



LEIGHTON-LINSLADE TOWN COUNCIL

Date: 29 August 2019

Title: Adverse Weather Policy

Purpose of the Report: By way of an Adverse Weather Policy and Disclaimer, to provide clarity and certainty to market traders in the event of adverse weather being forecast.

Contact Officer: Mark Saccoccio, Town Clerk

Corporate Objective/s		LLTC Five Year Plan – To continue to support a vibrant town through partnership working & initiatives including management of the street market, support businesses, town & community promotions & town centre enhancements.
Implications:		
Financial	√	
Human Resources		
Operational/Service delivery	√	
Procedural/Legal	√	The disclaimer and adverse weather policy have been agreed by the Town Council's solicitor. The insurance provider is satisfied with the said policy.
Risk/Health and Safety	√	Should market traders decide to put their business interests above health and safety and ignore Town Council policy, this decision is entirely at their own risk. Those that choose to do so, should be satisfied that they have at least £15 million worth of public liability cover in place and that their insurer is satisfied with them defying adopted Town Council policy.

1. RECOMMENDATIONS

- 1.1 To adopt the Adverse Weather Policy as attached at Appendix A.
- 1.2 To endorse the Disclaimer as attached at Appendix B.
- 1.3 To endorse the recommended policy changes as set out at paragraph 3.1 of this report.

2 Background

- 2.1 Since the successful relaunch of the twice weekly market in September 2017, the Town Council has been forced to close the market on 5 occasions. On all 5 occasions, the weather conditions were such that it was considered too hazardous to erect and thereafter operate from market structures. Despite this, a handful of traders have chosen to put their business interests first. By acting in this way, it meant that any insurance policy they have is likely to be void as the market has been closed by the operator (The Town Council).
- 2.2 The purpose of this paper is to offer clarity to all those who have an interest in the market. By having a robust policy that is both reasonable and fair will

provide certainty to all and where possible, preserve the opportunity for market traders to carry on trading. What the policy will however require is for traders to recognise the potential threat that adverse weather poses and an acceptance that in order to trade, they will have to modify the way they operate. For some this may not be possible which is regrettably accepted. However, there are those traders who by virtue of the goods they sell will be able to continue trading.

2.3 For the market, the greatest most prevalent challenge is managing high winds. The east-west orientation of the High Street together with relative building heights means that the High Street acts as a funnel with wind channelled down its length causing a danger to the temporary structures that is the market. To this end, once the MET Office issues a yellow warning for high winds and gusts, the Town Council as market operator has no choice other than to close the market. The emerging presumption (as set out within the emerging policy) is that the market can stay open should a yellow weather warning for high winds be issued. As set out at paragraph 2.2, this will require some compromise (which it is accepted may not be possible) from all traders. However, the alternative is for the market in its entirety to be closed which is then not fair to those who are able to adapt to the conditions. In summary, should a yellow weather warning predicting high winds be issued:

- At least 48 hours-notice will be given of the Town Council's intention to implement its inclement (yellow weather warning) policy thereby allowing those who sell perishable goods to plan accordingly.
- No gazebo/town council owned structures will be erected
- Traders will have the choice as to whether they decide to attend or not. Should traders decide not to attend, they will not be charged for missing the market day.
- For those traders who do attend, they will have the choice as to whether they trade from a vehicle/trailer or tabletop as both methods of trading are considered of a lesser risk when compared to trading from beneath a temporary structure such as a gazebo or similar.
- Under these conditions, the Market Manager or their representative, will at their discretion introduce a revised market layout based on which traders may wish to attend.
- The market may not be serviced in the usual way albeit contingency arrangements may be put in place that may require the traders to either take their rubbish away or dispose of it in the market bins which may be located in an alternative secure position.
- No tables will be provided by the Town Council. It is expected that market traders who need the use of tables will provide their own

- 2.4 Dealing with traders who decide to ignore the adverse weather policy and continue to erect their own structures. It is a huge frustration that the Town Council is forced to adopt a position on this matter. Should traders decide to disregard the adverse weather policies, this will be entirely at their own risk. By doing so, they are acting outside of the adverse weather policy and will not be recognised on those days. The insurance industry recommends that the market trader has at least £15 million pounds of cover. A failure to have the appropriate level of insurance cover will again be at the trader's own risk. Traders must satisfy both themselves and their insurance provider that their decision to ignore the policy will not compromise any insurance cover they believe they have in place.
- 2.5 All traders will be presented with a disclaimer which has been agreed with the Town Council's solicitor and insurer which they are expected to sign. A failure to sign the disclaimer (See Appendix B) **does not however mean that the trader is exempt from the Adverse Weather Policy. This policy is binding on all who trade on the market.**
- 2.6 Payment Schedule: On such occasions, the trading fees for the day will be reduced and will be at the discretion of the Market Manager. Those who disregard the Adverse Weather Policy are not recognised and will therefore not be charged a fee.

3 Meeting with Market Trader Representatives

- 3.1 On Tuesday 13th August, the Town Clerk met with Market Trader Representatives to discuss the emerging Adverse Weather Policy. At the said meeting, the Trader Representatives raised 3 issues in respects of the policy:

Market Trader Representative Request	Town Council Response	Recommended Policy Changes
i) That tables should be provided when the adverse weather policy is being implemented	This considered an acceptable and reasonable request. However, a decision will be made on the morning to determine the appropriateness or otherwise in providing tables.	The decision to provide Town Council owned tables will be at the discretion of the market manager and will be subject to the weather conditions of the day.
ii) That greater certainty should be provided in respect of the fees that	This is considered an acceptable and reasonable request. All	All who trade in accordance with the adverse

<p>traders are to be charged on those days when the adverse weather policy is in operation.</p>	<p>traders who turn up and trade in accordance with the adverse weather policy will be charged 40% of their normal rent. It remains that those traders who decide to ignore this policy will not be recognised and will therefore not be charged a rent for the day as they are working outside of the policy parameters.</p>	<p>weather policy will be charged 40% of their normal rent in order to reflect the weather conditions of the day. Those that trade outside policy parameters will not be recognised and therefore will not be charged a rent for the day.</p>
<p>iii) That the emerging policy does not allow traders to bring and use their own structures thereby denying those who may wish to work from their own structure opportunity to do so.</p>	<p>The Town Council does not consider this a reasonable request for the following. The challenge is that no two structures are alike both in construction and purpose. Whilst some structures could be deemed safe to operate from, the challenge rests with their construction and removal during testing weather conditions. To endorse their use would potentially leave the Town Council vulnerable should an insurance challenge be made. The issue here rests with the Town Council endorsing a practice that has an unreasonable level of risk to the detriment of those building the structure as well as the public and property at large. Should a trader decide to erect their own structure (outside of the policy parameters), they would</p>	<p>No change to policy.</p>

	have to satisfy both themselves and their insurance company that they are covered despite their actions being contrary to the Town Council's policy as market operator.	
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