



Derby City Council

# Derby Market Rights Policy

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**1.0 Version Control**

<b>Version</b>	<b>Date</b>	<b>Change</b>	<b>Author</b>
V1	04/10/2018	Submitted to DMT	Cassandra Carruthers
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**2.0 Introduction**

- 2.1 The Council recognises the importance of markets to the economic vibrancy of the city and communities in general.
- 2.2 The Council is keen to maintain the balance of markets throughout its area and ensure that there is appropriate regulation and consistency in the way that markets are provided and organised. In this context the Council has developed a market rights policy which sets out the basis upon which markets will be regulated and the process by which applications for new markets will be

considered. Whilst derived from a historic context, the controls provided by the market rights policy continue to be of relevance today.

- 2.3 Managing the impact on existing market facilities located within the city, will ensure that their vitality and viability is maintained and not undermined by competing operations.
- 2.4 The Council recognises that there are many different types of market activities and this policy is intended to cater for each type of market. In particular, the Council's policy distinguishes between commercial markets and those that are largely community-based with a strong charitable element. Section 5 of this policy deals with the different types of market and the Council's approach in considering applications in respect of such markets.
- 2.5 Any trader who commences trading at Derby Market Hall and Allenton Market with permission from Derby City Council agrees to abide by this Policy as part of and incorporated into all Licence agreements.
- 2.6 This Market Rights Policy governs the use of stalls in the markets 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 Council or otherwise be refused permission to use a stall in the market. Unless otherwise stated this policy relates to the whole market and casual traders.
- 2.7 The Council may change this policy at any time upon giving four weeks written notice to traders. Prior to changing this policy the Council will consult with traders and consider any representations made.

### **3.0 Background**

- 3.1 The sole rights to hold markets in Derby were first bestowed upon the then burgesses of the city by King Henry II in 1154. This privilege was further endorsed in 1204, by King John who extended the original Charter to enable a market to take place between vespers (evening) on Thursday to vespers on Friday. The rights were extended again in 1229, when King Henry III granted the right to hold a fair during Whitsun week and eight days either side of the feast of St James the Apostle. Finally, in 1330, the right to hold a market was extended to include Sunday, Monday and Wednesday.
- 3.2 In 2013, the Council further adopted the provisions of Part III of the Food Act 1984, in order to better regulate market activities within its area within the modern context of the statutory code provided for by the Act, and so that its status as a markets authority could be protected within that framework.

### **4.0 Market Rights**

- 4.1 The right to hold a market gives the owner of the right, certain important powers, such as the right to regulate the way in which markets are held but also including the ability to restrict 'rival' markets held within Derby's administrative boundary.
- 4.2 This right has been exercisable for many years; however in drawing up this policy the Council has taken into account relevant UK and European legislation.
- 4.3 Any market, private or charitable, that falls within the Council's common law zone of protection falls within the scope of the Market Policy.
- 4.4 Section 6 of this policy sets out the basis on which applications will be dealt with by the Council.

### **5.0 Market Definition**

- 5.1 The Council's Markets Policy is intended to cover all market events held within the Council's administrative boundary. In order that potential market operators are fully aware of the Council's definition of a market the following guidelines are provided:

- a) A market, for the purposes of this policy, is defined as a 'concourse of buyers and sellers of five or more' (this means that the public are entitled to attend market events to buy and sell).
- b) A market will comprise of not less than five stalls, stands or vehicles, whether moveable or not, or pitches, from which articles are sold.
- c) There will be an operator of the market who will be responsible for the organisation and delivery of the event.

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

5.3 This markets policy does not cover street trading activities as this is covered by a separate specific policy and managed by the Council's Licensing Team.

5.4 In accordance with this policy, the Council provides the following permanent markets:

- a) Derby Market Hall, Tenant Street

- b) Allenton Market, Osmaston Road.

## **6.0 Market Application Process**

6.1 The Council's consent to establish or hold a market within the Council's administrative boundary must be given before the market takes place. Markets will only be licensed following a valid application for a markets licence having been made to the Council's Markets Team. Any market that takes place without such a licence is in breach of the Council's markets policy and will be subject to enforcement action as described in Section 9.

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

- a) Commercial markets

- b) Community-based markets with a strong charitable element.

## **7.0 General Regulatory Conditions**

- 7.1 The criteria set out below will be relevant in respect of all categories of market event:
- a) Consideration of the commercial viability of both existing and proposed markets on the overall market offer across the city
  - b) Suitability of the proposed application site, including but not limited to the nature of the surface, access and egress for buyers, vendors and emergency vehicles
  - c) Appropriateness of the proposed application site, taking into consideration issues such as, but not limited to, the proximity to residential property/ major road junctions
  - d) The availability of on and off street parking, external to the site, for use by patrons
  - e) The intended frequency of the market
  - f) The likely effect of the market on the local amenity
  - g) Suitability of arrangements by the applicant for dealing with noise, litter or other environmental issues
  - h) Regard to the overall size of the market
  - i) Existence and adequacy of health and safety arrangements for vendors and buyers, including access to toilet facilities if the market is to be over four hours in duration and the provision of acceptable and accessible first aid facilities
  - j) Obtaining planning consent if more than 14 events are to be held in one calendar year
  - k) Prohibition of the sale of livestock or live animals, explosive materials of any kind and illegal or counterfeit goods on the site
  - l) Prohibition of gaming or betting on the site
  - m) If operated on a Sunday, compliance with the Sunday Trading Act in that trading by any individual seller will not be permitted for more than a maximum of 6 hours
  - n) Anyone providing a market in Derby must comply with the Equality Act 2010 and not discriminate against anyone. In addition they need to provide reasonable adjustments for disabled customers.

## **8.0 Commercial Markets**

- 8.1 A commercial market is one which is operated for profit and/or where traders are engaged in a business activity of selling goods for their own beneficial purposes.
- 8.2 In addition to the general criteria set out in Section 6, the Council will consider applications in respect of commercial markets having regard to the following requirements:
- a) In respect of any consent the operator must have public liability insurances, comply with any other provisions, statutory or otherwise, prescribed for compliance by the Council
  - b) A licence will be entered into between the operator and the Council before the market is held
  - c) The Council may, from time to time and as appropriate, prescribe such other requirements as are deemed necessary to secure consumer and public safety standards.

## **9.0 Community-Based Markets Raising Funds for Charity**

- 9.1 Community-based markets are those organised by local communities or organisations with the intention of raising funds for a specific charity or cause/purpose, or for celebrating a special event.
- 9.2 In addition to the general criteria set out in Section 6, the Council will consider applications in respect of community- based markets having regard to the following requirements:
- a) The markets must be operated on a non-profit making basis to assist a charity or community event and the operator shall supply documentation that confirms the status of the charity/community event to the Council upon request
  - b) In respect of any consent the operator must have public liability insurances, comply with any other provisions, statutory or otherwise, prescribed for compliance by the Council
  - c) A licence to operate a market on council land will be entered into between the operator and the Council, if applicable, before the market is held
  - d) The Council may, from time to time and as appropriate, prescribe such other requirements as are deemed necessary to secure consumer and public safety standards.

## **10.0 Application Information**

- 10.1 Applications for temporary licences for markets should be made to the following address:

Markets Team  
Derby City Council  
Markets Office  
Derby Market Hall  
Tenant Street  
Derby  
DE1 2DB

Telephone: 01332 643344  
Mobile: 07812 300946

or [markets@derby.gov.uk](mailto:markets@derby.gov.uk).

- 10.2 Information about the Council's Markets Rights Policy can also be obtained online, along with copies of the relevant application forms at [www.derby.gov.uk](http://www.derby.gov.uk)

- 10.3 The Council will endeavour to deal with applications within a period of twenty eight days from receipt of a complete application. Operators of proposed market events are therefore urged to submit an application as early as possible to ensure that the Council has adequate time to consider the application in sufficient time prior to the

planned date of the event(s). In considering the application, the Council will require sufficient information to deal with all the issues set out in the criteria listed above and also covered on the application form. Failure to provide such information is likely to lead to a delay in the Council determining the application.

Larger market events proposed in the City will be subject to consultation with the City-Wide Events Strategy Implementation Group (CWESIG) before being granted a temporary licence.

## **11.0 Fees**

- 11.1 The Council requires payment of fees following confirmation that an application has been successful. A temporary licence will be drawn up once the appropriate fee has been received. Fees are based on actual costs incurred for the Council to process and grant a temporary market licence. Fees are subject to annual review on 1st April in line with the Markets Service review of fees and charges.

### **Licence Fees**

<b>Commercial Markets</b>
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Markets up to 20 stalls including: <ul style="list-style-type: none"> <li>• Car Boot Sales</li> <li>• Farmers, Food and Specialist Markets</li> <li>• Craft Markets and Fairs, etc</li> </ul>	£60.00
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<b>Commercial Markets</b>	
Markets over 20 stalls including: <ul style="list-style-type: none"> <li>• Car Boot Sales</li> <li>• Farmers, Food and Specialist Markets</li> <li>• Craft Markets and Fairs, etc.</li> </ul>	£95.00*

<b>Charitable or other non-profit events</b>	
All proceeds from the event need to go to a charity or other nominated cause.	
This applies to market events of any size including: <ul style="list-style-type: none"> <li>• Car Boot Sales</li> <li>• Farmers, Food and Specialist Markets</li> <li>• Craft Markets and Fairs, etc.</li> </ul>	£20.00

11.2 For the purposes of this policy, events organised by Derby City Council, including Derby Live are excluded from the fee but not the regulatory regime.

11.3 In the case of markets organised by defined organisations, the Council reserves the right to contact the beneficiary organisation or entity to validate the authenticity of the defined organisations intentions to which end it is essential that applicants provide full details of the intended beneficiary on the application form.

11.4 \*Major commercial market events may be subject to additional fees for support and assistance from the Council’s Markets team related to ensuring compliance. This will be confirmed and discussed on receipt of application. The Council may also ask for a deposit if considered appropriate.

**12.0 Other Approval Requirements**

12.1 Any approval given by the Council in respect of its market policy does not override the requirement, when or where necessary, for other relevant statutory or regulatory approvals or other consents to be obtained.

12.2 In particular the operator of a market should ensure that where the market is being held on private land, the approval of the landowner is obtained.

- 12.3 Organisers also need to be aware that if it is intended to operate a market event for more than 14 days in any calendar year on a particular piece of land, planning consent must be sought from the Council, as the local planning authority for the city of Derby, in accordance with the Town and Country Planning (General Permitted Development) Act 1995. Planning permission is also required if the land the market is to take place on is within a building or the curtilage of a building, or the use of the land for a market involves the construction or siting of any immovable structure. If you believe your market falls into one of the above categories it may be advisable to speak to the appropriate Planning Authority before proceeding further.
- 12.4 Attention is also drawn to the provisions of the Licensing Act 2003 in respect of any entertainment provided at the market or where a Temporary Events Notice might be required in respect of the sale of hot food or alcohol.

### **13.0 Regulatory Regime**

- 13.1 Drawing authority from the Food Act 1984 Act, the Council will monitor the application of its Market Rights Policy and any market event which is established after the date of the implementation of this Market Rights Policy will be subject to the Council's policy requirements.
- 13.2 Any market which is not approved by the Council under its markets policy will be subject to legal action and the Council will seek an appropriate remedy in the courts to prevent the market being held and/or damages as appropriate.
- 13.3 In addition, any market operator acting in contravention of any market terms granted by the Council will be liable to having the consent rescinded.