This should not be in the licence policy.</p> <p>Section 15.3 14.1 related to vehicle speed not insurance.</p> <p>Section 16.3 There needs to be a 16.3. The council will pay for any damaged caused by any of the employees or contractors in their employment.</p> <p>Section 17.6 A boards can only be used when</p>	<p>Noted and the Policy has been changed to 16 days for six day traders – see 3.8</p> <p>Re movement of stalls, noted – see section 9.6</p> <p>Noted see 13.3. for clarity online activity is not prohibited it is just if it is used to bring the Council into disrepute.</p> <p>Section 16.3 has been amended for clarity</p> <p>Re 16.3 any damaged caused in this way will be dealt with via the appropriate insurance channels</p> <p>Noted section 18.6 has been amended</p>

<p>agreed with the council in writing.</p> <p>There is no section 23.5. Needs a 23.5. If a trader reports a Health & Safety problem within the paths of the markets and communal areas. The council will act to remedy them within 2 working days.</p> <p>Section 30.3 Needs to be added for a Whistle blowing policy.</p>	<p>Noted Section 24.5 has been added</p> <p>Noted Section 31.2 has been added</p>
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**GREAT
YARMOUTH**
BOROUGH COUNCIL

MARKET LICENCE POLICY

VERSION: 5
STATUS: 2nd REVISION
DATE: OCTOBER 2017

NOTES

Any trader who commences trading in the Market at Great Yarmouth with permission from the Borough Council agrees to abide by this Policy as part of and incorporated into all Licence agreements.

This Market Policy governs the use of stalls in the Market by traders. Any trader who contravenes the terms of their licence, which in turn requires compliance with this policy, may have their stall licence terminated by the Borough Council or otherwise be refused permission to use a stall in the market.

Unless otherwise stated this policy relates to the whole market, and applies to two day market traders; six day market traders and casual traders. As defined in section 2.1 of this document.

Great Yarmouth Borough Council may change this policy at any time upon giving four weeks written notice to traders. Prior to changing this policy the Borough Council will consult with traders and consider any representations made.

DEFINITIONS

“The Market” means the charter market held on the Market Place, Great Yarmouth

“Trader” means a person offering goods or services for sale from a stall on the Market

“Trading Day” means a day on which the Market is open for trading

“Market Hours of Operation” means the hours of operation set out in Section 3

“Severe Weather” means a severe weather warning for Great Yarmouth on the Met office website at www.metoffice.gov.uk

1. INTRODUCTION

- 1.1 Great Yarmouth Market is an important part of Great Yarmouth's Town Centre and a key priority for the Borough Council. It is an historical market which can be dated back to at least 1208 when it was granted a Royal Charter by King John.
- 1.2 The Market Place is 6,765 square meters in area and provides a six day covered market with 36 stalls and a two day market which operates on Wednesdays and Saturdays. Extra markets are also held throughout the year, often to support specialist events.
- 1.3 This policy governs the use of stalls in the Market by all traders and provides detailed procedures to support the licence agreements which are held by each trader. It also outlines the way the Borough Council will work to manage the market and provides a framework for this management.

2. GENERAL PROVISIONS

- 2.1 The Market will operate as follows
 - Six Day Permanent Market - Mondays to Saturdays and Sundays by agreement with the Borough Council
 - Two Day Market – Every Wednesday and Saturday
 - Casual Markets – days as agreed by the Borough Council, including Friday Markets and Event Days.
- 2.2 All traders must hold a valid and signed licence/lease agreement for trading.
- 2.3 Two day and six day traders wishing to leave the Market or give up one or more of their stalls must give 28 days' written notice of their intention to the Borough Council. At the Borough Council's discretion this requirement may be waived in exceptional circumstances.
- 2.4 The Borough Council will provide and maintain adequate and hygienic toilets and washroom facilities for all traders.

3. HOURS OF OPERATION

- 3.1 All Traders must ensure that their stall is suitably staffed throughout the Market Hours of Operation and is open for trade.
- 3.2 Two day market traders or casual traders who fail to have their stall on site by 8.30am on the day of trading may not be permitted to trade on that Trading Day unless prior arrangement is made with the Borough Council. No refund of stall fees will be paid in these circumstances. The Borough Council may re-allocate the pitch for any absence to another trader.

- 3.3 Two day market traders or casual traders must not come onto the market before 5:00 pm on the day prior to the market day.
- 3.4 All vehicles must be removed from the market by 9.00am and traders must not bring their vehicles back to the market until after 4.00pm.
- 3.5 Any exceptions to this must be agreed by the Market Officer on the day with clear reasoning being given and available to anyone on request. Reasons to keep vans on the market include;
- Inclement weather
 - Individual illness/disability (to be evidenced prior to approval)
 - Early closure of the market
- 3.6 All two day traders and casual traders must vacate the market by no later than 7:30 pm, on the day of trading unless by agreement with the Borough Council.
- 3.7 Sunday trading may be offered from time to time by the Borough Council and may also be considered on request to the Borough Council by market traders. Likely reasons for agreement could include marketplace events taking place on a Sunday where traders will add to an event and are likely to gain income.
- 3.8 Where possible all traders are encouraged to make alternative arrangements to put in place cover when holidays are taken. If this is not possible six day traders may close their stall for a maximum of 16 days in a row and two day traders may not attend four consecutive markets (Wednesdays and Saturday). A holiday rent free period of a maximum of 12 days for 6 day traders and 4 days for 2 day traders will be allowed during any one financial year period.
- 3.9 Holiday requests should be made in advance and will result in a rent free period to a maximum of 3.8 above. On return from holiday every effort will be made to relocate the trader in their original position.
- 3.10 Two day traders must notify market staff at least 24 hrs in advance if they are not trading on the subsequent day (unless in an emergency where traders must inform as soon as they are able to).
- 3.11 Two day traders that are unable to trade due to illness must pay their rent or provide a valid Doctors Certificate for the period. To reclaim any rent paid they must provide the Council with a sick note from their GP. These fees will be reimbursed on the month following the illness along with any refunds in relation to cancelled Markets.
- 4.0 **PAYMENT OF STALL FEES**
- 4.1 Stall fees and other charges are determined by the Borough Council, with changes to the fees and charges schedule being notified to traders in writing once approved by the Borough Council. Notification will be at least four weeks prior to the date of the fees and charges coming into effect.

- 4.2 The fees and charges schedule includes a set monthly fees for six day traders based on goods sold, and a fee payable per foot for both two day and casual traders. All footage fees will be calculated after a depth amnesty of up to a maximum of 15 feet.

4.3 The categories for the six day traders are defined as;

Hot Food 1	Fish & Chips, Chips and Tea Stalls that sell hot food including Bacon Rolls and Burgers
Hot Food 2	Any foods prepared for sale hot to customers which are not specified in hot food 1
Retail Good (formally Dry Goods)	Any retail produce which is not food such clothing, bags, cards, phones, bric a brac, books etc
Groceries	Any foods such as fruit and vegetables or foods that form part of staple groceries such as flour, spices, meat, fish and bread etc. (would include sweets, ice cream and cold drinks)

- 4.4 The Borough Council will usually review all stall fees and other charges annually but may also do so at different intervals. The Borough Council will notify traders of any review and will consider representations made by traders.

- 4.5 Stall fees must be paid by the trader. All six day traders must pay monthly in advance by direct debit. This facility is also available to two day market traders, alongside other payment methods.

- 4.6 Cash will not be taken for payments from March 2018.

- 4.7 Any trader in arrears with their fee will be subject to the procedures detailed in section 29 of this policy alongside those procedures detailed in the Council's Sundry Income and Debt Policy.

5. IDENTITY

- 5.1 Traders must provide and display in a prominent and visible location on their stall, a legible, well presented sign of a minimum size of 300 mm x 300 mm showing their trading name. This sign must remain in position throughout the trading day.
- 5.2 Traders must register their permanent address and contact telephone number with the Borough Council who must be notified immediately of any changes.

6. APPLICATIONS FOR STALLS AND LICENSE/LEASE

- 6.1 All applications for new stalls, including those from existing stall holders who want an extension to their pitch size, product changes or an alternative stall, must be made in writing to the Borough Council.
- 6.2 The Borough Council will consider extensions, product changes and alternative stall requests from existing traders considering section 9 of this policy. Product changes will be subject to a three month trial period during which other traders are able to comment, prior to any final decisions being made.
- 6.3 Applications for vacant stalls and or new stalls will be evaluated under section 9 of this policy. Six day traders will be required to provide financial and personal references. All traders will be required to provide evidence of public liability insurance prior to trading.
- 6.4 Any such applications will not be considered if the applicant is in breach of this policy, including being in arrears with payment of the fee.
- 6.5 No successful applications will become effective until either a new or amended licence/lease has been signed and returned to the Borough Council. Licences/leases not signed within seven days of issue will be withdrawn and a new application will then be required.
- 6.6 Any Trader may hold multiple licenses.

7. UNSUCCESSFUL APPLICATIONS

- 7.1 The Borough Council reserves the right to refuse any application to trade on the Market.
- 7.2 All unsuccessful applicants for stalls or product line extensions will be notified in writing with a summary of the reason why.

8. TRANSFER OF LICENSE/LEASE – SIX DAY MARKET

- 8.1 During the term of the license/lease, a permanent trader (the transferring trader) who wishes to cease trading will inform the Borough Council of their intention. It is the trader's responsibility to find a new trader. If the trader wishes to then advertise their business for sale they need to also notify this intention to the Borough Council at the same time they give notice to cease trading.
- 8.2 Any six day trader who is unable to find an alternative trader but wishes to cease trading must contact the Borough Council prior to ceasing trading as any unit that remains closed for more than fourteen days may result in section 28 of this policy being implemented, and as an ultimate sanction the trader may be required to remove their unit from the Market.

- 8.3 Once a prospective trader has been found the existing trader will inform the Borough Council of the name and address of the prospective trader. The Borough Council will in all cases then satisfy themselves as to the suitability of the transferee to become a trader and will require financial and personal references, before allowing the transferee to trade under that licence.
- 8.4 Such transfer is at the sole discretion of Borough Council. The Borough Council is not obliged to agree to transfer the licence to the transferee.
- 8.5 In the event that a transfer is refused, there is a right of appeal using the appeal process laid down in the policy in section 30 of this policy.
- 8.6 The retiring trader will then pay a transfer fee to the Borough Council equivalent to one week's site fees.
- 8.7 The new trader will then continue existing trade and will be required to abide by their licence conditions subject to signing a new or amended licence/lease and returning it to the Borough Council. Licences not signed within seven days of issue will be withdrawn and a new application will then be required
- 8.8 Upon the death, retirement or inability to trade due to ill health of a trader, the Borough Council will permit a husband, wife, civil partner, or relative to take over the licence subject to relevant checks to include financial and personal references alongside an additional payment of one week's site fee.
- 8.9 Whilst the Borough Council will undertake the administration of the licence transfer, the transferring trader will be responsible for managing the handover of their business to the transferee in a smooth and timely fashion.

8.10 No sub-letting of units is permitted.

9.0 SIX DAY UNIT PROVISION

- 9.1 Units remain in the ownership of the trader unless rented from the council.
- 9.2 If a trader wishes to remove their unit from the market they must agree the removal of the unit with the Borough Council which will include a safe method of work.
- 9.3 Any services connected to the unit must be made safe at the expense of the trader if a unit is removed.
- 9.4 The ground surface of the market place should be made good once the unit is removed. This is the responsibility of the trader.
- 9.5 Any costs or damage incurred by the Borough Council from a unit being removed must be fully reimbursed by the trader.
- 9.6 If the unit is being moved by the Council this section applies to the Council and will be the Council's obligation to ensure compliance with this section.

10. SALE/TRANSFER OF TWO DAY MARKET STALLS

10.1 An existing permanent two day trader wishing to sell their stall should approach the council at the earliest opportunity and give details of the new trader.

10.2 The Council will work with traders to ensure any transition to a new trader is completed within the 28 day notice period.

11. BALANCE OF TRADES AND PRODUCT LINES

11.1 The Borough Council has a policy on the balance of trades on the market with an aim to create a lively and vibrant environment for shoppers with a wide mix of trades.

11.2 The Borough Council wishes to ensure the market has an appropriate mix of goods so it remains attractive to customers, trying to balance the needs of the customer by offering real choice, providing local business opportunities and ensuring the market maintains a diverse retail offer.

11.3 At the same time the Borough Council recognises the need to let vacant stall(s) whilst ensuring that no traders is provided with a direct covenant not to let other premises to a competing business to avoid a trader occupying a monopolistic position.

11.4 When deciding on a particular trade the Borough Council will take account of the following points:

- The current availability of particular trades and whether this is a new product
- Evidence of demand from customers for the continuation of the trade or product line concerned.
- The quality of the product line being offered and its presentation.
- The attendance record of existing traders in that business
- Times of year the product will be offered for sale

11.5 Any request to diversity goods being sold should be made in writing to the Borough Council with any decision's being considered by the Market Management team in the first instance with their recommendations being passed to a Group Manager for consideration and final agreement.

11.6 The Borough Council may accept product lines that compete with existing traders. If a trader disagrees with such a decision they have a right to appeal under section 30 of this policy.

11.7 The Borough Council does, however, reserve the right to decline any application if it considers that any particular trade or line will be over represented on the Market.

11.8 If a trader is found to be selling goods that are not agreed by the Council through way of a licence/lease agreement enforcement action may be taken.

11.9 If a trader is found to be persistently selling faulty goods enforcement action may be taken. This includes stolen goods.

11.10 The Council also reserves the right to review goods sold under existing licences and may make changes from time to time.

12. NEW BUSINESS SUPPORT

12.1 EnterpriseGY, based in the Catalyst and Novus Centres, at The Conge, Great Yarmouth, provides support, business advice and training for those persons planning a new start-up business. enterpriseGY also provides guidance for existing businesses.

12.2 Any resident of the Borough who is looking to set up as a Market Trader, or are currently running a Market Stall in Great Yarmouth are able to contact enterpriseGY on 01493 336425 or 0800 458 0146 for further information and to make an appointment with a Business Advisor.

13. CONDUCT AND BEHAVIOUR STANDARDS

13.1 Traders are responsible for their own conduct and that of anyone working on or in connection with their stall at all times while they are on the Market

13.2 Traders are also responsible for complying with all legislation and regulations that apply to the individuals they employ or engage.

13.3 Traders, Council Officers and those working with them must not;

- Use abusive or bad language, shout or display intimidating behaviour to other traders, market management, Borough Council Officers, elected Members or the general public
- Do any act that might cause injury, anxiety or offence
- Discriminate against anyone on the grounds of age, gender, race, sexual orientation, disability, gender reassignment, religion or belief
- Use or permit the use of illegal substances on the Market
- Not to cause damage to a traders property
- Smoke in the toilets or the storage areas or within the confines of any stall canopy on the Market

- Hawk or carry goods about for sale
- Use stalls for any purpose other than trading
- Sell live animals on the Market
- Cause or encourage any nuisance or annoyance to other traders, market management, Borough Council Officers, elected Members or the general public or occupiers of property in the vicinity of the market
- Make any noise or play music that is considered by the Borough Council to be a nuisance or inconvenience to other traders, market management, Borough Council Officers, elected Members or the general public or occupiers of property in the vicinity of the market
- Cook on their stall except where this is part of the product line set out in a licence agreement
- The traders and those working on the market must not bring the Council into disrepute including social media and online activity which could be construed as libellous
- Sell goods not specified within their licence agreement with the Council

13.4 Any breach of section 13.3 may result in action being taken against the trader in line with section 29 of this policy.

13.5 No units can be used for living and or sleeping accommodation.

13.6 No pets shall be kept within stalls on the 6 day market.

13.7 Prior approval of the Market Management must be granted prior to any leaflet distribution during market operating times.

14. OBSTRUCTION

14.1 When loading/unloading their vehicles, all traders shall cause as little obstruction and inconvenience to the general public, other traders or the Borough Council's employees and contractors as possible. In particular traders must comply with such requirements to ensure emergency access as the Borough Council deems necessary.

15. VEHICLE MANOEUVRES

15.1 Traders must ensure that they observe a maximum vehicle speed of five miles per hour when on or in the vicinity of the Market and that vehicles display hazard warning lights.

15.2 The Borough Council will not be responsible for vehicles brought onto the Market.

- 15.3 A discounted Pay and Display permit for Fullers Hill Car Park will be available to all permanent two and six day Traders to enable convenient central parking provision (maximum of two per stall).

16. INSURANCE

- 16.1 Traders MUST provide evidence of third party public liability insurance to the Borough Council's minimum requirement as notified to traders in writing from time to time, currently £5,000,000 (FIVE MILLION POUNDS) and a trader shall display their policy of insurance on their stall or provide evidence of their insurance upon request.
- 16.2 Traders who are employers must hold Employers Liability Insurance. Under the Employers Liability (Compulsory Insurance) Act 1969 all employers* are required to have a minimum level of cover of £5 million.
- 16.3 Traders not displaying evidence of third party public liability insurance or providing evidence of their insurance as required by clause 16.1 may not be permitted to trade until this has been rectified with action being taken under section 29 of this policy. No rebate of the stall fee will be given in these circumstances.
- 16.4 Traders must notify the Borough Council of any changes in insurance and provide copies on request and on renewal.

**If your business is not a limited company, and you are the only trader or you only employ close family members, you do not need compulsory Employers Liability (EL). Limited companies with only one employee, where that employee also owns 50% or more of the issued share capital in the company, are also exempt from compulsory EL insurance. However, there is nothing to prevent an exempt employer from choosing to buy EL insurance.*

17. INDEMNITY AND COST OF DAMAGE

- 17.1 Traders will indemnify the Borough Council against all costs, claims and damages arising from their use of the stall, or any other facility provided by the Borough Council in respect of the Market operation.
- 17.2 The Borough Council reserves the right to charge any market trader the full cost of repair or renewal to any Borough Council property related to the Market where in the reasonable opinion of the Borough Council that trader or anyone working with the trader has caused the damage.

18. STALL SET UP AND DE RIG

- 18.1 All traders must supply, erect and dismantle their own stalls. All stalls must be kept in good and clean condition and be safe for use.
- 18.2 Two day market stalls must be safely secured in poor weather conditions when the Market remains open. If the Market remains open but the trader has to close due to stall safety and the inability to safely secure the stall no refunds will be given to the trader.

- 18.3 All stalls must have minimum headroom of two meters.
- 18.4 Any new or refurbished six day stalls must have their design approved by the Borough Council before any works take place. Notification in writing to the Borough Council must be made at least six weeks in advance of any such changes.
- 18.5 The use of amplified sound equipment is prohibited unless agreed by the Borough Council.
- 18.6 The use of A boards is discouraged on the Market and under no circumstances can these cause an obstruction or create a hazard. Any use of A boards must be agreed with the Market Management Team in advance.
- 18.7 The Borough Council will oversee where stalls are set up on the two day Market, working to ensure appropriate layout including walkways depending on the number of traders trading on that day.
- 18.8 While every effort is made to maintain existing layouts for traders it is not guaranteed and the Council reserves the right to move pitches accordingly.
- 18.9 Casual traders must give market officers 24 hour notice of attending a market as market officers will need to advise the trader on location of stall. As a casual trader no guarantee of pitch allocation can be made.

19. GENERATORS

- 19.1 Standalone generators are not permitted on the market.
- 19.2 Vehicle driven generators such as ice cream vans must not cause a nuisance such as noise or emissions and the exhaust must be baffled or soundproofed.

20. GAS SUPPLY AND GAS CYLINDERS

- 20.1 A gas supply is currently available on the six day market only. Gas cylinders can be used by traders on the two day market.
- 20.2 The use of LPG/pressurised cylinder(s) will not be permitted without the prior written consent of the Borough Council and permission will be subject to such conditions as the Borough Council may require.
- 20.3 All traders using bottled gas must provide a controllable discharge type, dry powder fire extinguisher situated near the appliance, displaying a current test approval. Any piping must be of sound condition.
- 20.4 All LPG/pressurised cylinders shall be stored outside any stall, vehicle or building connected to the appliance via securely fixed metal piping or armoured flexible piping. Only cylinders using pressure relief valves will be allowed which must be positively secured in the upright position.

- 20.5 All LPG/pressurised cylinders not in use must be stored upright in the open air away from any fixed or temporary source of ignition, with suitable hazard warning signage provided, complying with the Health and Safety (Safety Signs and Signals) Regulations 1996.

20.6 Paraffin appliances are not permitted

21. ELECTRICITY

- 21.1 A 240v electricity supply is currently available on the Market.
- 21.2 Traders may only use electrical equipment that it is in good condition, weatherproof and suitable for outside use. All electrical equipment must have a valid up to date PAT test certificate which must be available for Borough Council to view upon request and or take copies.
- 21.3 Connections to the electricity supply must be made by a suitably competent person (using robust, moisture and tamper proof connections which are suitable for outside use). Suitable and sufficient earth-leakage protection must be installed and maintained as part of the fixed wiring installation.
- 21.4 Traders must ensure that trailing cables do not present trip hazards or any other hazard and are suitably protected and at a safe height.
- 21.5 Traders must not make any alterations to the market electrical system provided by the Borough Council. Traders must not block or obstruct electric supply boxes at any time.
- 21.6 Traders are only permitted to use the electricity supply for appropriate lighting, scales and tills and for other uses which are, in the reasonable opinion of the Borough Council, essential for the operation of their business as specified on the Trader's Licence Agreement.

22. WATER

- 22.1 Water is supplied on the market by the Council however it is essential that traders do not waste water, for example it is not acceptable to leave taps running.

22.2 Enforcement action may be taken for continued misuse of water.

23. LITTER AND TRADE WASTE

- 23.1 It is the sole responsibility of traders to ensure the safe management of waste in and around their stall.
- 23.2 The Borough Council will carry out the regular cleaning of the market area, and the drains and gullies on the Market as necessary to maintain their effective operation.

- 23.3 Traders must ensure that their stall and any adjoining passages, whether used by them alone or in conjunction with other traders, are properly swept from time to time and shall ensure that litter is not allowed to accumulate.
- 23.4 Throughout the day traders must ensure the area surrounding their stall is cleaned and clear of all refuse and to ensure that all stalls and immediate areas are cleared of all refuse generated by their business at the close of business each day.
- 23.5 Traders must remove all trade waste from their stall and for six day traders must place their trade waste in the service yards and move at the end of the day to the market refuse and recycling warehouse.
- 23.6 Traders who produce food waste must dispose of it at the end of the day at the market refuse and recycling warehouse.
- 23.7 Traders must not put their trade waste in public litterbins.
- 23.8 Traders must comply with any new initiatives introduced to improve the recycling of trade waste on the markets as advised in writing by the Borough Council from time to time.
- 23.9 Traders must only use the market refuse and recycling warehouse for disposal of waste produced whilst attending the market and not for the disposal of any other waste.
- 23.10 If a trader does not dispose of and/or remove trade waste in accordance with this policy the Borough Council may remove the waste the trader hereby agrees to reimburse the Borough Council the reasonable cost of such removal and disposal.

24. HEALTH AND SAFETY

- 24.1 Traders have a legal duty of care to maintain the health and safety of their employees, other traders and visitors to their stall and must comply with the Health and safety at Work Act 1974 and regulations made under the Act.
- 24.2 Traders must also comply with directions issued from time to time by the Borough Council with a view to maintaining or improving the health and safety environment on the Market.
- 24.3 All health and safety checks must be carried out in accordance with legislation and where documentation is required, provided to Great Yarmouth Borough Council accordingly.
- 24.4 Great Yarmouth Borough Council can from time to time check that you have the correct and up to date records relating to Health and Safety. Failure to produce these records may result in enforcement action being taken.

24.5 Were traders report to the Market Management Team a health and safety issue, this issue will be risk assessed and action taken in appropriate timescales depending on the level of risk.

25. FOOD STALLS

- 25.1 All traders operating food stalls shall comply with any legislation in force relating to their business including (but not limited to) the provisions of the Food Safety and Hygiene (England) Regulations 2013.
- 25.2 All traders operating food stalls must be registered with the appropriate local authority and be able to provide evidence of this on request.
- 25.3 It is expected that all food stalls are in receipt of a food hygiene award scoring three or above. If not the trader may find themselves open to action under section 29 of this policy
- 25.4 It is a legal requirement that all food business operators are in possession of a food safety management system and that all staff are trained to appropriate levels in food hygiene.

26. CLOSURE OF THE TWO DAY MARKET

- 26.1 The Borough Council shall have the right to close the two day Market at their absolute discretion if they consider this to be necessary on the grounds of public safety.
- 26.2 The Borough Council's policy regarding cancellation of the two day market due to weather conditions is as follows:
- The Borough Council will monitor wind speed and direction each day prior to any Market in the Market Place using the UK National Weather Service provided by the Meteorological Office.
 - In the event of winds exceeding 24 mph constant velocity (not gusting) for a period exceeding one hour the Market will be cancelled either prior to the Market day or prior to opening on the Market day or during the Market day as conditions dictate.
 - However there may be times when the predication sit just below or above this wind speed. In these cases the Borough Council may apply some discretion as to whether a Market is cancelled. In these instances close monitoring of the weather will take place both through forecasting information and onsite. If this monitoring subsequently identifies unsafe conditions, the Market will be cancelled.
 - In the event of Snow, matters for consideration prior to cancellation will be Health and Safety of shoppers and traders, closure of public transport, closure of roads, distance of travel by traders amongst other considerations. These considerations will also apply to Icy conditions.

- In the event of Flooding both localised from heavy rain or by ingress of floodwaters into the Town centre and or warnings by Emergency Planning Officers at Great Yarmouth Borough Council (GYBC) and Norfolk County Council (NCC) the market may be cancelled.

26.4 Where a Market has been cancelled prior to 12.00 noon on any Market day traders will be credited that days fees. This will be credited in the month following the cancellation.

26.5 Where it is clear that due to weather conditions the two day Market will not be able to open the day before the Borough Council will seek to notify traders of this decision by 5.00pm.

27 WORKS AFFECTING THE MARKET

27.1 Whenever possible, traders will be given prior notice of maintenance and other work on and around the Market which could affect their trading activities, with steps being taken to minimise any impact as appropriate.

27.2 From time to time works on the Market may take place outside of the control of the Borough Council. In this instance traders can report concerns to the Borough Council who will try to resolve as appropriate.

28. MOVEMENT OF TWO DAY AND OR CASUAL MARKETS

28.1 The Borough Council may from time to time require the movement of its market or individual stalls. Traders will be notified about any such changes as soon as appropriate alongside alternative options.

29. ENFORCEMENT PROCEDURES

29.1 The following procedure relate to breaches of licence/lease conditions and or this Market Policy.

29.2 The Borough Council is able to issue verbal warnings, a note of which will be placed on the traders file. Written warnings can also be issued by the Borough Council for minor issues where a general improvement is being asked for. Again a record of this will be kept on the traders file. A verbal warning will be considered spent after a 6 month period if no further offences have been committed.

29.3 Serious matters that may require immediate action such as suspension or termination of licence/lease can only be taken with approval from a Senior Officer from the Borough Council (Head of service or above). Any such decision must be clearly documented and subject to the trader having an ability to lodge an appeal against the decision.

29.4 For all serious matters a formal hearing must take place, even if immediate action has been taken. For such a hearing at least three working days' notice must be given to the trader. The Council will aim to undertake any formal hearing by 28 days from the matter being raised, and that if this period is extended the trader will be notified in writing to include the reasons why.

- 29.5 At the hearing oral and written evidence can be presented and cross-examination can take place in accordance with the principles of natural justice. All such hearings will be heard by a Senior Officer from the Borough Council who will have available to them the following actions
- No action
 - First formal written warning
 - Final formal written warning
 - Termination of licence/lease with 28 days' notice
 - Termination of licence/lease with no notice
- 29.6 All breaches will remain on the trader's record (as held by the Borough Council) for a minimum period of twelve months.
- 29.7 Examples of serious issues which may warrant immediate action including termination of Licence are
- Serious misconduct or dishonesty
 - Assaulting a member of the public, a Borough Council Officer or another trader
 - Verbal abuse, harassment, intimidation, discrimination or bullying towards a member of the public, Borough Council Officers or other trader(s)
 - The trader has been convicted of selling counterfeit products or has received a formal caution, formal warning or such other similar measure from the Trading Standards Service or any other Enforcement Agency.
 - The trader has persistently failed to make payment of the Licence fee
 - The trader has failed to comply with the health and safety legislation affecting the Market sites or any Health and Safety requirements notified to the trader by the Borough Council.
- 29.8 Any complainant that instigates this procedure will be notified that this process has been implemented. However the direct outcome of this procedure will not be communicated by the Council to the complainant to ensure Data Protection legislation is complied with.

30. APPEALS PROCEDURE

- 30.1 Any trader subject to enforcement action outlined in Section 28 may appeal in writing to Strategic Director of the Borough Council (or such other officer as the Borough Council appoints) within seven working days from, but not including, the day the trader is notified of the decision against which they wish to appeal.

- 30.2 The decision of the Strategic Director or other appointed officer shall be final in all respects. An appeal hearing will then be scheduled within 28 days from the appeal being lodged. For such a hearing at least three working days' notice must be given to the trader.
- 30.3 In considering any appeal the Strategic Director or other appointed officer will have regard to any relevant documentation and may interview such persons, including the trader in question, as he/she considers appropriate.
- 30.4 The result of the appeal and the reasons for the decision reached will be conveyed in writing to the registered address of the trader

31. COMPLAINTS

- 31.1 If you have a problem or complaint with regard to management of the market you should first contact the Borough Council and or the Head of Property and Asset Management. The internal complaints procedure must be followed first.
- 31.2 However if you are still not satisfied the Local Government Ombudsman (LGO), may be able to help. The LGO can be contacted at:
- Local Government Ombudsman
The Oaks
No 2 Westwood Way
Westwood Business Park
Park Coventry
CV4 8JB
Phone: 024 7682 0000
Web: www.lgo.org.uk
- 31.2 Whistleblowing is the raising of a significant concern. These concerns may cover issues of injustice, malpractice or serious wrongdoings within the Council. The Council's whistleblowing Policy is designed to ensure that people know how to raise a genuine concern and that they can do so in the knowledge that they will not face reprisal for their actions. A copy of this Policy can be found at;
- <https://www.great-yarmouth.gov.uk/policies>