



PUBLISHED MARKET LICENCE CONDITIONS
BARNSTAPLE PANNIER MARKET

1 Interpretation

1.1 In these Conditions the following expressions shall have the following meanings:-

Expression	Meaning
the Council	North Devon District Council of Civic Centre, Barnstaple, Devon, EX31 1EA, or its successor to the Market
the Licensee	Each and every holder of a current Pannier Market Licence
Licence	A licence in the form annexed to these conditions to trade within the Barnstaple Pannier Market
the Market	Barnstaple Pannier Market
the Space	The Space within the Market identified on the Licensee's Licence PROVIDED that if for any reason beyond the control of the Council that space shall not be available then "Space" shall mean such alternative space as may be reasonably allocated by the Market Officer
the Licence Period	The period from the commencement of the Licence until 31 March next following or such earlier date upon which the Licence is determined in accordance with Clause 4 EXCEPT in the case of a Casual Trader where the Licence Period shall end at the end of the agreed period as paid for in advance
the Licence Day	The Licence Day specified in the Licence or (whenever that day shall not be available by reason of emergency or other good reason in the opinion of the Council) such other day as the Market Officer may from time to time in his reasonable discretion determine on seven days written notice to the Licensee excluding always Christmas Day Boxing Day New Year's Day and any other Statutory Bank Holiday or customary holiday in England and Wales
the Stallage	the licence fee payable to the Council as detailed in the Schedule of Fees attached for each Licence Day, including sums for electricity if elected to be used, or

such other amount as the Council may from time to time in its absolute discretion determine and in the case of any current licence affected by that variation on one calendar month's written notice to the Licensee

Group Membership Fee	£10.00 per annum together with such other amount as the Council may from time to time agree with the Pannier Market Traders' Committee as being necessary to meet the Market Traders Group membership fees to the Barnstaple Town Centre Management Committee and any surplus applied to advertising the Market
Produce Market Day	Tuesdays, Fridays and Saturdays
Non-Produce Day	Mondays, Wednesdays and Thursday
Produce Trader	A Trader on a Produce Market Day
Casual Trader	A Licensee who takes a licence for a period of one day by the a single payment of the Stallage even if the Casual Trader has taken such a Licence before or intends to do so again
the Permitted Use	Retail sale of the Goods or the provision of the Services
the Goods	Goods of the type authorised by the Licence
the Services	The provision of the services of the type authorised by the Licence
the Opening Hours	Such period of time during the Licence Day starting at the choice of the Licensee not earlier than 6:00 am nor later than 9:00 am and ending at the choice of the Licensee not earlier than 1:30 pm in the case of a Licensee selling home made or grown produce, or 3:00 pm in the case of other traders, and in either case not later than 4:00 pm or such other times as the Licensee may have previously agreed in writing with the Market Officer
the Market Officer	The Council's Pannier Market Manager or such other officer of the Council from time to time appointed to act and notified in writing to the Licensee
the Barnstaple Pannier Market Forum	a group of traders, officers or members of the Council set up to deal with matters of the market or such group as may be created in substitution for it

1.2 In this Licence where the context requires:

1.2.1 words importing the singular include the plural and vice versa

1.2.2 words importing one gender shall include all other genders

- 1.2.3 where a party consists of more than one person the covenants and obligations of that party shall take effect as joint and several covenants and obligations
- 1.2.4 references to a person shall include all legal persons
- 1.2.5 the words "including" "include" or "in particular" shall be read as if followed by the words "but not limited to" and shall be without prejudice to the generality of the preceding words
- 1.3 Reference to any Act includes reference to any statutory modification or re-enactment of it for the time being in force and any order instrument or byelaw made or issued under it
- 1.4 The clause headings shall not in any way affect the construction of this Licence
- 1.5 References to any clause, sub-clause, or paragraph of this Agreement shall be references to such clause, sub-clause, paragraph in this Agreement and references to this agreement include its schedules
- 1.6 Any requirement in this Agreement not to do anything includes an obligation not to permit or suffer that thing to be done by any other person

2 Licensees' Obligations

The Licensee agrees with the council:

- 2.1 To pay the Stallage and Group Membership Fee as required by the Licence
- 2.2 Except with the consent of the Market Officer to continue to trade from the Space throughout the period from 9:00 am to 1:30 pm in the case of a Licensee selling home made or grown produce on a Produce Market Day in limited quantities and 3:00 pm in the case of all other Licensees on the Licence Day
- 2.3 Not to cause allow or permit any person or Company other than the Licensee or an employee or employees of the Licensee to use the Space otherwise than for the benefit of the Licensee and in the case of an employee attending in absence of the Licensee to provide the Market Officer with documentary

evidence of employment of the persons so attending to evidence that no unauthorised assignment of the Licence has taken place. This provision shall not restrict the ability of the Licensee to make alternative arrangements for some other person to supervise their space at the sole risk of the Licensee during the Licensee's temporary absence from their space for short periods during part only of any Licence Day

2.4 To arrange the Space to the benefit of all users of the Market and:

2.4.1 At all times to keep the Space well and properly stocked with the Goods and properly attended and to use best endeavours to make the Space attractive for the sale of the Goods

2.4.2 Not to hang or place the Goods at a height exceeding 6 feet from the ground (except against a wall of the Market) nor in front of any table or stall erected on the Space so as to project beyond the frontage of the Space and into the aisles. This obligation shall not be taken to prevent the Licensee erecting a protective canopy or umbrella over the table, provided that the lowest point of such umbrella or canopy shall not be less than 2.5 metres from the Market floor

2.4.3 Not to permit any music or sound to be reproduced by any mechanical or electrical means within the Space except (with the prior written consent of the Market Officer such consent to be at the absolute discretion of the Market Officer) for demonstration purposes necessary for the Permitted Use

2.4.4 Where required to do so by the Market Officer and at the Licensee's own expense to provide and use an attractive (in the reasonable opinion of the Market Officer) coloured or white table cover for use on any table or stall erected within the Space

2.4.5 Not to deface any table supplied by the Council for use in the Space nor use any electricity supply provided for use within the Space for any purpose other than for providing lighting not exceeding 300 watts per Space or for providing power to one jug kettle not exceeding 1.5 Kilowatts or electrically powered equipment

reasonably required for the sale storage or preservation of the Goods

- 2.4.6 To keep the Space clean and free from litter to the satisfaction of the Market Officer. For the avoidance of any doubt, this shall not impose any obligation on the Licensee to clear litter left in the aisles by the visiting members of the public
 - 2.4.7 If the Goods comprise foodstuffs to comply with the Food Safety (General Food Hygiene) Regulations 1995 and the Food Safety (Temperature Control) Regulations 1995 Food Labelling Regulations and any other current applicable legislation
 - 2.4.8 The Licensee shall conspicuously display the Licensee's Space number and name or such trading name as he or she shall have first registered with the Market Officer in legible characters not less than three centimetres high and shall otherwise display no signs advertisements or notices except as may be permitted by the Market Officer and be in accordance with the Pannier Market By-laws for the time being in force
- 2.5 At all times while in the Market or operating the Licence:
- 2.5.1 Use the Market in a quiet orderly polite and courteous manner and not to cause any nuisance or annoyance to other traders in the market customers members of the general public, the Council Officers, servants or agents of the Council or any other Statutory body and not act in any way which in the reasonable opinion of the Market Officer is abusive or offensive
 - 2.5.2 Not to knowingly impede in any way the Council or its Officers servants or agents in the exercise of the Council's rights of possession and control of the Market and each and every part of it
 - 2.5.3 Not to conduct any auction or mock auction from the Space or elsewhere in or near the Market
 - 2.5.4 Not to bring into or consume in the market any alcohol manufactured made or intended for human consumption

- 2.5.5 To expeditiously load or unload all trolleys boxes and vehicles used to transport the Goods to and from the Table and thereafter to immediately remove the same from the aisles and pedestrianised areas of the Market. No such loading and unloading shall be carried out between the hours of 9.00 am to 1.30 pm.
- 2.5.6 Not at any time to block any drives passageways or other areas giving access to the Market
- 2.5.7 Not to bring any goods or equipment into the Market before 5:00 am on any Licence Day without the prior written consent of the Market Officer
- 2.6 Not to sell or offer for sale:-
 - 2.6.1 Any fireworks or explosives
 - 2.6.2 Liquid propane gas petroleum or other highly flammable materials or substances
 - 2.6.3 Any articles or goods whatsoever which are stolen counterfeit or fake or which a trader acting reasonably would have doubts as to their authenticity
 - 2.6.4 Any goods of a description other than authorised by the Licence
- 2.7 In order that the Council may efficiently communicate with the Licensee and for no other purpose to inform the Market Officer of any change in the name and address or telephone number of the Licensee
- 2.8 To maintain a valid insurance policy for public liability for single claims up to £5,000,000.00 or such other sum as the Council may from time to time require and also in respect of the indemnity contained in Clause 2.9 for such sum as the Council may from time to time require and to produce to the Market Officer the policy or policies of such insurance and the latest receipts for the premiums payable thereunder whenever required by the Market Officer to do so
- 2.9 At all times to indemnify the Council and to keep the Council indemnified against all losses claims demands actions proceedings damages costs or expenses or other liability arising in any way from this Licence or any breach

of the Licensee's obligations contained in these conditions. This indemnity shall not extend to any matter arising in consequence of any act or default on the part of the Council or its employees

- 2.10 To observe and comply with all Acts of Parliament and all regulations and bye-laws of the local authority and other official bodies affecting the Market the Space and/or the exercise of the Licence
- 2.11 To observe and comply with all fire regulations and directions in relation to fire regulations specified by the Council or the local authority or required by statute and posted on the Market Notice Board

3 Obligations Of The Council

- 3.1 To clear and sweep the Market before 6:00 am and after 4:00 pm on each Licence Day in accordance with the cleaning schedule posted from time to time on the Market Notice Board
- 3.2 To maintain in serviceable condition all service installations provided within the Market for the use of market traders together with the fabric of the Market building and tables and benches provided for the use of the Licensee
- 3.3 To unlock such electrical sockets as are paid for by the Licensee on the morning of the Licence day
- 3.4 To consult with and consider the views of the Barnstaple Pannier Market Forum before:-
 - 3.4.1 Carrying out a review of the Stallage and the Group Membership Fee
 - 3.4.2 Effecting any change or modification of these conditions
- 3.5 In event of the Pannier Market being closed for major repair the Council will use its best endeavours to find an alternate site as soon as possible or to carry out works in such a manner as shall permit continuity of trading within the Market during normal hours PROVIDED that if such alternate arrangements should be necessary the Licensee will co-operate fully with the Council in making arrangements for phased trading if necessary

- 3.6 To consult with and consider the views of the Pannier Market Traders' Committee in setting as advertising and promotional campaign

4 Termination

- 4.1 A Licence shall determine on not less than Twenty Eight days written notice given by the Council or the Licensee to the other party expiring at any time EXCEPT in the case of a Casual Trader where the Licence shall determine at the end of the day for which it is granted.

- 4.2 A Licence shall determine (without prejudice to the Council's rights in respect of any breach of the obligations contained in clause 2 and subject to the underwritten provisions for appeal) IMMEDIATELY on notice given by the Council at any time:-

4.2.1 following any breach by the Licensee of any of his obligations contained in clauses 2.1, 2.4.6, 2.5.2, 2.3, 2.7, 2.10 and 2.5.4

4.2.2 in the event of the Licensee being convicted after the date of approval of these conditions of an offence relating to his business or having a licence for another stall in any other market operated by the Council terminated by the Council for whatsoever reason

4.2.3 (without prejudice to clause 6.1.2) in the event that the Licensee who is a Produce Trader shall fail to open the Stall for trade at any time for a period of three consecutive weeks

4.2.4 the Council reasonably considers that the Licensee is carrying on business in a manner prejudicial to the businesses within the Market or of such a standard that it detracts from the character and/or quality of the Market and the businesses of other Licensees

4.2.5 the Council closes the Market or part of it on the grounds that:

4.2.5.1 it has been damaged by fire or some other cause or

4.2.5.2 it is in need of substantial repair or such other works which render it impractical to keep it open or

4.2.5.3 that it is no longer economically viable to keep it open due to potential ongoing losses AND a certificate of the District Auditor (after taking representations from the Pannier Market Traders' Committee and the Council) that the Market income has failed to exceed its management and maintenance costs in any year and is likely to exceed its management and maintenance costs in subsequent years shall be conclusive and binding upon the parties

4.2.6 the Licensee is in arrears for 14 days with any payment due under the terms of the Licence.

5 Appeals

5.1 Any Licensee apart from a Casual Trader who is served with immediate notice of termination for a reason falling within paragraphs 4.2.1 to 4.2.4 above may appeal by delivering written notice of that intention to the Market Officer. A notice of intention to appeal must be delivered to the Market Officer before the later of either:-

- (a) 5:00 pm on the next Licence Day following service of the notice of termination or
- (b) 5:00 pm on the seventh day following the day of service of the notice of termination

If written notice of intention to appeal is delivered to the Market Officer within the time specified above then the provisions of paragraphs 5.2 to 5.7 below will apply.

5.2 The notice of termination shall be suspended until the appeal has been concluded

5.3 The Market Officer shall forthwith deliver the request for appeal to the Chief Executive of the Council who shall refer the same to the Barnstaple Pannier Market Forum or a panel of their members created for the purpose ("the Panel") for a decision

5.4 The Licensee shall be notified in writing at least ten working days before the meeting of the Panel of the date upon which the Panel will consider the

appeal and of the Licensee's right to submit written representations or attend or be represented before the Panel in support of it such representations or an outline of any intended oral representations to be delivered to the Council at least five working days before the date of the Panel meeting.

- 5.5 All written representations or outline of intended oral representations received from the Licensee in accordance with the preceding sub-clause shall be provided in complete form to the Panel
- 5.6 The decision of the Panel will be notified to the Licensee in writing within five working days of the decision being made
- 5.7 If the Panel shall uphold the appeal the notice of termination shall be withdrawn in writing and the Licence shall continue in full force and effect.
- 5.8 If the Panel shall refuse the appeal then the Licence shall terminate immediately upon service of the Panel's decision upon the Licensee

6 Absence and Late Arrival

- 6.1 If the Licensee fails to occupy the Space by 9:00 am on any Licence Day (EXCEPT where prior notice has been given to the Market Officer which notice need not be in writing) the Council retains the right to permit the use of the Space by someone else
 - 6.1.1 If the Licensee is a Produce Trader the Licensee shall remain liable to the Council for payment of the Stallage and Group Membership Fee
 - 6.1.2 If the Licensee shall be absent from the Market on the Licence Day in any three consecutive weeks (without the prior written consent of the Market Officer such consent not to be unreasonably withheld) then this Licence shall immediately come to an end
- 6.2 If a Licensee requests the consent of the Market Officer shall grant his consent for absence up to 15 times in any year to any Licensee (for these purposes a year shall start on 1st April and end on the following 31st March)

7 General

- 7.1 Any notice requiring to be served under a Pannier Market Licence by the Council shall be sufficiently served if addressed to and sent to the Licensee at his last known address or handed to him or to any person who appears to be his employee and any notice requiring to be served under this Licence by the Licensee shall be sufficiently served if addressed to and sent to Chief Executive, North Devon District Council, Civic Centre, Barnstaple, Devon, EX31 1EA
- 7.2 The benefit of a Pannier Market Licence is personal to the Licensee and not assignable and the Licence may only be exercised by the Licensee and his employees on his behalf
- 7.3 For the avoidance of doubt
- 7.3.1 Nothing in this Licence or implied shall prejudice or affect the Council's rights, powers and duties and obligations in the exercise of its functions as a Local Authority and the rights, powers and obligations of the Council under all public and private statutes, bye-laws, orders and regulations may be as fully exercised in relation to the Market and the Space and the Licensee as if it was not the owner of the Market and the Licence had not been executed by it
- 7.3.2 The Council does not accept any liability to the Licensee or the Licensee's customers for the failure of or any defect in any produce or goods sold by the Licensee in the Market under authority of the Licence or otherwise
- 7.4 The conditions and obligations contained in Clause 2 of these conditions shall be performed and observed at all times throughout the Licence Period by the Licensee and shall where the context so admits extend to the employees and agents of the Licensee
- 7.5 The Council, subject to the provisions of clause 3.3, shall be able to change the terms of this licence which will then be valid for all licences one month from the date that the new conditions are published

7.6 Neither the Council nor the Licensee shall be liable for any default in performance of or breach of these conditions due to any act of God, war, strike, lockout, industrial action, fire, flood, drought, tempest or other event beyond the reasonable control of the party in default or breach

These Conditions are published by North Devon District Council this First day of July 2013 under the hand of the Council's duly authorised officer.

A handwritten signature in black ink, appearing to read 'Michael Mansell', written over a horizontal dotted line.

Michael Mansell
Chief Executive

NORTH DEVON DISTRICT COUNCIL