

# Gloucester City Council

<b>COMMITTEE</b>	: GLT LICENSING & ENFORCEMENT COMMITTEE CABINET BRIEFING (For Information) LICENSING & ENFORCEMENT COMMITTEE
<b>DATE</b>	: 28 <sup>TH</sup> FEBRUARY 2012 13 <sup>TH</sup> MARCH 2012 21 <sup>ST</sup> MARCH 2012 26 <sup>TH</sup> JUNE 2012
<b>SUBJECT</b>	: POLICIES FORTHE LICENSING OF ITEMS TO BE PLACED ON THE HIGHWAY ('A' BOARDS AND TABLES AND CHAIRS)
<b>DECISION TYPE</b>	: POLICY FRAMEWORK DECISION
<b>WARD</b>	: ALL
<b>REPORT BY</b>	: GILL RAGON, GROUP MANAGER FOR ENVIRONMENTAL HEALTH ANDREGULATORY SERVICES
<b>NO. OF APPENDICES</b>	: A: Draft Policy Document for Licensing Advertising Boards on the Highway B: Draft Policy for Licensing Tables and Chairs on the Highway. C: Example Pictures of Advertising Boards and Tables and Chairs D: Current Advertising Board Licence conditions E: Current Tables and Chairs Licence conditions F: Comparative Fees from Other Councils
<b>REFERENCE NO.</b>	: ES21131

## 1.0 Purpose of Report

- 1.1 To present a draft revised Policy for the Placing of Advertising Signs on the Highway (generally referred to as 'A' boards) for approval by the Licensing and Enforcement Committee for public consultation.
- 1.2 To present a draft revised Policy for the Placing of Tables and Chairs on the Highway (sometimes referred to as 'street cafes') for approval by the Licensing and Enforcement Committee for public consultation.
- 1.3 To review the current arrangements relating to charging for A boards and allowing for tables and chairs on the Highway at nil charge.

## 2.0 Recommendations

- 2.1 Members are recommended to:
  - a) leave the fees at the existing levels for the licensing of 'A' Boards at £50 per annum
  - b) continue to allow businesses to place tables and chairs on the highway at no charge.

- 2.2 Approve the draft Policy for the Placing of Advertising Signs on the Highway by the Licensing & Enforcement Committee for a period of 6 weeks consultation.
- 2.3 Approve the draft Policy for the Placing of Tables and Chairs on the Highway by the Licensing & Enforcement Committee for a period of 6 weeks consultation.

### **3.0 Background**

- 3.1 The Council policy on the placing of advertising signs or tables and chairs on the highway, needs to be updated. The current policy does not include any detailed criteria to regulate such items against effectively. It is also best practice to review it at 3 year intervals.
- 3.2 The placing of these items on the Highway is covered under the Highways Act 1980 Section 115E. There is power in section 115F for the Council to impose conditions attached to the consent.
- 3.3 Gloucester City Council currently licences 'A' boards for a fee of £50 a year, renewable each June. A copy of the current conditions is attached at Appendix D.
- 3.4 There are currently 41 correctly licensed 'A' boards in the City, at a fee of £50 per annum each. However, there appear to be a growing number of unlicensed boards, combined with multiple boards at the same premises. A copy of the current conditions is attached at Appendix E.
- 3.5 Licences to place Tables and Chairs on the Highway are currently free, this decision was taken by Members in 2009 where they agreed to keep these fees free of charge for the next three years to encourage the Café Culture in the City, and boost evening economy. These fees are now due to be reviewed in 2012.
- 3.6 There are currently 11 correctly licensed Tables and Chairs in Gloucester City. These 'street cafes' have proliferated in recent years with 21 in 2010 and 22 in 2011, partly as a result of the relaxation in licence fees for tables and chairs on the highway. There also appear to be a growing number of unlicensed Tables and Chairs within the City too.
- 3.7 The Team have received a number of complaints relating to the positioning of Advertising Boards and Tables and Chairs on the Highway, these complaints have mostly related to un-licensed items, however, on occasion licensed items have also been re-positioned in an obstructive manner. Ongoing monitoring is therefore essential to ensure compliance is maintained.
- 3.8 There is a notice procedure contained in section 115G and a consultation procedure contained in section 115H to follow before Consent can be granted. Following receipt of the application the Licensing Team will post a Public Notice and serve copies to the adjoining neighbours as part of the consultation process. The Team also consults with the Police, City Council Planning, Environmental Protection, Gloucester Heritage, Street Trading and Gloucestershire County Highways.

- 3.9 Consents cannot be unreasonably withheld by virtue of section 115J. Disputes are to be referred to arbitration. The Team have set a target to determine these licences within 6 weeks of receipt of the application. This allows for a statutory 28 day consultation period and a short period to assess any representations.
- 3.10 The Power to grant permission for the provision etc. of services, amenities, recreation and refreshment facilities on the highway and related powers is delegated to the City Council Corporate Director of Services and Neighbourhoods through a City Agency Agreement between Gloucestershire County Council Highways and Gloucester City Council.
- 3.11 The power to set fees for these types of licences is currently delegated to Corporate Director Services and Neighbourhoods. Fees charged can only be to cover the expenses of granting the Consent by virtue of section 115F.

#### **4.0 Progress**

- 4.1 As Gloucester City expands its pedestrianised areas and encourages a higher footfall throughout the City it is appropriate to review the existing procedures to take especial account of the needs of those with sight and mobility issues, as well as the needs of families with young children in pushchairs, buggies and prams, and the elderly.
- 4.2 It is also suggested that an annual licence, renewable for a strictly defined 12 month period, is unfair to the trading population of the City and that it should be replaced by a 'rolling' licence period, i.e. 12 months from whenever the licence is issued. This would remove the unfairness of a licence being granted to a new business in, say, April and then needing to be renewed in May. It would also spread out the associated administrative work throughout the year. The new policies include this approach under 'Duration of Licence'.
- 4.3 Following examination of the policies of other Councils, it is submitted that the existing arrangements for licensing and controlling 'A' boards and 'Tables and Chairs' in the City are no longer robust enough to deal with a 21<sup>st</sup> century City.
- 4.4 Attached at Appendix A is a draft Policy document on Licensing Advertising Boards on the highway upon which it is proposed to consult.
- 4.5 Attached at Appendix B is a draft Policy document on Licensing Tables and Chairs on the highway upon which it is proposed to consult. These documents are intended to draw a balance between the Traders needs and the safety of highway users, together with a review of the current application procedures used within Gloucester City Council.
- 4.6 Within both policy documents, improved guidelines are given on the minimum footways expected to be maintained and the maximum dimensions allowed to ensure no visual or hazardous obstructions. They take into account, the size and positioning of advertising boards, tables and chairs and enclosures etc. and consider the needs of wheelchair users, mobility scooters, double pushchairs and minimum turning circles required by such vehicles. The safety of persons with impaired vision has also been considered where items on the highway may pose a tripping hazard. From the Policy documents, example pictures can be seen in

Appendix C, demonstrating some matters that Officers need to consider before issuing such Licences and what items would be considered suitable and unsuitable.

- 4.7 Informal consultation has been carried out internally with the Planning and Conservation, Regeneration, Environmental Health and County Highways to help develop these policy documents.
- 4.8 The current fee for Advertising Board Licences is set at £50 per annum, whereas, Table and Chairs Licence fees are currently free of charge. This appears to have been the cost of a licence for some years and has undoubtedly helped to promote the 'café culture' in the city centre. Therefore, Members are recommended to leave the fees at the existing levels to support businesses at this economically difficult time and ensure the café culture continues.
- 4.9 However, in order that members make this decision based on all of the facts available to them, the costs of administering and granting these Highway Licences have been estimated below. The application and consultation process for both types of licences (A' Boards and Tables and Chairs) follow the same procedure and approach.

<b>Application Type</b>	<b>Tables and Chairs</b>	<b>Advertising Board</b>
<b>New</b>	£230	£230
<b>Renewal</b>	£189	£189
<b>Copy of Licence</b>	£15.50	£15.50

- 4.10 If the above costs were set against these types of licences, the following income could be generated based on the current number of Licences for placing items on the highway. At the same time, the table below also demonstrates the costs that are not being recovered for this work currently, and therefore the total loss of income to the Council:

	<b>Current Number of Licences</b>	<b>Year 1 income (based on new applications)</b>	<b>Year 2 income (based on all renewal applications)</b>	<b>Current income</b>
<b>Tables and Chairs</b>	11	£2,530	£2,079	£0
<b>A' Boards</b>	41	£9,430	£7,749	£2,050
<b>Totals</b>	<b>52</b>	<b>£11,960</b>	<b>£9,828</b>	<b>£2,050</b>

- 4.11 A list of comparative local authority charges can be found in Appendix F. Members should note that fees for both Licences are not available for all Local Authorities noted on this list. Some Local Authorities administer both A' Boards and Tables and Chairs Licences in their area, however some others only permit one or the other. Furthermore, each Local Authority sets their fees differently; some have a standard charge for the licence, some base it on the business rate of the premises, and other Authorities charge per table and per chair or base the cost of the area of land used.

## **5.0 Future Work**

- 5.1 It is intended to consult on these two Policy documents over a period of 6 weeks. Results of the consultation will then be presented back to the Licensing and Enforcement Committee to approve as a final version.
- 5.2 Consultation will include the following:
- The Chief Officer of Police for the Authority's area.
  - Persons who appear to the Authority to represent the interests of persons carrying on affected businesses in the Authority's area, and
  - Persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions.
  - Other relevant consultees.
- 5.3 The Council must also ensure that they comply with current legislation concerning Disability Discrimination. For example, these polices have sought to address any negative impacts of placing objects on the highway that may affect disabled, blind or partially sighted pedestrians.
- 5.4 It is intended to review the policy routinely every 3 years. Licence fees will be reviewed on an annual basis, to consider changes in service and uptake of these licences.

## **6.0 Conclusions**

- 6.1 This is an area of Licensing that needs resolving as the service receives more and more complaints about such items obstructing the highway and recently we have discovered a number of unlicensed premises placing such items on the Highway. It is important for the City to present as attractive a face as possible to residents and visitors alike. This is one of the areas identified as a consequence of the expanded role of Environmental Health Licensing & Enforcement where work needs to be done to encourage compliance and assure quality.
- 6.2 Members are recommended to retain fees at current levels for both 'A' boards and tables and chairs on the highway.

## **7.0 Financial Implications**

- 7.1 The fee levels currently set do not cover the work carried out by the service and is therefore losing the Council possible revenue. However, this needs to be set against the promotion of the café culture and support to businesses in the city centre who are trading in difficult economic times.

## **8.0 Legal Implications**

- 8.1 Sections 115A to 115K of the Highways Act 1980 are quite complex. They were introduced into the Act by virtue of the Local Government (Miscellaneous Provisions) Act 1982, the same legislation that introduced Street Trading. This is only a summary and the actual provisions must be referred to.

- 8.2 For tables and chairs in the highway, the specific power is contained in section 115C, the provision of refreshments by the Council that can be granted to other persons under 115E.
- 8.3 For “A” boards in the highway, it is arguable that the powers come under section 115B, the provision of services and amenities by the Council that can be granted to other persons under section 115E.
- 8.4 The permission granted for either “A” boards or tables and chairs to be in the highway are termed “consents” rather than “licences” under the Highways Act 1980 sections 115A to 115K.
- 8.5 Where the Council grant consent and it is not complied with, then the Council may carry out work in default of a statutory notice and if correction is not possible then revocation and removal may be the remedy.
- 8.6 The City Council has express permission to utilise sections 115A to 115K under a Mini Highways Agreement with Gloucestershire County Council.
- 8.7 Where tables and chairs and “A” boards are put in the highway without consent, there are various enforcement powers in the Highways Act 1980.

**9.0 Risk Management Implications** *(Authors to complete) Identify all key risks (scoring 8 and above) for the recommendation including the impact and likelihood of the risk occurring and what measures will be taken to mitigate the risk.*

The key risks arising from this relate to decisions taken by the Licensing and Enforcement Committee. Any decisions made which are unreasonable or unlawful could be open to legal challenge resulting in loss of image, reputation and potential financial penalty.

**10.0 People Impact Assessment (PIA):**

Please ensure you complete this section even if a PIA is not required.

Is a PIA required?	Yes	No	Explanation: Policy documents to be approved
	x		
Has an initial PIA screening been completed?	Yes	No	Explanation: An initial PIA screening has been completed and has not identified any negative impacts at this stage.
	x		
Has a full PIA been completed?	Yes	No	Explanation: If needed, a full PIA will be completed following feedback from the consultation process.
		x	
Is the PIA available?	Yes	No	Explanation: Initial Screening available only.
		x	
Has the PIA identified any negative impacts on any	Yes*	No	
		X	

protected characteristic or community cohesion?			*Please ensure PIA is available
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**Any Further Relevant Information:**

None

**11.0 Other Corporate Implications (this may include Community Safety, Environmental, Staffing, Trade Union)**

None

**Background Papers :** None

**Published Papers :** The Highways Act 1980 as amended by the Local Government (miscellaneous Provisions) Act 1982

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