

Gloucester City Council

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| Meeting: | Licensing and Enforcement Committee | Date: | 7th June 2016 |
| Subject: | Street Trading – Review of Street Trading Fees | | |
| Report Of: | Gill Ragon, Head of Public Protection | | |
| Wards Affected: | All | | |
| Key Decision: | No | Budget/Policy Framework: | Yes |
| Contact Officer: | Lisa Jones, Food, Licensing and Markets Service Manager | | |
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| Appendices: | 1. Proposed New Fee for Street Trading Applications | | |
| | 2. Representation | | |
| | 3. Comparison of costs | | |

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 To report back to Members the results of the formal public consultation.
- 1.2 To review the current arrangements relating to street trading consents, with the addition of a non-refundable fee for ‘new’ street trading applications.

2.0 Recommendations

- 2.1 Licensing and Enforcement Committee is asked to **RESOLVE** that
 - (1) The proposed published fees for new Street Trading Applications as attached in Appendix 1 are adopted to take effect from 1st July 2016.

3.0 Background and Key Issues

- 3.1 In accordance with Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982, Gloucester City Council has adopted criteria in a Street Trading Consent scheme, where Street Trading covers the selling or exposing or offering for sale of any article in a designated street.
- 3.2 Street Trading covers a wide range of outdoor retail and catering activities undertaken in public streets. It includes familiar sights such as flower sellers, ice cream vendors, fancy goods, souvenir stalls and a variety of hot and cold catering activities.

- 3.3 On the 19th February 2009 Council designated all streets in Gloucester City as Consent Streets with effect from 31st March 2009. At the same time, the Council adopted a scheme to determine Street Trading Consent applications. A Street Trading Consent is therefore required before any person can trade on any street in Gloucester City unless the trading is specifically made exempt under Schedule 4 of the Act e.g. newspaper vendors selling from a booth/stall.
- 3.4 The fees and charges for Street Trading in Gloucester City were last changed in 2008.
- 3.5 Under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, a Council may charge such fees as it considers reasonable for the grant or renewal of a street trading consent.
- 3.6 The Council may determine fees differently according –
 a) to the duration of the consent;
 b) to the street in which it authorises trading; and
 c) to the descriptions of articles in which the holder is authorised to trade.
- 3.7 The Licensing Team took over the role of administering Street Trading consent applications in 2013/14. A number of new street trading applications are refused each year for various reasons based on their own merits e.g. inappropriate unit, goods or location. The table below demonstrates the number of application received each year:

| Street Trading Applications | 2013/14 | 2014/15 | 2015/16 |
|------------------------------------|----------------|----------------|----------------|
| Received | 64 | 41 | 38 |
| Refused | 21 | 18 | 9 |
| Granted | 43 | 23 | 29 |

- 3.8 Currently there is no fee taken from street trading applicants until they start trading and consequently the cost of the application consultation exercise is not covered if the application is then refused. Furthermore, if the applicant is aggrieved by the officer decision to refuse an application, they may request to appeal to the Licensing and Enforcement sub-committee hearing. The costs of these hearings are again not covered by the new applicant.
- 3.9 The proposed published fees include a new fee for ‘new’ street trading applications at £115. They do not propose to vary the current daily rates set for street traders.
- 3.10 Consultation with the trade has taken place. A Public Notice was published in the Citizen on 11th February 2016 and the consultation period ended on 9th March 2016. A summary of proposed fees and charges as advertised in the Public Notice is provided at Appendix 1.
- 3.11 One objection was received from an existing street trader, a copy of their representation can be found in Appendix 2.

- 3.12 This new fee was proposed to be introduced from 1st April 2016; however this has now been deferred pending a decision from Members.

4.0 Asset Based Community Development (ABCD) Considerations

- 4.1 There is a legal process within the terms of the Local Government (Miscellaneous Provisions) Act 1982 that we must follow. However, giving communities as much information about an application as we can by providing help and advice where it is needed should also be a consideration. We will engage with the Partnership and Engagement Team to develop an effective communication process.

5.0 Alternative Options Considered

- 5.1 Alternative options will be considered where representations are raised against the proposed fees that Members consider appropriate.
- 5.2 The City Council may decide to leave the fees at the existing levels to encourage new applications for street trading. If this decision is taken, it should be mindful that the new applicants will not be covering the full administration costs of processing their application.
- 5.3 Members may choose to accept the proposed published fees in whole or alternatively accept them in part.

6.0 Reasons for Recommendations

- 6.1 The proposed new published fee is set at levels that recover the costs of consulting, administering and issuing consents for street trading activities. The new application fee has been calculated based on an officer time/cost analysis. A breakdown of this can be provided to Members on request.
- 6.2 It is important that fees are set proportionately to attract quality operations in the City whilst ensuring fairness to traders who are paying rents in nearby shops.
- 6.3 A list of comparative local authority charges can be found in Appendix 3. Members should note that fees and charges for street trading consents vary significantly across all Local Authorities and therefore a direct comparison is difficult to obtain. Each Local Authority sets their fees differently; some base it on the types of products sold and other authorities base the cost on the area of trading. Charges can also vary from daily rates to quarterly or annual rates. Daily rates appear to be a popular option in City Centres, where it is common to receive temporary applications from short term and sometimes seasonal traders.

7.0 Future Work and Conclusions

- 7.1 It is intended to review the policy for Street Trading later this year. The current policy was last reviewed in March 2013. Consent fees will be reviewed on an annual basis, to consider changes in service and the uptake of street trading consents.
- 7.2 Fees for Street Trading Consents will be reviewed annually by the Food, Licensing and Markets Manager in consultation with Financial Services. Where Objections are received the proposed fees will be referred to the Licensing and Enforcement Committee for final approval.
- 7.3 Street Trading is an important component of Gloucester's City Centre. It can have some very positive benefits by adding colour, animation and vitality to Gloucester's shopping streets complementing the "high street" shopping offer. However, inappropriate street trading can have negative impacts such as detracting from the brand of the City as a shopping destination, causing obstructions and impacting on other traders.
- 7.4 Members are referred to the recommendations under paragraph 2.1 of this report.

8.0 Financial Implications

- 8.1 Under the Provision of Services Regulations 2009, any charges provided for by a competent authority which applicants may incur under an authorisation scheme must be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities.
- 8.2 The fee levels currently set do not cover the work carried out by the service and is therefore losing the Council possible revenue.
- 8.3 Fees and Charges will be determined by the Food, Licensing and Markets Service Manager, in consultation with the Financial Services Manager.

(Financial Services have been consulted in the preparation this report.)

9.0 Legal Implications

- 9.1 The legal implications are detailed in the main body of the report.
- 9.2 Under the law, Councils are not permitted to subsidise their general fund from street trading receipts.
- 9.3 Councils are permitted to recoup the cost of authorisation/validation procedures but not the cost of any enforcement. Fees must be cost neutral.

- 9.4 The Local Government (Miscellaneous Provisions) Act 1982 is to be amended in due course as a result of an EU Directive and the Provision of Service Regulations 2009

(Legal Services have been consulted in the preparation this report.)

10.0 Risk & Opportunity Management Implications

- 10.1 Risks associated with public safety and crime prevention will be fully appraised through the consultation process.

11.0 People Impact Assessment (PIA):

- 11.1 The Screening stage considered risks to customers in the areas of gender, disability, age, ethnicity, sexual orientation or community cohesion.
- 11.2 The PIA Screening Stage was completed and did not identify any potential or actual negative impact. The need to carry out a full PIA will be assessed once representations have been considered from the consultation process.

12.0 Other Corporate Implications

Community Safety

- 12.1 Community Safety will be considered within context when each application is considered.

Sustainability

- 12.2 None

Staffing & Trade Union

- 12.3 None

Background Documents:

European Services Directive 2006/123/EC
BIS Guidance for Business on the Provision of Services Regulations October 2009
Provision of Services Regulations 2009
Schedule 4, Local Government (Miscellaneous Provisions) Act 1982