

Downham Market Town Council

New Market Licence

We are aware that people have been worried about the new licence and regulations so we have set out below the most common questions we have been asked and our response. We have not set out to introduce a whole load of new restrictions into the document but merely to update it to what seems to be common in Markets around the country today. If you have any queries or concerns then please do not hesitate to contact us either by email to info@DownhamMarketTC.co.uk

FAQs

Question – Why do we need 16 pages of licence and regulations?

Response – We don't! The first 6 pages comprise an application form together with copies of a short form of licence for New Traders, a one-page form of licence for regular traders and a set of notes saying how the application process will work and the criteria the Council will use when selecting traders. Additionally there are 8 pages of regulations and a one-page Market Shoppers Charter. Compared to the old licence, which was 6 pages long with an additional 5 pages of Market Byelaws and no Shoppers Charter, there isn't actually a big difference.

This compares quite favourably with other markets. Wisbech has a 10 page information pack and 4 pages of Byelaws and we assume a Licence as well. (Incidentally Wisbech Town Council can terminate their licence with only "up to" one-weeks notice and no suggestion of an appeal). By contrast, the Market Licence Regulations alone used by West Suffolk District Council are nearly 30 pages long.

We believe that the model we have adopted gives sufficient detail, is clearer about what is expected of traders and enhances their rights over what existed before.

Question - The old licence was a perpetual licence, so why is the new one not?

Response - The old licence was not a perpetual licence and could be revoked on 28 days notice without reason. It is true that the new licence can also be revoked but that is a necessary evil where land transactions are concerned. A licence over land is, by its very nature, a short term arrangement. The alternative option of a lease is not practical as a lease is for a term and gives exclusive possession. This is not appropriate in the case of a market pitch which is only occupied once or twice a week. We have granted the first licence for a period expiring at the end of March 2022 and the licence will automatically roll over if the trader complies with the terms of the Licence and the Regulations. We hope this will help traders feel that this arrangement is permanent.

Question - There is nothing wrong with the old licence, why change it?

Response – The old licence is deficient in a number of ways. It implies that it is perpetual when it is not. Because some rules are contained in the licence and others are contained in the Market Byelaws, two documents have to be read and not just one. In addition, the licence and the Byelaws actually contradict each other. Where this happens, the byelaws take precedence. Some traders have said they are not aware of the byelaws, but mention is made of them in the old licence so they actually applied to all stallholders. Other issues with the byelaws are dealt with below.

We have tried to simplify the Licence and concentrate everything else in the regulations. We have also taken the opportunity to try and set a fairer charging system which will now relate to pitch size rather than frontage. We believe that in most cases any changes will be fairly minimal which, considering charges have not been increased for several years, should be welcome. We have added a small charge for those traders who wish to use electricity.

Question – The old regulations are fine, why change them?

Response -The old regulations are described as Market Byelaws. Unfortunately, we have been unable to establish with certainty that they were signed off by the Secretary of State, which is a requirement in these circumstances – unfortunately the government does not keep any records of these matters. It is therefore unclear whether the byelaws were actually legitimately established. This in turn puts the old license on unclear footing legally, as it directly refers to the byelaws.

The byelaws provided for automatic fines (up to £500) in the event of breaches (for example, setting up before 7am) and although these have not been applied, they could be. By utilising byelaws, the Council has put itself in the position of being a law-making authority. This means the council claims the power to decide what the punishment is and then the power to enforce the action. Anyone who has had the misfortune to fall foul of local authority car parking restrictions will know how hard it is to get any form of justice! There, we felt that the “byelaw” approach is the wrong route to follow.

Question - Will traders constantly be moved around?

Response – One of the reasons for issuing licences is that it enables changes to be made as the market evolves. No changes will be made for the sake of it, but sometimes minor changes are necessary to, for example, fit a new trader in. The reasons for any change will always be discussed with those affected first and we will endeavour to meet the needs of anyone affected.

Question - Do all products on the market have to be locally produced?

Response - No. The new license says that vegetables, fruit, eggs, milk, meat and fish should be sourced locally as much as possible. When this isn't possible, these items should be labelled with their point of origin. This is part of our environmental policy, but is also a recognition that a big part of the attraction of a market for customers is the ability to buy

locally produced food. By encouraging this, we want to increase the attractiveness of the market to potential customers.

Question - Why isn't peat allowed?

Response - Peat bogs are an important natural resource, which not only reduce greenhouse gas levels but also host a variety of diverse wildlife. The use of peat for gardening is therefore strongly discouraged by DEFRA, the government's Department for Environment, Food and Rural Affairs, and may well be banned in future. We therefore feel it is important to discourage peat as part of our commitment to sustainability. However, we received feedback that some traders already have a stock of plants that use peat, and we therefore agreed that plants in peat would be permitted until 1st April 2021 in order to allow time for this changeover to happen.

Question - What about traders who are banned from the market?

Response - No one is banned from the market. Anyone who has had their old license revoked, or has chosen to relinquish their license, is very welcome to apply for a new license. This has been communicated to former and existing traders.

The Regulations

We have looked at what form other market's regulations take and have found a lot of variation, both in the detail and the topics covered. We have tried to find a happy medium. There are some new features in the regulations, but all of them are designed for the good and long-term prosperity of the market.

The Council's Commitment – We feel that the Council should set out what it will do for traders and we have stated that at the beginning of the document.

Competition – Everything we know and have read about markets highlights the need for competition which, it is said, is essential to keep any market lively and up-to-date. In any event, competition law mandates this aspect of business life. We appreciate that, when the market was moved to its present location, it was said that there would only be one trader per product. Consent to do that was obtained from the government, albeit only until the market was established. We have therefore introduced this element into the mix but we do appreciate that it must be handled carefully for the good of the market and the traders.

Market Shoppers Charter – These are commonly seen these days and so we have incorporated one. This helps set out clear expectations for customers at the market so they can shop with confidence. It does not infringe on anyone's rights. A copy will be posted in a prominent place on the market.

Behaviour – We have introduced some regulations regarding the behaviour expected from Traders. These regulations are similar to other markets, and should really present no issue for any traders. These regulations mainly concentrate on maintaining the reputation and

image of the market. The new regulations require traders to be courteous, not to discriminate or be abusive, and not to bring the market in to disrepute. If traders have a problem with Council staff, they can take action under the Council's Complaints policy. A copy of this is on our website.

Children – The new licence mentions that if you wish to have children in your stall it needs the consent of the Market Manager but this is only to ensure that stallholders are aware of the need to comply with the appropriate regulations. We appreciate that regular stallholders will already be aware but some new stallholders may not be. Consent will be given once this has been explained.

Appeal Process – As has been mentioned, the old licence did not incorporate any sort of process to appeal against decisions made by the Council. One was incorporated in the byelaws, but most traders were not aware of these. It is now explicit in both the licence and the regulations that there is an appeal process.

The Future

It is the Council's intention to expand the market in Downham Market so that it becomes a focal point for shoppers. We believe this will bring additional business into the Town and thus additional customers for the existing market. We plan to introduce Craft Markets, Farmers Markets and other themed markets. Initially, additional stalls will go onto the Town Square but hopefully we will get permission to close High Street South and therefore expand the existing market space. Should the market continue to expand, we will also look at closing Bridge Street to increase the space available further. However, initially our main focus will be on the existing market on the Town Hall Car Park on Fridays and Saturdays. We want to see a thriving, busy market at the centre of our town.

Any and all feedback, comments and questions are welcome. Please email info@DownhamMarketTC.co.uk.