

**Councillor Garry Peltzer Dunn**

Brighton & Hove City Council  
c/o King's House  
Hove  
BN3 2LS

The Chief Executive  
Brighton & Hove City Council

**Date:** 29 April 2016  
**Our Ref:** GPD

Dear Chief Executive,

**RE: ZONE B STREET TRADING REVIEW**

I should like this letter to be referred to the Licensing Committee in June for consideration.

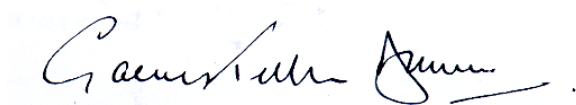
I have previously raised my concern about a serious road safety problem that has arisen outside the entrance to West Hove Junior School and other schools where it appears that street traders have sited their ice cream vans in very close proximity to the school's exit. This results in the pavement being blocked and children and adults being forced out into School Road placing them in danger during the very busy time when the children leave school.

Provided the traders van is in a legal parking space no action can be taken as they are not breaking any Council regulations for Street trading within Zone B of the scheme.

Over the past years there has been increasing debate over the unhealthy nature of school children's eating habits and this is certainly not helped by the proximity of street traders vans such as that above.

I am aware that a review was undertaken in 2009 in respect of the possibility of having exclusion zones and that the Street Trading Policy was agreed in 2013. However, I believe that in the interests of both road safety and on health grounds it would be appropriate for the committee to request officers to undertake a review of the Council's Street Trading Policy within Zone B to prohibit such street trading within a minimum of 50 metres of a School's entrance/exit.

With best wishes



**Cllr Garry Peltzer Dunn**

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Conservative Member for Wish Ward

## **Chairs Response**

“In 2009 the Licensing Committee considered a report into possible “exclusion” zones around schools in 2009 and after extensive consultation the Licensing Committee decided that using street trading regulations to promote healthy food, although appealing, may not be proper use of the regulatory controls. There has been a recent case in North Lanarkshire which ruled that a ban on Burger vans selling within 250 metres of schools was not lawful on grounds of diet and health.

Street trading consent regulations’ primary purpose is to prevent obstruction of the street or danger to persons using it, or nuisance or annoyance to people using the street or otherwise. The department promotes diet, health and local food issues including engagement with school children by its healthy awards scheme and the recently launched Sugar Smart City initiative. Using street trading regulations to promote healthy food, although appealing, is not likely to be proper use of the Regulatory controls.”

## **Street Trading Consent Zone B Local Government (Miscellaneous Provisions) Act 1982**

The Council’s Street Trading Policy was set by Members at Licensing Committee after extensive consultation and was last considered at Licensing Committee on the 21<sup>st</sup> November 2013.

The city centre streets, with a few exceptions, are prohibited streets. There are five static pitches within the City Centre (Zone A), mainly off Western Rd Brighton, where trading is permitted. Outside of the city centre (Zone B), traders with a consent can trade on the highway, providing they are not causing a nuisance, obstruction or danger to the public. The Council’s street trading policy can be found from the following link, <http://www.brighton-hove.gov.uk/content/business-and-trade/licensing-and-gambling/street-trading> which sets out in a table the type of trading permitted in certain areas of the city.

Ice Cream Vans are issued permits by the Licensing Team giving them consent to trade as “Mobile Street Trading”. Mobile Street trading is allowed in Zone B (outside of the city centre), with the exception of Parks & Gardens and within 1 mile of the Falmer Community Stadium therefore it gives mobile trading a wide area to trade from. There are no stipulations of roads but only that trading takes place within Zone B in accordance with the Street Trading Policy.

In order for any proposed Policy change to go to Licensing Committee, we would need significant input from the public in the form of a petition, deputation or councillor question for Committee to agree to begin extensive consultation on the proposed change. The basis for such change would need to be appropriate and lawful.

It is worth noting that the Licensing Committee considered a report into possible “exclusion” zones around schools in 2009 and after extensive consultation the Licensing

Committee decided that using street trading regulations to promote healthy food, although appealing, may not be proper use of the regulatory controls. There has been a recent case in North Lanarkshire which ruled that a ban on Burger vans selling within 250 metres of schools was not lawful on grounds of diet and health. Please see the link to the BBC report: <http://www.bbc.co.uk/news/uk-scotland-glasgow-west-34983735>

The regulation of street trading by consents covers infrequent, itinerant trading. There is no right of appeal against refusal and so it is vital that licensing authorities behave in a fair and reasonable manner. An established street trader would have a reasonable expectation that his/her consent would continue. Street trading consent regulations' primary purpose is to prevent obstruction of the street or danger to persons using it, or nuisance or annoyance to people using the street or otherwise. The department promotes diet, health and local food issues including engagement with school children by its healthy awards scheme and the recently launched Sugar Smart City initiative. Using street trading regulations to promote healthy food, although appealing, is not likely to be proper use of the Regulatory controls.

