

## Introduction

Wigan Council recognises the importance of markets in the local economy and the character of the area. They remain an important Council service and contribute in a number of ways to the local communities they serve.

Wigan Council's markets are described in more detail in Section 2 of this policy, and they represent an important investment by the Council in delivering economic regeneration and town centre vitality.

Wigan Council is keen to maintain the balance of markets throughout its area and ensure that there is consistency in the way that markets are organised. In this context the Council implements a markets policy which sets out the basis upon which markets are held and the process by which applications for new markets will be considered.

Wigan Council recognises that there are many different types of market activities and the policy adopted by this Council 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 the markets licensing policy deals with the different types of market and the Council's approach in considering applications in respect of such markets.

Prior to implementing this policy the Council has taken the opportunity to consult with the following organisation:

- NABMA; (National Association for British Market Authorities) to ensure consistency with best practise.

In addition, the Council has consulted internally with the relevant Council sections responsible for licensing, economic regeneration, tourism, events, and town centres.

The Council has the option to review the Market Rights Policy on an annual basis.

## Markets

Wigan Council operates the following markets:

- Wigan Market
- Leigh Market
- Ashton Market
- Hindley Car Boot

Markets operated but currently closed, which the Council retains the rights to operate:

- Atherton Market
- Tyldesley Market
- Hindley Market

The Council has the sole right to operate markets of any kind within Wigan Borough and derives its powers to operate markets in the Wigan Borough from the following statutes:

1. the Wigan Improvement Act 1874 (now repealed by s.116 of the Greater Manchester Act 1981)
2. Section 116 of the Greater Manchester Act 1981
3. Section 49 of the Food and Drugs Act 1955

## Market Rights

The right to hold a market gives the owner of the right certain important powers, including the ability to control rival markets held within the boundaries of the Wigan Borough.

Wigan Council, by virtue of its statutory powers, enjoys market rights throughout its area and is in a position to consider applications for market events. Section 5 of this policy sets out the basis on which applications will be dealt with by the Council.

This right has been exercisable for many years and the Council has taken into account relevant UK and European legislation in drawing up this markets licensing policy.

It is an unlawful act and subject to legal action if a market is operated within Wigan Borough without the relevant consent/license.

## **What is a market event?**

Wigan Council's Market Rights Policy is intended to cover all market events held within the Council's area. In order that potential market operators are fully aware of the Council's definition of a market the following guidelines are provided:

- a) The legal definition of a market is a “concourse of buyers and sellers” (this means that the public are entitled to attend market events to buy and sell).
- b) A market will comprise not less than three stalls, stands, 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.
- d) The term “market event” includes car boot sales, antique and craft markets, general markets, Christmas markets, farmers' markets and charity markets (including schools).
- e) A market may sometimes be held as an integral part of a special event and where this arises the market element will fall within the Council's markets licensing policy.

The Council's Market Rights Policy differentiates between markets of a commercial nature and community-based markets which have a strong charitable element.

This Market Rights Policy does not cover street trading activities for individuals. Where this is the case then Wigan Council's Licensing team should be approached for any required licences.

## Licensing of markets under Wigan Council's Market Rights Policy

Wigan Council's consent/license to hold a market event must be given before the market takes place. It is required regardless of whether the market location is public or private premise, indoors or out, and in addition to any other permission required. Markets will only be licensed once an application for a market consent/licence has been successfully pursued. Any market that takes place without such consent/licence is in breach of Wigan Council's Market Rights Policy and will be subject to enforcement action as described in Section 10.

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

- i) Commercial markets
- ii) Community-based markets with a strong charitable element

The criteria set out in Section 4 will be relevant in respect of both categories of market event.

### i) Commercial markets

A commercial market is one which is operated for profit and where the traders are engaged in a business activity of selling goods/services for their own gain.

Wigan Council will consider applications in respect of commercial markets having regard to the following requirements:

- a) No market will be authorised within 6<sup>2/3</sup> miles of an existing market unless it can be demonstrated that the new market will not undermine the existing market and not prejudice the overall market offer.
- b) In respect of any consent the operator must have all regulatory, legislative and operational aspects of markets operation, such as adequate insurances, comply with trading standards guidelines, health and safety requirements, site management and any other statutory provisions laid down by the council.
- c) A fee will be paid in respect of any consent given by Wigan Council and

the fee will be based on the size of the market and the frequency of the market. Refer to Section 6 in respect of fees.

d) The goods/services to be sold on the market will be approved by Wigan Council.

e) A licensing agreement will be entered into between the operator and the Council and such licensing agreement must be concluded and all relevant fees paid before the market takes place.

f) Wigan Council will insist on such other requirements as are deemed appropriate to ensure consumer and public safety standards.

ii) Community-Based Markets With A Strong Charitable Element

Community-based markets are organised by local communities or organisations with the intention of raising funds for a specific charity, community organisation or celebrating a special event.

Wigan 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 relevant information to Wigan Council if requested. While it is acknowledged that some traders will be selling goods for their own purposes, the Council will look for the event to have a strong charitable or community element in the way the event is organised.

b) In respect of any consent the operator must have all regulatory, legislative and operational aspects of markets operation, such as adequate insurances, comply with trading standards guidelines, health and safety requirements, site management and any other statutory provisions laid down by the Council.

c) A licensing agreement will be issued to the operator and such agreement must be concluded and all relevant fees paid before the market takes place.

d) Wigan Council will insist on such other requirements as are deemed appropriate to ensure consumer and public safety standards.

Applications in respect of both commercial markets and community-based markets should be made, at least one month in advance of the proposed market, or sooner, on-line via the following link: [Tell us if you're planning an event \(wigan.gov.uk\)](https://www.wigan.gov.uk/tell-us-if-youre-planning-an-event)

Valid applications will be assessed according to the following:

- type of market, and the commodities being offered for sale
- purpose and benefit of the market, and the local effect
- date, time and frequency of the market
- number of individual trading spaces
- premises, its suitability and proximity to other markets
- operational and safety management plans
- operator experience, reputation and quality standards provided
- opinions of stakeholders as appropriate

Wigan Council will endeavour to deal with applications for a market's licence within a period of 28 days from receipt of completed applications with all supplementary information and administration fees. An operator of a market event is therefore urged to submit an application as early as possible, at least one month in advance of the proposed market, or sooner, to ensure that the Council has adequate time to consider the relevant matters in an appropriate way. 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 coming to a decision.

Where the application is for a large market or ones which operates on a more regular or permanent basis, you may be required to provide a business plan and attend meetings, extending the consideration period beyond 28 days.

Permission to operate the market is only granted after completion of the licence, once all associated fees are paid.

If Wigan Council decides to refuse an application, it will set out the reasons for its decision and will advise the procedure for submitting an appeal in respect of the refusal. Normally, any appeal must be submitted within 14 days of the council's written decision.

## Fees

It is proposed that the fees for the period 2024/25 in respect of commercial markets should be based on the following requirements, these will be reviewed yearly:

### **Commercial Private Markets/Car Boot Sales**

A non-refundable administration fee for processing the application is payable as follows:

- £50 for up to six event/days per year
- £100 for more than six event/days per year.

A licence fee of £1 per stall/car per event day, subject to a minimum fee of £50 per event/day should there be less than 50 stalls/cars.

### **Occasional Temporary Markets/Car Boot Sales for Charitable fundraising purposes**

An administration fee of £10 will be payable per event providing the event is limited to a maximum of 50 cars in cases of occasional car boot sales or 25 pitches, stalls or spaces for occasional temporary markets.

For larger events of more than 50 cars (for occasional car boot sales), or more than 25 stalls (for occasional temporary markets), then the licence fee will be based on the administration fee plus £1 per car or stall per event/day.

Administration and license fees are not refundable. We may consider to refund/defer licence fees for cancelled or amended licences where:

- you want to change or cancel any future trading days, and
- the cancellation or amendment is not due to breach of licence, and
- we receive your email request at least seven days in advance of the affected trading days.

*For example:*

#### *Commercial Private*

- *to hold an event (up to a maximum of 6 per year) with less than 50 stall/car the cost would be £100 (£50 administrative fee and £50 for less than 50 stall/cars)*

- to hold an event (up to a maximum of 6 per year) with more than 50 stall/car i.e. 80 stall/cars then the cost would be £130 (£50 administration fee and £80 for each stall/car)
- to hold more than 6 events per year then the administration fee in each example above would be £100 plus the cost of each stall/car (as illustrated above per events)

*Non-commercial, charity, voluntary organisation:*

- to hold an occasional market for 25 stalls or less the cost is £10 for a car boot for 50 cars or less the cost is £10
- if an occasional market has more than 25 stalls, say 50 stalls then the cost would be £60 (£10 administration fee then £1 per stall); should there be more than one event day ie. 2 then the cost would be £110 (£10 administration fee and then £50 per event day for 50 stalls)
- if a car boot has more than 50 cars then the same worked principle as above would apply.

## Other Approvals

It is important to emphasise that any approval given by Wigan Council in respect of its Market Rights Policy does not remove the requirement for other relevant approvals to be obtained.

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. Wigan Council may wish to receive evidence of such approval. If Wigan Council is the landowner further fees may apply to consent that use.

Planning permission might also be required and any market operator should consult with the Council's Planning Department to ascertain whether any planning considerations are relevant.

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. [Temporary Events Notice \(England and Wales\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/temporary-events-notice-england-and-wales)



The Real Deal Initiative ([Real Deal Markets](#)) aims to rid the markets industry of counterfeit products. The approval of a market license is on the condition that these standards and codes of practise are adhered to.

## **Section 37 of the Local Government (Miscellaneous Provisions) Act 1982**

The Council, at a meeting on 27<sup>th</sup> November 2024, approved the adoption of Section 37 of the Local Government (Miscellaneous Provisions) Act 1982.

This Section deals with temporary markets and any operator of a temporary market, together with the occupier of land on which the market is to be held, are required to give to Wigan Council not less than one months notice of the holding of the market.

No notice is required if the proceeds of sale of the temporary market are to be applied solely or principally for charitable, social, sporting or political purposes. The Council reserves the right, in appropriate circumstances, to require evidence in respect of such matters.

Any notice given by the operator and the occupier of the land shall state:

- i) the full name and address of the person intending to hold the market.
- ii) the day or days on which it is proposed that the market will be held and its proposed opening and closing times.
- iii) the site on which it is proposed that the market will be held.
- iv) the full name and address of the occupier of the land if he is not the person intending to hold the market.

It is important to emphasise that the requirements of Section 37 are quite separate to the licensing of events under the Council's Markets Policy set out in Section 5. The operator and the occupier of the land should ensure that a notice is given to Wigan Council under the requirements of Section 37 as soon as proposals for a temporary market are under consideration. This will enable the Council to give preliminary consideration to a proposal and indicate its likely view on a subsequent application for a markets licence.

Failure to give a notice under Section 37 is a criminal offence and liable to a

summary conviction in the Magistrates' Court.

## **Enforcement**

Wigan Council will monitor the application of its Markets 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 requirements.

Any market which is not approved by the Council under Section 5 of its Market Rights 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.

In addition, any market operator acting in contravention of any market licence granted by Wigan Council will run the risk of the licence being terminated by the Council on such terms as the Council determines and, in such circumstances, the Council reserves the right to refuse any future applications for market licences submitted by the operator concerned or any person or organisation associated with the operator.

Licensed markets will be monitored by Council officers to ensure that all conditions of the licence are being adhered to. Any licence breach or deviation may result in the removal of the market rights permission and the subsequent closure of the market.

## **Complaints**

If anyone wishes to make a complaint about any market rights licensing matters, these should be sent via email: [markets@wigan.gov.uk](mailto:markets@wigan.gov.uk) providing contact details and as much information as possible. The aim would be to provide a full response to a complaint within 10 working days of receipt.

## **Appeals**

Any appeal against the unsuccessful applications for a temporary market, fair or car boot or a licence withdrawal must be emailed within 14 days of receipt of any notice to [markets@wigan.gov.uk](mailto:markets@wigan.gov.uk)

All appeals must include name, contact details and the reason for the appeal.

The officer considering the appeal will confirm their decision, which shall either uphold the appeal or confirm the outcome of the notice, within 14 days of receipt.

If you wish to appeal against the decision of the officer considering the appeal then please write to Wigan Council, Director of Place, Wigan Town Hall, Library Street, Wigan, within 14 days of the decision.

The Director of Place in consultation with Portfolio Lead Member shall either allow the appeal or confirm the outcome of the decision of the officer considering the appeal. Notification in writing of this decision will be sent as soon as practicable after the decision is reached.

## **Amendments and cancellations**

To amend or cancel a markets right license must be emailed to: [markets@wigan.gov.uk](mailto:markets@wigan.gov.uk) at least 7 days before the proposed trading days this will affect. Information will be provided on whether any additional fees or refunds apply.

If the request is a change of venue, market type, or additional trading days then there may be a requirement to submit a new application.

It is recognised that the allocation of trading spaces on the market day may exceed the number licensed. Information must be emailed within 7 days of the market day of the number of additional trading spaces to: [markets@wigan.gov.uk](mailto:markets@wigan.gov.uk). Notification will be sent of any additional fees payable and the timescale for payment.

Administration and legal fees are not refundable. A refund of fees may occur for cancelled or amended license where:

- the change or cancellation is to any future trading days
- the cancellation or amendment is not due to breach of licence
- an email request is received a least 7 days in advance of the affected trading day.