

**PUBLIC PROTECTION
LICENSING COMMITTEE: 10 May 2011**

Report of the Operational Manager of Licensing and Strategic Services

OLYMPIC REGULATIONS ON ADVERTISING ACTIVITY AND TRADING

1. Background

1.1 The Department of Culture, Media and Sport issued a consultation document on 7 March 2011 entitled "Regulation on Advertising Activity and Trading around London 2012." The document is to seek views on the regulations to be made to cover advertising and trading actively around event places during the Olympics in 2012. The issues are the scope of advertising activity and trading which it is proposed to regulate, the areas within which the regulations will apply ('event zones') and the time periods during which the regulations will be in force ('event periods').

1.2 The Millennium Stadium is to host football events and the regulations will therefore have effect in Cardiff. There are currently eight days when football is scheduled to take place at the Millennium Stadium and are grouped into three 'event periods' when restrictions would be in place:

- 24th July to 28th July 2012
- 30th July to 4th August 2012
- 9th August to 10th August 2012

A plan of the proposed event zone for the area is attached to the report as Appendix A.

1.3 The consultation is to run for 12 weeks and consultation responses are to be made by 30 May 2011. The regulations will be subject to the approval of the National Assembly of Wales.

2. Details of the Consultation.

2.1 The London Olympic Games and Paralympic Games Act 2006 ('2006 Act') sets out the broad framework for regulations which can be made to provide powers of control over unauthorised advertising and street trading activity. The aim of the regulations will be

- To ensure all Olympic and Paralympic events have a consistent celebratory look and feel to them
- To prevent ambush marketing within the vicinity of venues
- To ensure people can easily access the venues

2.2 As some of the events are to take place in Wales the National Assembly of Wales will be required to approve regulations through secondary legislation and has been working closely with the both England and Scotland on identifying appropriate regulations. The Department of Culture, Media and Sport (DCMS) have issued a joint consultation on the draft regulations which clarify the types of advertising and trading which will be restricted by the regulations, including by specifying a number of exceptions. The consultation is to seek views from those likely to be affected such as street traders and their organisations, pedlars, advertisers and their organisations.

2.3 In the areas where the regulations will apply (the ‘event zones’) during the periods when they apply (the ‘relevant event periods’) the regulations will override any existing advertising and trading authorisations and licences. This means that advertisers and traders who operate in open public places will need to be authorised under the regulations (in addition to holding current authorisations and licences under the general law). The authorising authority will be the Olympic Delivery Authority (ODA). The DCMS are fully committed to regulating advertising and trading in open public places but the extent to which this is necessary is subject to the consultation. The consultation document provides drafts of the regulations for England, Wales and Scotland, together with maps showing the event zones where they will apply, and requests views.

2.4 The proposed regulations will provide additional protections for the public for the period of the particular Olympic events. They are intended to provide means of tackling unauthorised advertising and trading in a speedy and effective manner to protect the event from activities which may otherwise tarnish the image of the Olympic and Paralympic Games. The 2006 Act imposes a number of obligations in relation to the regulations on the Olympic Delivery Authority (ODA), a statutory corporation created by the Act which is required to:

- Make arrangements to have the effect of the regulations brought to the attention of persons likely to be affected or interested, including by giving notice of the nature and content of the regulations before they come into force
- Act as the authorisation body for trading (unless it delegates that responsibility to another person)
- Provide advice (and it may provide assistance) to those affected by the regulations
- Enforce the regulations

2.5 The Council has adopted the powers to control street trading provided by the Local Government (Miscellaneous Provisions) Act 1982 and areas around the Millennium Stadium have been designated as consent streets where occasional consent is given to street traders to enable them to provide trading services on event days with little disruption or nuisance to those attending the event. However, general street trading rules were not framed with the 2012 Games in mind and, consequently, they do not entirely achieve the aims for trading in open public places around Olympic Games events. It is for that reason that the London Olympic Games and Paralympic Games Act 2006 requires the Secretary of State and Ministers in the devolved administrations to make regulations about trading in open public places in the vicinity of Olympic and Paralympic events. The regulations will supplement the existing permissions and will apply despite any licences or consents currently in existence under which a person is otherwise authorised to trade. This means that a person will need to be authorised under the 2012 Games regulations (as well as under the existing law) in order to trade in the areas where the regulations apply, during the periods when they apply.

2.6 In particular the regulations will extend the definition of street trading to include the following activities where they take place in an open public place:

- Selling an article or supplying a service
- Trading as a pedlar under a pedlar's certificate issued under the relevant legislation
- Conducting a regulated street collection or public charitable collection pursuant to other legislation
- Trading as an ice cream vendor
- Providing public entertainment for gain or reward (e.g. busking)

For these purposes 'selling' an article or 'supplying' a service includes offering to sell or supply or exposing an article for sale. Consequently a person will be treated as trading if they are offering goods for sale, even if they do not actually sell any goods nor do they have to make a profit or gain any reward from the activity.

2.7 The proposed regulations will establish exceptions to the general regulations to permit forms of trading that can take place without harming the three objectives of the regulations. The following forms of trading are to be exempted in the regulations:

- Trading as a news vendor (provided that the only articles sold are current newspapers or periodicals and that the trader should comply with rules about any receptacles used for the papers or periodicals)
- Trading from milk floats and other vehicles used for the delivery of perishable goods
- Providing various motor vehicle-related services on private land generally used for those purposes – such as selling cars from a car sale yard,

operating an established car wash business, and providing parking services in a car park building

- Trading on private land adjacent to shops, cafés and related premises, and petrol stations, provided that the trading forms part of the usual business of the shop, café, etc.
- Supplying public transport service
- Providing a public sanitary convenience, such as a public toilet

In addition, it is proposed that the regulations include a defence for people who have an interest in, or are responsible for, a trading business or who own, occupy or manage land on which trading takes place. The DCMS propose that such people should avoid liability under the regulations where they prove that the trading took place without their knowledge or that they took all reasonable steps to prevent the trading taking place, continuing or recurring.

- 2.8 Traders who wish to trade in an open public place within an event zone during the event period will be able to rely on a specific exception only if their trade fits within the description of that exception. If it does not, they will need to apply to be authorised by the Olympic Delivery Authority, even if they hold an existing trading licence or other authorisation under the general law.

3. Implementing the Regulations.

- 3.1 The 2006 Act provides for the ODA (or a person appointed by the ODA) to authorise people to trade in the areas affected by the regulations. It is proposed that the ODA will look to the three main aims of the regulations when considering authorisation and will focus on ensuring that existing business can continue to operate, or operate with conditions attached, without compromising the main aims.

- 3.2 Traders will need to apply for authorisation to the ODA. No fees will be attached to this application. Not all traders will be eligible for authorisation. ODA will give consideration to a range of issues when deciding whether to grant authorisation. These may include but are not limited to:

- Whether a trader's pitch is particularly close to a venue and is likely to interfere with main spectator flows or pose a security risk because of its location
- The overall number of traders within an event zone and the consideration of flow of people
- Whether a trader has a history of failing to comply with existing regulations or trading conditions

Each application will be considered against these and other criteria and the trader will be notified of the decision. There will be a right of internal review for traders

who are not granted an authorisation. It is understood that the ODA are currently developing the authorisation criteria to be made available once the regulations are made. The 2006 Act permits trading authorisations to be subject to terms and conditions which may be inconsistent with, or more onerous than, the terms and conditions of any authorisation granted by the authority. At Games times it may be necessary for additional restrictions to be placed on trading times or the sale of certain types of goods. However, the ODA have undertaken to be reasonable and proportionate when determining whether to impose any conditions. Conditions will be imposed where they are deemed necessary for reasons of safety and security, where they are necessary to meet obligations to the International Olympic Committee under the Host City Contract or otherwise, or where there is a risk of ambush marketing. Traders with an existing licence, authorisation or consent to trade in an event zone who are not authorised by the ODA to carry out their habitual trading activities may be entitled to assistance from the ODA to help them identify acceptable alternatives. The form of this assistance is currently being considered and in some limited cases may be financial.

- 3.3 The regulations may be enforced by the police or enforcement officers designated by the ODA. Clearly the police will focus on safety and security matters at Games time and therefore the ODA is looking to designate enforcement officers from local authorities, who are familiar with street trading and advertising offences. It is therefore likely that Licensing Enforcement Officers and trading standards officers will be heavily involved in enforcing the regulations. Discussions are underway with the ODA about the enforcement and training requirements.
- 3.4 The consultation document makes it clear that the ODA will adopt a risk-based approach to enforcement in line with existing better regulation strategies and in line with the Councils Licensing Enforcement Policy. A light touch approach will be adopted for minor infringements that can easily be rectified. Persistent offenders could face having offending items seized, removed or destroyed. More serious deliberate marketing ambush offences will be dealt with using the full enforcement powers conferred on designated officers to secure compliance. These serious offences could also potentially be reported for prosecution. Whilst the 2006 Act confers significant powers on ODA designated officers to deal with offences, including the power to apply to the Magistrates' Courts for a warrant to access dwellings, these powers will only be used as a last resort and only when it is deemed necessary to deal with a serious and deliberate attempt to ambush market the Games.

4. Consultation

- 4.1 Officers of the licensing authority have been in discussions with officers of both WAG and the Olympic Delivery Authority in establishing a reasonable and achievable restricted zone around the Millennium Stadium. Assistance has been offered in providing staff and resources to enforce the requirements of the finalised regulations.

4.2 Working with officers of the Welsh Assembly Government the licensing authority has agreed to circulate details of the consultation to all street trading licence holders and all those who have previously been granted street trading consent by the authority to ensure they are able to make representations on the proposed regulations.

5. Achievability

This report contains no equality personnel or property implications.

6. Legal Implications

6.1 The Legal implications appear throughout the text of this Report.

7. Financial Implications.

7.1 The licensing service is required to be self financing with all expenditure being met from fees and charges which are reviewed annually.

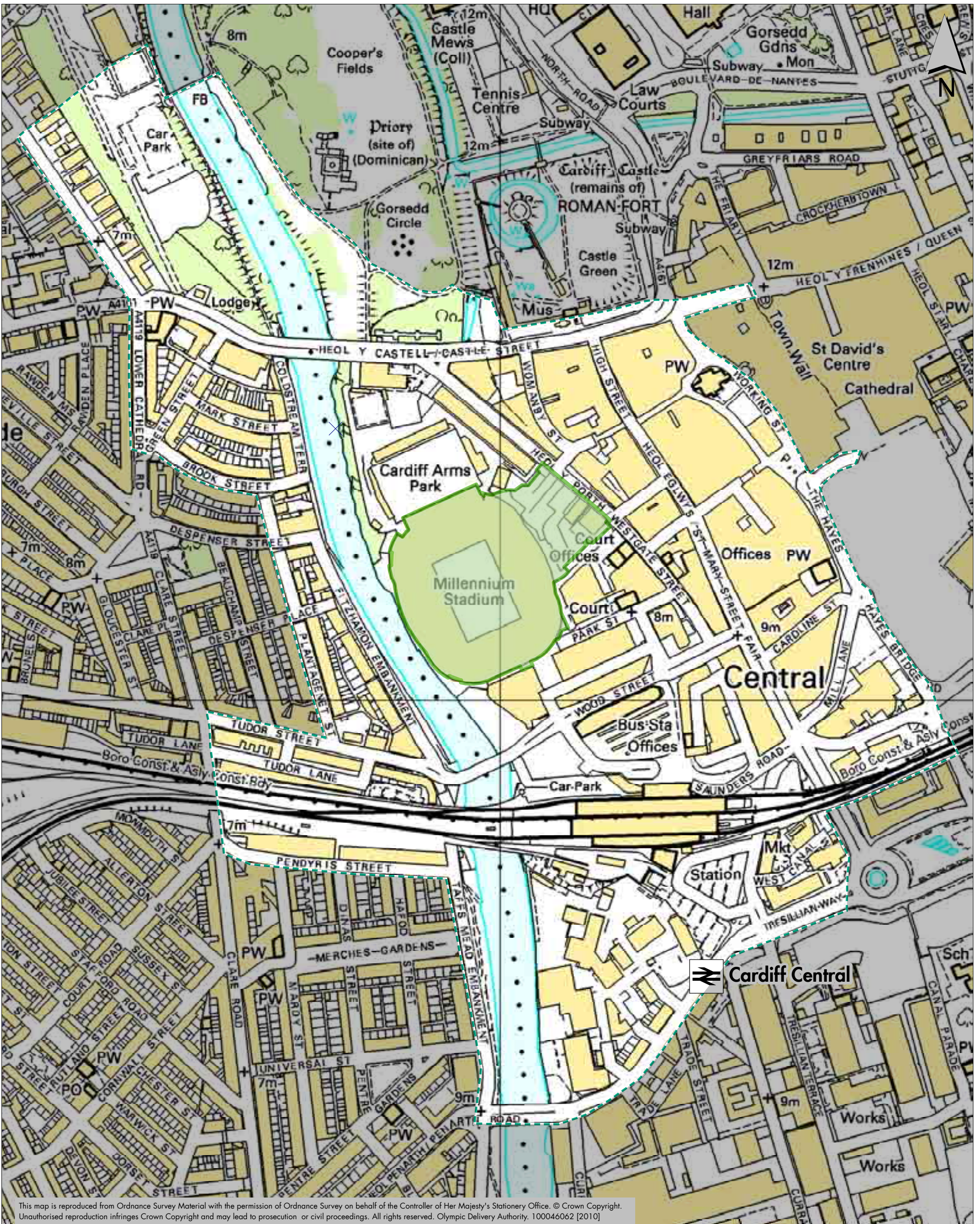
8. Recommendation

8.1 It is recommended that the report be noted.

Paul Shone **4 April 2011**
OPERATIONAL MANAGER (LICENSING AND STRATEGIC SERVICES)

This report has been prepared in accordance with procedures approved by Corporate Managers.

Background Papers: None



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Legend

- - - - - Event Zone
- Competition Venue Footprint

Operational Days - Tuesday 24 July to Saturday 28 July 2012 and Monday 30 July to Saturday 4 August 2012 and Thursday 9 to Friday 10 August 2012

Sporting Event : Football

Project Title Advertising and Street Trading Restrictions		Creator GOVERNMENT OLYMPIC EXECUTIVE		
Purpose of Issue GOE Discussion	Drawn DN	Checked HA/GG	Approved HA/GG	
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