

Leicester
City Council

CABINET

5 September 2005

REVIEW OF STREET TRADING POLICY

Report of the Service Director for Community Protection and Well-being

1 Purpose of Report

To seek Cabinet's views in relation to the Council's Street Trading Policy.

2 Summary

- 2.1 As a consequence of enforcement problems, officers commissioned consultation with traders, shoppers and other stakeholders with a view to reviewing the City Council's policy on street trading within the city centre. Whilst this showed a clear divide in opinion, the majority of consultees appeared to support a more liberal regime. A copy of the consultant's report is attached as an appendix to this report.
- 2.2 Following further consultation within the council, the Licensing Committee was asked to consider the report and what might be the best approach to city centre street trading in the future. The Licensing Committee resolved that street trading should be prohibited and that a further investigation should be carried out into the feasibility of obtaining a local act of parliament to provide more effective enforcement powers.
- 2.3 This report brings that option, along with other options, to Cabinet for their consideration and guidance.

3 Recommendations

- 3.1 Cabinet is recommended to decide on the future approach to street trading in the City, the two principal options being:

Option 1: Prohibit Street Trading

This is a continuation of the present approach of prohibition with a programme of enforcement action in keeping with the resources available. However, without more effective enforcement powers this approach is unlikely to be effective in preventing unlawful street trading by persistent offenders.

Option 2: Allow Controlled Street Trading

This approach would allow street trading but would aim to control it to an acceptable level. This would require a policy based on granting street trading consents at designated pitches, for an appropriate rent, selling specified goods from a stall of specified design. However, whilst this approach might generate

additional resources for enforcement, the lack of effective enforcement powers may similarly prevent the Council from dealing with persistent offenders.

- 3.2 The views of Cabinet are also sought on the option to seek to promote a local act of parliament that could provide the Council with an effective means of controlling street trading, in accordance with whatever policy approach is adopted. However, this option would require resources currently not within the department's budget. There are two main options in this respect:
- (a) Promote an act relating solely to street trading, along the lines of the apparently well-established powers secured by other local authorities, at a cost of approximately £50,000; or
 - (b) Promote a more wide-ranging act incorporating street trading controls, as well as provisions relating to other matters such as the sale of second hand goods and massage parlours, at a cost of approximately £200,000 or more.
- 3.3 Should Cabinet decide to seek to promote a local act of parliament, it is recommended that delegated authority be given to the Corporate Director of Regeneration & Culture, in consultation with the Cabinet Lead Member, to progress this matter, subject to adequate funding being secured.

4 Financial & Legal Implications

Financial Implications

- 4.1 There are no significant financial implications in continuing with the existing general approach of prohibiting street trading. The cost of prosecutions would be met from the income from issuing consents for permitted street trading. Because of the self-financing nature of the Licensing cost centre, the costs of enforcement actions would have to be balanced against the income generated from consents issued.
- 4.2 If controlled street trading were allowed, the additional income generated could be utilised to fund increased enforcement, though the additional costs of administering such a regime would also need to be taken into account.
- 4.3 The option to seek local Act powers would cost between £50,000 - £250,000 or more depending on the precise nature of any Act. These costs could not be funded from current revenue budgets. This would therefore need to be considered as a growth item within the Department's Budget Strategy for 2006/07. The growth proposal would need to take full account of the cost of obtaining the Act and the future income sources to be generated from fines and licences. The financial implications associated with the various local Act options are detailed more fully in the main body of the report.

Graham Aitken, Head of Finance, Regeneration & Culture, August 2005

Legal Implications

- 4.4 Leicester City Council controls street trading under adopted powers contained within Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. It defines street trading as "the selling or exposing or offering for sale of any article... in a street." The word street includes "any road, footway, beach or other areas to which the public have access without payment...."

- 4.5 Licences for activities are considered before the Leicester City Council Licensing Committee. At a meeting in September 2004, a report was submitted to enable members to consider and offer comments on the options available to the Council for the review of the street trading policy. At that meeting, it was resolved that the Licensing Committee recommend the continuation of the present policy of prohibiting daytime street trading and a programme of enforcement action in keeping with the resources available. Furthermore, by dint of the fact that the Council's enforcement powers were insufficient in controlling street trading, the members concluded that there should be further investigation into obtaining a local Act of Parliament to allow illegally traded goods to be seized. Therefore, the Committee resolved that Officers investigate the possibility of promoting a local Act of Parliament which would introduce such stronger enforcement powers and would include the power of seizure of the said goods. No further report has been presented to the Licensing Committee.

The legal implications are set out in accordance with the options outlined within the body of the report, and can be found in section 7 of the main body of the report.

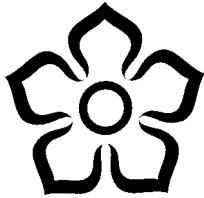
Shilpa Thakrar, Solicitor, Resources Access & Diversity. July 2005

5 Report Authors

Bobby Smiljanic, Licensing Team Manager, Ex 6454
Adrian Russell, Service Director, Ex 7295

DECISION STATUS

Key Decision	No
Reason	N/A
Appeared in Forward Plan	No
Executive or Council Decision	Executive (Cabinet)



Leicester
City Council

CABINET

5 September 2005

REVIEW OF STREET TRADING POLICY

Report of the Service Director for Community Protection and Well-being

1 Background

- 1.1 Street trading in the city centre has been controlled by permit since 1984, and in 1996 this was extended to include the Belgrave Area. The Council's policy is generally not to issue permits, with some exceptions relating to sales of hot food in the evenings and near the sports stadia on match days
- 1.2 Licensing Enforcement Officers routinely take action against offenders by prosecuting them, but this has generally proved to be an ineffective deterrent to those determined to trade. The majority of unlawful traders hold Pedlar's Certificates, that allow them to trade, providing they keep moving from street to street and town to town. Recently, in Leicester City Centre, a trader who holds a Pedlar's Certificate, was found guilty of unlawful street trading by the Magistrates' Court and appealed to the Crown Court against the conviction. The Crown Court upheld his appeal stating that a period of 20 minutes observation time was not sufficient to determine that he was unlawfully street trading. This further complicates enforcement of the existing legislation. There are no powers available to the police or the local authority to "move on" individuals because they are trading illegally, confiscate goods or make arrest.
- 1.3 If the City Council can demonstrate that particular offenders are ignoring the law, it could seek an injunction from the High Court. However this is likely to prove costly, would only apply to the individual named in the injunction and could thereby easily be undermined.
- 1.4 The City Council regularly receives representations from City Centre Management and market traders, calling for tougher enforcement of street trading legislation, particularly in relation to a small number of persistent offenders. However, given the legal framework, the Council has limited ability to take effective action.

2 Enforcement Cost Summary

2.1 The costs associated with street trading enforcement are summarised below:

	2003/04	2004/05
Prosecutions	16	10
Fines (not payable to City Council)	£1,760	£780
<hr/>		
Costs Awarded	(£2,530)	(£1,062)
Legal Costs	£9,684	£5,181
Licensing Team Costs	£8,794	£1,687
Total Net Cost	£15,948	£5,806
<hr/>		
Income from consents granted	(£10,773)	(£6,660)

2.2 The Licensing Section is a self-financing cost centre, with each licensing function being financed from fees generated, without cross subsidies. Increasing fees to meet the increased enforcement costs associated with a tougher enforcement regime could be construed by lawful traders as unfairly penalising them. There needs to be a careful balance between a reasonable cost for consents, and the number of prosecutions that can be funded from those costs. As can be seen from the above figures, the average net cost of each prosecution is between £500 and £1,000. Therefore, considering the annual income received from consents granted, this would typically only provide funding for approximately 10 to 12 prosecutions per annum.

3 Consultation

3.1 Officers sought legal advice in relation to obtaining injunctions against two persistent offenders. Legal Services advised the Licensing Section that, prior to taking such action, a review of the street trading policy should be undertaken.

3.2 Officers therefore commissioned consultation with traders, shoppers and other stakeholders. A copy of the consultant's report is attached as an appendix to this report. That work showed that there was no overwhelming public support for tough action against street traders. Many consultees were apparently more concerned by beggars, sellers of subscriptions to charities, religious groups and the groups of young people near the Clock Tower. Nevertheless, market stallholders, the Police and the City Centre Manager were less tolerant of illegal traders.

3.3 The City Centre Virtual Team, a multi-disciplinary team of officers with responsibility for co-ordinating services in the City Centre, when considering the consultants findings, proposed a regime of controlled street trading. This approach would allow street trading but would aim to control it to an acceptable level. This would require a policy based on granting street trading consents at designated pitches, for an appropriate rent, selling specified goods from a stall of specified design. However, whilst this approach might generate additional resources for enforcement, the lack of effective enforcement powers may prevent the Council from dealing with those street traders who refused to comply with such a regime.

3.4 If the Council was to allow limited street trading it would need to be backed by a rigorous enforcement regime based on tougher enforcement powers. If the

Council could obtain powers to seize illegally traded goods by means of a local act of parliament, it could generate sufficient additional income to allow increased enforcement. The City Centre Virtual Team also supported additional powers which might help address problems associated with massage parlours, beggars, charity subscription promoters, buskers and other forms of behaviour about which the public felt uncomfortable.

4 Experience in other Cities

- 4.1 In January 2005, The National Association of British Market Authorities held a seminar in Leicester about unlawful street trading. The delegates included officials from local authorities throughout the country with many reporting that unlawful street trading occurs in their cities, and prosecution action does not act as a deterrent. Whilst full details of the cities involved in this seminar and their comments regarding unlawful street trading were detailed in the report to Licensing Committee, the experiences of Westminster and Newcastle Upon Tyne are perhaps of greatest interest.
- 4.2 Faced with a flood of unlawful street traders, the City of Westminster introduced a Private Bill (the City of Westminster Act 1999) and this has successfully eradicated the problems of street trading. Under the terms of the legislation, rather than pedlars trading on foot in town centres, they are confined to making house to house sales.
- 4.3 The Act was introduced because prior to 1999, there was widespread abuse of pedlar's certificates with many traders claiming to be acting as pedlars. Traders were selling goods and fast food from fixed pitches and in some cases, traders did not even hold a pedlar's certificate. Included in the Act were extensive powers of seizure and forfeiture of goods, including stock that was not actually exposed for sale but merely bagged and awaiting display.
- 4.4 A representative from the City of Newcastle Upon Tyne talked about their promotion of a local act. Prior to the implementation of the local act, Newcastle Upon Tyne undertook 200 legal proceedings annually, costing the authority approximately £60,000 per annum plus legal costs. A High Court Injunction was obtained against one particular persistent offender at a cost of £12,000. The following day, another individual started selling from the same barrow.
- 4.5 Newcastle decided to promote a local act (the City of Newcastle Upon Tyne Act 2000), consisting of four parts:
- Street Trading (including pedlars)
 - Registration of Door Supervisors (this has been superseded by the Security Industry Authority)
 - Registration of Second Hand Dealers*
 - Distribution of Free Literature (flyers) (now likely to be superseded by Cleaner Neighbourhood & Environment Act)
- 4.6 Newcastle's process through Parliament was as follows:
- Bill deposited November 1998 & became unopposed
 - First and second hearing in House of Lords – no objections
 - Referred to a committee
 - Hearing before Unopposed Bills Committee, October/November 1999
 - Council had to show powers were required; found in council's favour
 - Bill received third reading and passed through House of Lords

- Received first and second reading, House of Commons – no objections
- Committee Stage
- Hearing before Unopposed Bills Committee, March 2000
- Committee found in favour of council
- Before the third reading, 2 MP's blocked the bill re Human Rights Act
- Full debate in House of Commons – block not reinstated
- Royal Assent received 21/12/2000
- The City of Newcastle Upon Tyne Act 2000 became law

4.7 The provisions of the Newcastle Upon Tyne Act 2000 mirror the Westminster Act, confining pedlars to house to house sales and enacting similar powers of forfeiture and seizure of goods. Once the Act was introduced in Newcastle, it is reported that unlawful street trading was eradicated overnight. However, the cost of introducing this Act in Newcastle was estimated to be £280,000 plus agent's fees.

4.8 More recently, Medway Council obtained local act powers through the Medway Council Act 2004. This act solely related to street trading and similarly provided powers to restrict pedlars to house to house sales, together with powers of forfeiture and seizure of goods. Officers from that council also advise that illegal street trading disappeared immediately. Because of the limited scope of this act, the cost of obtaining these powers is estimated to be between £50,000 and £60,000.

4.9 Medway Council had previously sought local act powers to register dealers in second hand goods in conjunction with a number of other authorities in their area. There was opposition to that act and the total cost to Medway Council was estimated to be over £200,000.

5 Option to Seek Local Act Powers in Leicester

5.1 The experience of other local authorities would appear to indicate that there are two main options should the City Council wish to obtain local act powers to control street trading:

(a) Promote an act relating solely to street trading, along the lines of the apparently well-established powers secured by other local authorities, at a cost of approximately £50,000; or

(b) Promote a more wide-ranging act incorporating street trading controls, as well as provisions relating to other matters such as the sale of second hand goods and massage parlours, at a cost of approximately £200,000 or more (dependent on the level of opposition experienced).

5.2 Leicestershire Constabulary, have confirmed that they would strongly favour the inclusion of the registration of second hand dealers and massage parlours in any Local Act promoted by Leicester City Council. They have concerns that a lot of stolen goods are disposed of via second hand dealers. Massage parlours are sometimes used as brothels, and more recently may harbour illegal human trafficking, where women are forced into prostitution and kept against their will. Establishments of this nature can also be used for money laundering.

5.3 Promoting a wide-ranging act is clearly a more challenging option. This option could be pursued jointly in collaboration with the police, county districts, and possibly other neighbouring city councils, on a shared-cost basis. Whilst this

might reduce the cost to the City Council and help ensure a consistent approach to unlawful traders across a wider area, timescales would probably increase significantly, as would the likelihood of opposition to such an act.

- 5.4 The primary focus of this report is street trading and the other matters that could be included within a local act have not been fully explored at this stage.
- 5.5 Because of the likely cost and timescales, any adoption of this approach would need to be addressed within the Department's 2006/07 Budget Strategy, unless external funding could be secured.

6 Street Trading Policy Options

- 6.1 Cabinet's views on the future approach to street trading in the City are sought; the two principal options being:

Option 1: Prohibit Street Trading

This is a continuation of the present approach of prohibition with a programme of enforcement action in keeping with the resources available. However, without more effective enforcement powers this approach is unlikely to be effective in preventing unlawful street trading by persistent offenders.

Option 2: Allow Controlled Street Trading

This approach would allow street trading but would aim to control it to an acceptable level. This would require a policy based on granting street trading consents at designated pitches, for an appropriate rent, selling specified goods from a stall of specified design. However, whilst this approach might generate additional resources for enforcement, the lack of effective enforcement powers may similarly prevent the Council from dealing with persistent offenders.

- 6.2 If Cabinet are minded to support the option of allowing controlled street trading, then further investigations and consultations would need to be undertaken in respect of:
- Where street trading should be allowed
 - Where pitches should be located
 - How many pitches there should be
 - Whether there should be controls on the range of goods sold
 - What the fees for a street trading consent should be
 - What controls there should be on the design of the stall
 - How street trading consents should be allocated
 - Who decides what can be sold where
- 6.3 Once this work was completed, but before any commitment was entered into, a draft policy would be developed and a further report brought back to the Licensing Committee for consultation prior to final approval by Cabinet.
- 6.4 Increased income could be used to fund more enforcement, though administration of this regime would be more resource intensive. In the short-term, developing and implementing any such new policy would impinge on current enforcement capabilities.
- 6.5 However, irrespective of which policy option is chosen, the inadequacies of street trading legislation will remain and without effective enforcement powers (similar to those available to local authorities with local act powers), the Council will find it impossible to overcome the problems presented by persistent

offenders. Hence the additional option of seeking local act powers is also presented to Cabinet for initial consideration.

- 6.6 In this respect, there are two options as detailed in paragraph 5.1 of this report: a simple act focusing solely on street trading or a wider-ranging act that would probably be significantly more costly. The views of Cabinet are sought on this matter. Depending on the views of Cabinet, officers could investigate local act options in more detail. In particular, the possibility of securing external funding (e.g. through the Crime & Disorder Partnership and/or from city centre retailers) to support any such a course of action could be explored.

7 Legal Implications (Provided by Shilpa Thakrar, Solicitor, RAD)

Option 1: Prohibit Street Trading

- 7.1 This involves the continuation of the present regime of prohibiting street trading, in conjunction with programmed prosecutions in accordance with available resources. As outlined earlier in the report, the level of fines imposed by Her Majesty's Court Service, Leicester Magistrates Court appear to be relatively small. It is not open to prosecuting solicitors to comment on the potential sentences to be imposed. In addition, there are no current sentencing guidelines to which the Magistrates may make reference. Therefore, it is not foreseeable for the extent of the fines being increased greatly.

- 7.2 Also operative by the Leicester City Council is the implementation of the Housing Act 1980 in respect of policy to authorise the City Centre Manager to arrange events on relevant highways, including those which result in the placing of objects or structures on the highway for the purpose of various named activities. This would necessarily involve the use of the City Centre spaces by promotion/events, which are duly authorised. The present policy in its draft format allows various activities in the City Council, in particular Humberstone Gate. The City Centre Manager "operates" this for Highways. They would allow, for instance, commercial activity whereby people can subscribe for certain packages for entertainment viewing. It is to be noted that whilst this "transaction" differs in its format from street trading within the Local Government (Miscellaneous Provisions) Act 1982, the activity may by definition be tantamount to street trading.

- 7.3 Where it is resolved to maintain the current regulatory approach, there is a need to clearly distinguish its functions.

Option 2: Allow Controlled Street Trading

- 7.4 The development of such a policy needs to be in accordance with the set procedures implemented by Leicester City Council. The steps to be followed are contained within the body of the report. In any event, full consultation would have to take place prior to the draft policy being adopted.

Option to Investigate Suitability of Local Act Powers

- 7.5 This would necessarily give the Council greater powers to enforce unauthorised street traders. Such an Act would supplement powers currently contained in the Local Government (Miscellaneous Provisions) Act 1982.

- 7.6 The City Council has made resolutions stating that certain streets within the city, particular the City Centre, are “consent streets”. Council consent is required to trade within those streets. The Council may grant consent “if it thinks fit”. In practice, the City Council does not allow consent for “daytime street trading”.
- 7.7 The present regime under which prosecutions are brought is within the 1982 Act. Currently, offenders may be fined up to £1,000 in the Magistrates Court. It is suggested that a local Act is sought which gives Council Officers the power to seize goods from those engaged in unlawful street trading. This power would therefore effectively extend those powers contained within the 1982 Act.
- 7.8 In relation to the seizure of goods, Human Rights considerations will apply to any such power. The courts therefore must ultimately decide whether the offender is to be permanently deprived of the property seized (forfeiture). Forfeiture has to be considered as part of the sentence for any offence. Any such Act would therefore need to include additional safeguards in relation to the rights of other persons who may have an interest in any property seized.
- 7.9 There is a process to be followed for promoting a bill. This is outlined in Section 239 of the Local Government Act 1972 enabling a Council to promote a local bill in Parliament where it is expedient to do so. Special provisions apply to Council resolutions to promote a bill, with a timetable attached thereto. The cost of promoting such a bill would be considerable. It may be desirable for the Council to be able to share this cost with another Authority. Unfortunately, there are limitations to the circumstances in which more than one authority may promote such a bill. It is only permissible for a number of authorities to promote a bill where there is clear joint interest in the powers that would be exercised severally (separately) by them under the proposed Act.
- 7.10 Parliamentary Agents would need to be instructed to assist in the promotion of the bill and parliamentary draughtsman in its drafting.
- 7.11 It is for the Council to satisfy Parliament of the need for such an Act which will require considerable and detailed information and evidence. Further, there is no guarantee that the Council will be successful in obtaining the Act sought or in the form sought.
- 7.12 If an Act is obtained to grant extra enforcement powers then resources will be required to implement those powers.

8 Financial Implications

- 8.1 These are detailed in section 2 of the covering report and within the main body of the report.

9 Other Implications

OTHER IMPLICATIONS	YES/NO	PARAGRAPH REFERENCES WITHIN SUPPORTING PAPERS
Equal Opportunities	No	
Policy	Yes	Throughout
Sustainable and Environmental	No	
Crime and Disorder	Yes	Illegal street trading is in itself an offence.
Humans Rights Act	Yes	Article 1 of the protocol gives the right to peaceful enjoyment of possessions, including a licence. Conditions or refusal to grant a licence need to be proportionate and in the interest of a democratic society.
Elderly / People on Low Income	Yes	Street traders often claim to be on low income and preventing them trading denies them the right to earn money. People on low incomes who buy from illegal street traders may not benefit from the same level of consumer protection as those buying from shops.

10 Background Papers – Local Government Act 1972

“Street Trading and Pedlar’s in the City Centre”, Report to Licensing Sub-Committee, 2 May 2000

“Review of Street Trading Policy”, Report to Licensing Committee, 8 September 2004

“Medway Council Act 2004”, HMSO

11 Report Authors:

Bobby Smiljanic
Licensing Team Manager
Extension 6454

Adrian Russell
Service Director
Extension 7295

REVIEW OF THE POLICY RELATING TO STREET TRADING

for Leicester City Council



Report

by

**Social Research Associates
April 2004**



Social Research Associates
12 Princess Road West
Leicester
LE1 6TP
0116 285 8604

Review of the Policy Relating to Street Trading

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Review of the Policy Relating to Street Trading

1. BACKGROUND TO THE STUDY

- Leicester City Council wished to review its policy on street trading. The current policy is based on a resolution to adopt Part 3 of the Local Government (Miscellaneous Provisions) Act 1982, which allows the Council to control street trading.
- Since that time the Council have generally not allowed street trading within the city centre or Belgrave although there are some circumstances in which it has been allowed. Indeed the policy itself (as supplied with the Brief and shown at Appendix A) is flexible and could be interpreted in a number of different ways.
- Over the years, the current approach has led to a large number of prosecutions and recently fines have increased to a level which on paper at least would seem to be prohibitive.
- However, there is still illegal trading including some regular perpetrators.
- The City Council therefore commissioned research which would help to inform a review of its current policy towards street trading. The key focus of this research was to obtain the views of interested parties and local people in general on the current policy.

2. INTRODUCTION

- The research takes place at a time of changing attitudes to city centre activity. Increasingly visits to urban centres are conceived as multi faceted in combining shopping, leisure, work and social activities. Another trend in recent years is the move towards longer opening hours including evenings and Sundays. These changes place greater emphasis on 'ambience'. In particular people like to experience a vibrant atmosphere both indoors and outside. The concept 'Living Streets' is often used to summarise this concept.
- Leicester City Centre has embraced such a philosophy and the core areas have been designed to enable outdoor liveliness. Examples of activity are charity stalls, commercial and public sector promotions, entertainers, political and religious advocacy and German, French and crockery markets. In addition some shop 'spill out' their wares onto the



pavement and there are also booths in the pedestrian area.

- It is perhaps not surprising that generally the public like the 'hurly burly' thus created and tend not to distinguish illegal trading within this menu of street activity. However, the Council does need to ensure that these activities are compatible with other duties and policies including the need to protect legitimate traders who meet regulations and pay their taxes.
- Thus the research is timely and will necessitate a combination of providing information and subsequently finding out what policies are felt to be appropriate for Leicester in 2004.



3. AIMS AND METHODS

Aims

The research aims to obtain the views of the various interested parties. These were identified as listed below.

- Shop-keepers and managers of stores especially those adjacent to any street trading activity.
- Market traders and other legitimate outdoor traders.
- Stakeholders such as the Chamber of Commerce and Industry, the Chamber of Trade, the Asian Traders Association.
- Police, emergency services, refuse department, town centre manager.
- Residents of Leicester.
- Illegal traders.

Methodology

<u>Inception Meeting</u>	We met with Council officers to agree full details of our research methodology including schedules for group discussions and interviews and questionnaire formats for interviews
<u>Face to face or telephone interviews</u>	<p>Interviews were carried out with stakeholders representing organisations with a particular interest in street trading policy. The list included the Chamber of Commerce and Industry, police and emergency services, the Market Traders Federation, the Chamber of Trade, the Asian Traders Association, Leicester Promotions, the Leicester Regeneration Company and the Town Centre Manager.</p> <p>Secondly, interviews were carried out with the street traders themselves. both legitimate and illegitimate. 15 face to face interviews were carried out for this part of the work.</p> <p>Thirdly interviews were carried out with local businesses in the following categories.</p> <ul style="list-style-type: none"> ▪ City centre businesses in Gallowtree Gate and Humberstone Gate. ▪ Market traders ▪ Shopping Precinct Businesses in the St Martins area, Haymarket and the Shires.

Public Survey	A public opinion survey of 100 people selected over the course of two 10 hour days in the town centre was carried out. Quotas were set to achieve a spread of ages, sex and ethnicity.																																														
Focus Groups	<p>Two focus groups were carried out on 9th and 25th March. Some of the participants were volunteers to the People's Panel and we supplemented these with others in order to ensure a representative spread of sex, ages and ethnicity.</p> <p>The groups discussed the issues around street trading policy and in particular their views about the Council's current policy. The profile of the people taking part was as follows.</p> <table border="1"> <thead> <tr> <th></th> <th>Focus Group 1</th> <th>Focus Group 2</th> </tr> </thead> <tbody> <tr> <td>Age</td> <td></td> <td></td> </tr> <tr> <td>18 – 25</td> <td>3</td> <td>3</td> </tr> <tr> <td>26 – 64</td> <td>4</td> <td>4</td> </tr> <tr> <td>65+</td> <td>2</td> <td>2</td> </tr> <tr> <td>Ethnicity</td> <td></td> <td></td> </tr> <tr> <td>White</td> <td>6</td> <td>6</td> </tr> <tr> <td>Minority Ethnic</td> <td>3</td> <td>3</td> </tr> <tr> <td>Sex</td> <td></td> <td></td> </tr> <tr> <td>Men</td> <td>5</td> <td>2</td> </tr> <tr> <td>Women</td> <td>4</td> <td>7</td> </tr> <tr> <td>Visitors to the city centre</td> <td></td> <td></td> </tr> <tr> <td>Frequent</td> <td>7</td> <td>8</td> </tr> <tr> <td>Infrequent</td> <td>2</td> <td>1</td> </tr> <tr> <td>Total</td> <td>9</td> <td>9</td> </tr> </tbody> </table> <p>A small honorarium was paid to cover childcare and out of pocket expenses.</p>			Focus Group 1	Focus Group 2	Age			18 – 25	3	3	26 – 64	4	4	65+	2	2	Ethnicity			White	6	6	Minority Ethnic	3	3	Sex			Men	5	2	Women	4	7	Visitors to the city centre			Frequent	7	8	Infrequent	2	1	Total	9	9
	Focus Group 1	Focus Group 2																																													
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4 RESULTS

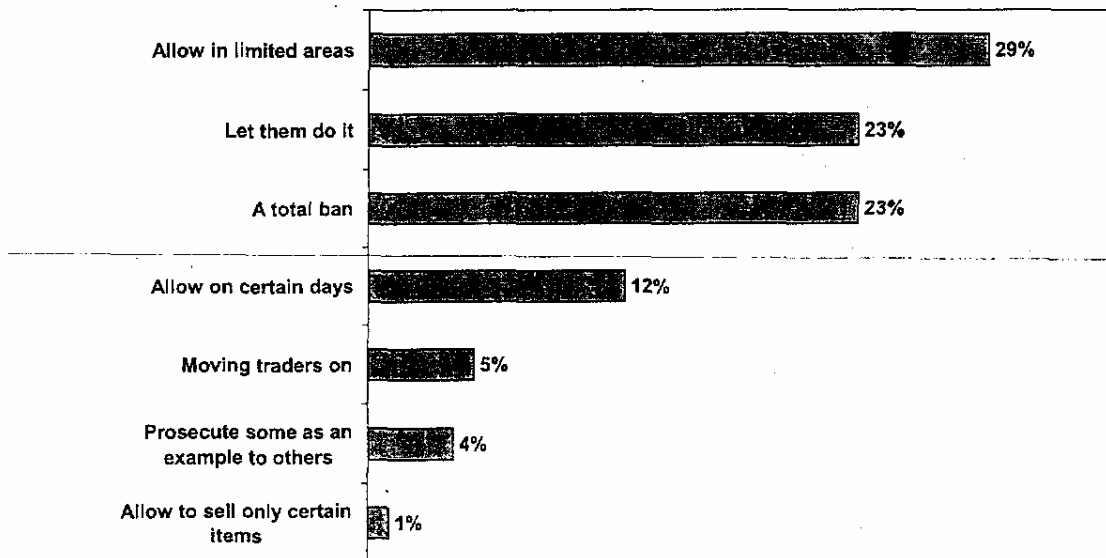
4.1 Street Survey

The survey was carried out on Friday 19th and Saturday 20th March in the city centre from 10 a.m. to 5.30 p.m. Cordon points were set up in Humberstone and Gallowtree Gates to capture a representative sample of passersby. Inevitably there were more women than men. However, the total sample profile provided a good spread of men and women, ages, socio-economic groups and different ethnic backgrounds. Four-fifths shopped in Leicester once a week or more, 16% 1-3 times a month and 1% less often.

Following a brief introduction to the Council's concerns, the focus of the survey was on what local people thought the Council should do in the light of a number of options as shown below. People were also encouraged to discuss the reasons for their choice.

Moving Traders on
Leave them be – let them do it
Prosecute some as examples to others
Allow street trading in certain limited areas
Allow street trading on certain days – e.g. Christmas, Saturdays
Allow street traders to sell only certain items, e.g. costing less than £1
A total ban

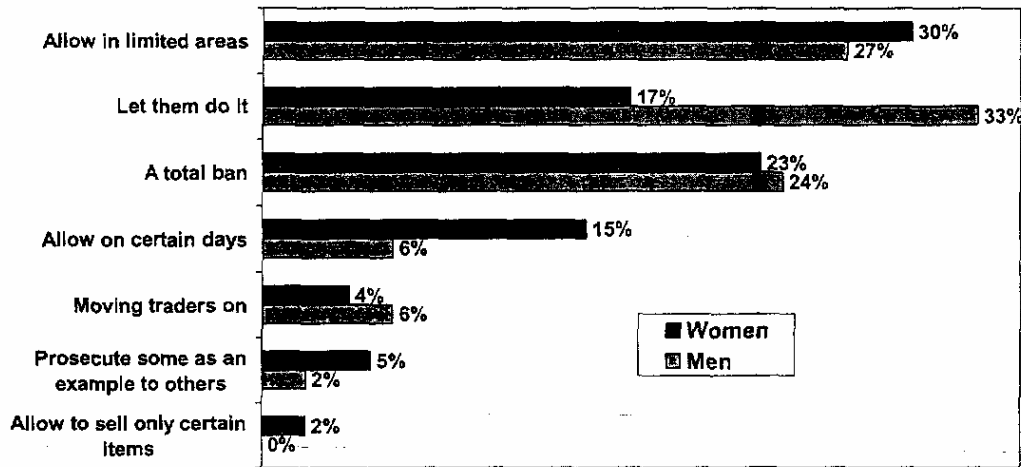
Table 1: Choices for Street Trading Policy



The results show that the two thirds favoured some form of toleration or more limited control compared to a third who advocated prosecution and bans. The most popular choice was to allow street trading in limited areas.

The results were also cross tabulated by regularity of visits to Leicester city centre, sex, age and socio-economic data.

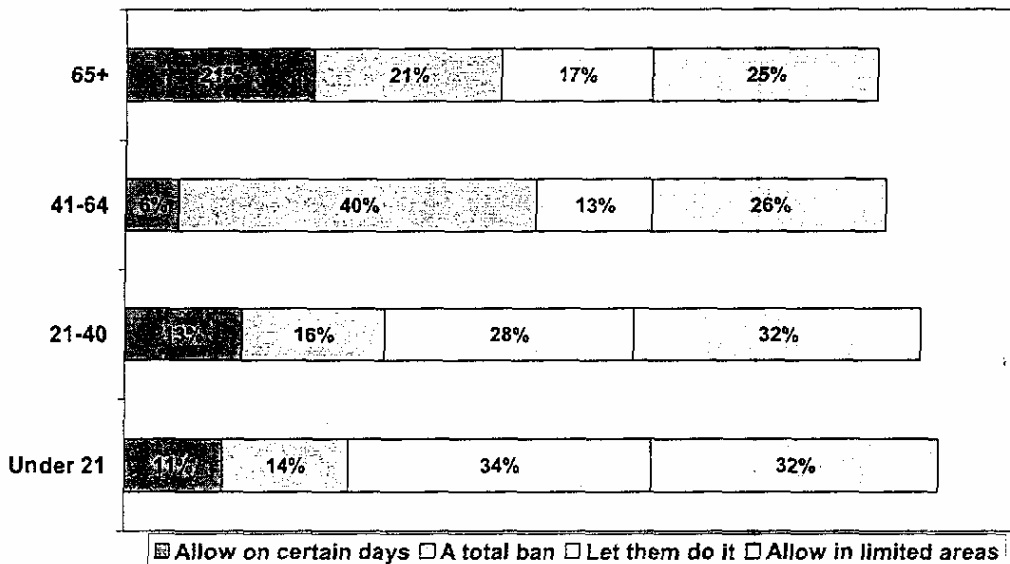
Table 2: Choices for Street Trading Policy - Differences between men and women



The results show that men were more likely to support a laissez faire approach than women.

There were also differences in support for the top four choices by age. In general younger people were more likely to support less regulation or non intervention compared to older people.

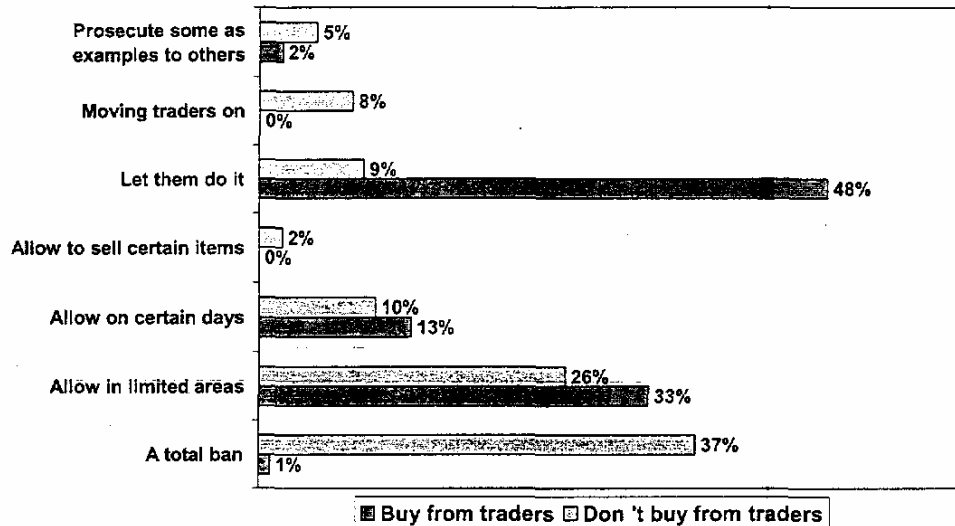
Table 3: Choices for Street Trading Policy- Differences by Age



Finally, not surprising there were significant differences between those who said they did purchase from street traders (a third of the total) and those who did not (two thirds of the total). Nearly half of those who did felt that street

traders should be left alone and allowed to do it compared to only 9% of those who did not.

Table 4: Differences in choices between those who did or did not buy from street traders



In addition to these quantitative results, many of those taking part in the street survey stopped to expand their views and the following are examples of some of the comments grouped according to themes.

Summary of Comments from Street Trading surveys

Unfair on the market. Unfair on other shops

"If the French are allowed to come over with great amounts of goods, why should the regulars be penalized?"

"We have a market and shops – don't need them people selling bits and bobs on the street"

"What is the market for? Why should they get a prime site – for free? Market is a tradition + is being threatened by criminal activity. Compromise is vindicating crime. Suggest a by-law."

Quality issues – worries of stolen goods and environmental impact.

"They don't do any harm – as long as not stolen goods"

"Sometimes it might be stolen - and the products are sometime no good."

"Sometimes Gallowtree is blocked."

"They make the streets look a mess"

"Sometimes it can be too crowded on the street."

It is illegal, therefore it should be banned, and they should be prosecuted.

"It's illegal for them to be doing it so they shouldn't – They should be prosecuted"

"They should be totally stomped on for six months, by police and council – also should be offered discounts for market stalls. Get them legal."

"If the council can't be bothered to prosecute, they will thrive anyway."

"Bigger fines – on the spot"

They don't cause anybody any harm, and they have to earn a living somehow – leave them alone. They add to the buzz of the city centre.

"They've got to make money somehow"

"Everybody's got to live – it's their livelihood – can be expensive to rent a spot."

"I like 'em! Gives a medieval feel."

"Handy at Xmas – good for toys, etc."

"Can be great at Christmas"

There should be controlled. The council should keep an eye on them, and there should be restrictions on numbers and areas they can trade.

Some people would ideally have liked a total ban but did not vote for this because they did not think it would work.

"If they ban altogether it won't work – cause too much trouble"

"Ban couldn't be enforced".

"They will trade whatever – may as well control"

"Control numbers by having set numbers of daily purchased street-trading plates/licenses – first come, first served. Anyone not showing that should be moved on and spot fined."

"Make the licensing process easier – bring them within the law."

"Those who have licenses should have a plate – so public can know which are the legal traders – Fines for illegal traders on the spot – given to local charities."

Others made comparisons with Nottingham, Derby or even Fosse Park.

"They don't have street trading in Nottingham – they confine it to the allocated places there – why can't Leicester do it?"

4.2 Focus Groups and discussions with the general public

Two focus groups were held to discuss the issues around street trading policy in more detail that allowed by the street survey.

General Discussion of Leicester City Centre

The image of the City Centre

Almost everyone thought that Leicester city centre was a lively, pleasant environment with convenient access. People visited not just for shopping but

also for meals and some people also worked there. Most people felt comfortable in all the main sections of the centre, although there was some concern about young people hanging around the clock tower which led to contrasts being made between the Shires and the outdoor areas.

"Generally I feel safe but I prefer the Shires because they have guards keeping order in there."

Others found the indoor shopping centres claustrophobic and also preferred the variety of the outdoors.

"The Shires is too hectic and full of juveniles and chain stores – you could be anywhere in Britain."

Overall, although the main purpose of this research is to focus on the one issue of street trading, there were many unsolicited positive comments about Leicester City Centre which provided very positive feedback. However that was in reference to the City in the day.

The evening was a different situation. At this time, the majority of people who took part in the research were either nervous about personal safety or downright frightened. As a consequence few people visited the centre in the evening although they would have liked to. The point was constantly made that in the evening there was only one thing going on – i.e. drinking and violence. In contrast during the day there was more varied activity and more surveillance including from street traders.

"The city centre is a no go area after 9 o'clock"

"It's full of drunks and every week you read about people being attacked".

There's no normal people around to stop the bad behaviour. Even street traders would provide some surveillance but like all sane people they wouldn't want to be around at that time."

Shopping in the City

The groups initially discussed their views about shopping places in Leicester city centre. The Market scored highly with most people even though most people felt that it was in decline. It was popular for its low prices, range of goods and willingness (in some cases) to accept return of goods and complaints about quality - usually food in this case. Also favourably mentioned were the Shires and the revamped Haymarket. Other desirable outlets were Fenwicks and the independent shops in St. Martins. One or two discussants occasionally visited Coventry and Nottingham city centres and a few Fosse Park. Generally, though, there was a reasonable level of satisfaction with Leicester city centre.

"There's a good variety of shopping. It's not too hectic and you can get round to all the different areas easily."

Street trading

Street traders did not really represent a problem for most members of the focus groups. People were aware that the numbers of street traders were growing and that they represented a threat to legitimate traders in shops and in the Market but felt no threat to themselves. More threatening were beggars, sellers of subscriptions to charities, religious groups and the masses gathering near the Clock Tower every day but especially on Saturdays. Big Issue sellers were not singled out as a nuisance.

The only member of the focus groups who found illegitimate street traders a problem was himself a market trader. There was some confusion about what was and what was not legitimate. Legitimacy did not seem to be a big issue in itself to the panellists. The Market Trader talked darkly about a 'Mr Big' who controlled the street traders. Interestingly, only a minority of the panellists had ever bought from the street traders but they thought they might some day.

Other forms of trading

French Markets and the like were not seen as a threat at all, even by the 'Market Trader' who recognised their legitimacy, though he did feel everyone would benefit if such outlets sought one of the increasingly numerous empty stalls in the Market rather than separate locations in Gallowtree Gate etc.

What should be done?

It was acknowledged by the panel that the Council would want to regulate the behaviour of street traders, not least because they represented a threat to the Market and other traders and because there was little redress for inferior goods and sharp practice. A number of policy solutions and their drawbacks were then debated.

Licensing - widely popular, though an acknowledgement that it might not drive out the illegitimates. The Trader did not see this as a serious problem. Regulation, he thought optimistically, perhaps, would be easy and workable.

- **Moving Traders on** - felt to be hit and miss and probably would have little effect.
- **Leave Well Alone** - the free for all was not acclaimed even though the panellists generally had no strong feelings about the status quo.
- **Exemplary Prosecutions** - regarded as time consuming and costly, though it would be facilitated by licensing.
- **Zones** - might work, although agreed that most traders would want to work where most shoppers congregated and thus hardly dealt with the basic problem.

- **Specific Days** (Xmas, Easter, Saturdays etc) - similar shortcomings. Didn't deal with the basic problems of street trading.
- **Specific Items** - realisation that traders often dealt in goods not sold elsewhere but a feeling that monitoring would present some problems, plus other drawbacks of street trading not resolved - quality, redress, nuisance.
- **A Total Ban** - often favoured by the public but some doubts among panellists about fairness, efficacy etc of a blanket ban.

Solutions

Solutions were regarded with some scepticism but **licensing felt to be the least worst alternative**. The format for licensing however was felt to be too strict at present and it would be preferable to allow street trading in set pitches preferably at a stall provided by the Council and for a rent. There should then be zero tolerance for others.

Another idea discussed by one of the focus groups was to allow market traders access to the allocated pitches on a rota basis.

Conclusion

The conclusion clearly is that the panellists favoured some form of control over illegal street traders even if they didn't really see them as a threat at the moment (compared to catalogue pushers and other scourges) or found few reasons to buy from them. Other panellists who did buy from them were slightly 'shamefaced' especially when they had been 'ripped off'.

"I suppose I knew it couldn't really be Chanel but it didn't smell bad."

"I bought a clockwork mouse at Xmas which didn't work when I got home – but it was only a pound so I looked upon it as part of the fun of Xmas."

Footnote: Some excitement was expressed that the panel might be making policy and how long would it take for things to change. SRa advised caution here mentioning that the final decision would be made by the elected councillors.



4.3 Stakeholder Interviews

Interviews were carried out with a wide range of stakeholders. Some of the individual interviews are summarised below.

4.3.1 Police – Ian Coulton (City Centre Local Police Unit Commander)

General

Ian spoke very passionately and knowledgably about street trading and is quite happy for any comment to be attributed to him. He commented that he has had many conversations with the City Council and Leicester Promotions and that he is very keen to see some holistic and integrated approach to dealing with street traders.

The problem

It is unfair for traders to 'plonk themselves down anywhere and sell goods of questionable quality' – other shop owners have to pay a great deal of money to trade where they are and 'I can understand their frustration'. They also make the city look untidy.

Solutions

Currently, there is no enforcement to stop street traders. In the past, the police have simply helped achieve prosecutions which are expensive and fines tend to be small which is no deterrent. Ian suggests that a robust enforcement regime needs to be worked out where agencies (especially the police and the City Council) work together – magistrates should give out 'heftier fines'.

This issue needs to be addressed for a variety of reasons, not least because of safety and security issues. Traders for example, could sell sub-standard goods which could be dangerous. Customers have no come-back because these people are not registered anywhere and no-one knows who they are. Some degree of control is therefore, needed – may not necessarily have to charge to give people a license to trade but people (especially immigrants) are unwilling to be registered in any way for tax or other reasons.

By having more control, traders could be confined to specific areas in the city such as the pedestrian areas.

We need to put forward the message 'please don't come to Leicester and trade illegally'.

4.3.2 Dave Best – City Centre Manager (Division of Leicester Promotions)

The problem

Dave talked at length about two traders in particular who have been very persistent and who seem to believe that it is their prerogative to have free and un-checked access to the city centre. He tells of cases of abuse where people

have tried to move them on (he invited us to read through the numerous files he has on this subject which documents cases such as this).

This situation, he says is 'unbearable' for people who pay massive rents to trade legally in shops 'it's just not fair'. He also comments that the very presence of these people and the fact they appear to be 'getting away with it' attracts more illegal street traders to Leicester.

Solutions

We need to have clear measures and get tough with these people – currently, they can only be moved on if they are causing an obstruction. There needs to be people who are devoted to this work – shouldn't be the remit of licensing officers (who in any case, claim they are too busy to do much about this) – they are therefore, not very often on the streets and don't have a clear grasp of the situation. Detection should be put in hands of market officers as they are next door to the activities going on – they could report on it under appropriate rules. People need then to be prosecuted (with heftier fines than have worked before) and once evidence is built up that this is not working, injunctions should be taken out – this will criminalise the perpetrators if they break them. This needs to be a clear and established process.

One trader that Dave spoke to said 'I don't care, the City Council won't do anything'.

4.3.3 John Allen – Chair of Markets Forum (Council)

John is particularly concerned about this problem and has in fact written his own report to be presented to the Council Leader shortly. The main problem he says is persistent offenders who refuse to comply with the regulations governing street traders. He says that many are using the Peddlars License to trade but this states that people can only trade whilst on the move; they should not be stationary. These people have been offered legitimate market stalls from which to trade but they have refused to take them up due to the rent involved in doing so. This situation is clearly unfair to legitimate market traders and shop keepers who undoubtedly are losing money because of these people.

John commented that 'these people are a blight on our city' and that they also attract more of the same as people come to Leicester with a 'if they can do it, I can do it' attitude.

There is very little the local authority and the police can do and so these people simply continue to flaunt the law and trade illegally, without any public insurance which other legitimate traders have.

Solutions

The local authority need to put a stop to this and show that it has 'teeth'. They could for example, include seizure of goods in attempts to stop these traders as well as hefty fines. This should be coupled with greater enforcement of licensing and greater powers to the local authority and police to regulate this.

Certain streets can also be designated for this purpose once traders are licensed – this would make it more difficult and less attractive for these people to trade here.

This is a growing problem which will continue to get worse if nothing is done. 'We don't want to be seen to be harassing but we need a change and we need it quick'.

4.3.4 Nick Rhodes – Markets officer

The problem

Street trading is currently uncontrollable in Leicester and indeed throughout the country. Activity tends to fluctuate with the season and city football success. Traders often operate on outdated peddlars' licenses which once granted allows them to trade (whilst on the move) in any part of the country. This is problematic because local authorities often don't have the resources to devote to monitoring the activities of street traders and so a city such as Leicester develops a reputation for being a 'soft spot' and attracts even more traders.

Whilst Nick saw that the general public may not find them to be an irritation as they 'have always been there' and people can choose whether or not to buy something from them, it is a completely different story from the point of view of people who are trying to trade legally and who find this activity very unfair. Market traders certainly are fed up with them as they are trading for free in very high profile areas of the city.

The Solutions

Nick talked about the fines issued to illegal traders and the fact that they are so small, they are hardly a deterrent. He also commented that 'I have market stalls available for them so they could trade in the markets'. This of course may not be so attractive to a trader who would have to pay for this space. The answer then lies in harsher penalties and the greater enforcement powers to the police and the council.

It is in the interests of everyone concerned to solve this problem as currently, the council receive no revenue from them as they don't pay for the space they occupy. In fact they may even be losing money for the city as they make it less attractive for visitors.

Leicester Regeneration Company Unwilling to talk – felt that 'there isn't really a lot of street trading in Leicester so 'we wouldn't really take it into account in our plans'.

Max Boden – Policy Manager, Chamber of Commerce (0116 204 6606)

On holiday until next week.

4.3.5 Shops in the City Centre

A selection of Managers of the large stores in Humberstone and Gallowtree Gate were interviewed about their views on street trading (e.g. Marks and

Spencer, Boots, Smiths, Dixons, Top Man, Gap, and a range of smaller shops).

Views were mixed in relation to the specific issue of street trading, but all managers were far more concerned about the general ambience of the city centre. The large stores in particular were more concerned about nuisance from loudspeakers, political and other cause stalls, buskers and religious advocates. Both the Managers of Marks and Spencer and Boots made the point that these activities interfered with their business and that street traders were only one aspect of this.

"We are not doing well in the city centre in comparison to out of town locations and all this chaos does not help us."

The preference of the managers was for better management of all street activities including proper licensing of street activity.

"I'm not against street activity but it needs to be properly managed and co-ordinated with the permanent stores. For example when they have a German market all the other stores could put on related displays – we could feature German wine for example. The city centre needs to be a lot better managed."

~~*"Sometimes our assistants can't hear what customers are saying because of all the noise outside. We should ban loudspeakers in the centre – no-one likes it."*~~

"When they had the funfair at Easter, it completely blocked our shop front."

In contrast a few shop managers did not mind street trading and indeed one shop felt it enhanced their trade.

*"We send customers back and forwards between us. We help each other."
(mobile phone shop)*

Our conclusion from the interview with city centre managers is that many are very unhappy with the current policies for the city centre and that street trading was a very small part of their concerns. Obviously we did not have the resources or remit to pursue these points but it does seem to be an issue for the Council to address.

We also interviewed a number of market traders and as expected they were incensed at the activity of street traders.

"Find an area for them! We'd all like a pitch outside M+S. Get them on the market. Or! On the spot fines?"

"The Council should enforce the law whatever the cost. It's just not fair – things are difficult enough for the market at the moment without those b.....s taking our trade."

4.3.6 Interviews with Street Traders

These interviews were carried out at various times during the study and included the two traders who sell hats and mobile phone accessories in the clock tower area. Others interviewed were less regular some operating from suitcases or shopping trolleys. 15 interviews were completed.

In general the traders were defensive and in a few cases defiant. Some claimed they would prefer a legal place and would pay for it. Others referred to the problems of the 'nanny state'. None of them would consider transferring to the market and preferred trying to avoid prosecution or simply paying fines. It was clear that street trading was very profitable and indeed one trader claimed he was prepared to pay thousands



of pounds in fines compared to any form of control. This particular trader had also nominated his female assistant to front prosecutions on the grounds that the magistrates only fined her a small amount compared to the fine that would be levied on him.

Some of the traders also felt that Leicester was a 'soft touch' for street trading compared to, for example, Nottingham – although it was not clear why.

Other traders felt that there is a demand for their produce, otherwise they could not make a living, and they were therefore doing a service.

"We provide a gap in the market – otherwise we wouldn't be here! The council should see that."

"We're just trying to earn a living – people don't have to buy if they don't want to! If there wasn't a demand we wouldn't be here."

5. CONCLUSION

The results of the research show that the public are generally more tolerant of street trading than shops, market stall holders, police and the city centre manager.

A third advocate some form of licensed control whilst a quarter would accept a 'free for all'. Thus the majority advocate a more liberal regime. Nevertheless a quarter of the public do feel street trading should be banned completely however difficult it is for the Council and the police to achieve this.

Finally, it is clear that street trading is only one aspect of people's perception of the city centre and that there are many other more pressing concerns by both shop managers and the public which need addressing outside the remit of this research.