

Meeting:	Licensing & Enforcement Committee	Date:	13 September 2016
Subject:	Revised Street Trading Policy		
Report Of:	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. Draft Revised Street Trading Policy		
	2. Example Identification Badge		
	3. Proposed new fees and charges for street trading		
	4. Comparison Street Trading fees		

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 To present the draft revised Street Trading Policy and fee structure for approval by the Licensing & Enforcement Committee for consultation.

2.0 Recommendations

2.1 The Licensing and Enforcement Committee is asked to **RESOLVE** that

- (1) The draft Street Trading Policy be approved for the purpose of public consultation over a 10 week period
- (2) The proposed new fee structure for 2017-18 is approved for consultation over a 28 day period.

3.0 Background and Key Issues

- 3.1 In accordance with Schedule 4 of 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 wide variety of hot and cold catering activities.

- 3.3 On 19th February 2009 Council designated all streets in Gloucester as consent streets with effect from 31 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 exempt under Schedule 4 of the Act e.g. newspaper vendors selling from a booth/stall.
- 3.4 Designation as a consent street gives the Council a wide discretion to impose conditions and controls or to refuse street trading applications. There is no automatic right of appeal.
- 3.5 A further review of the Street Trading Policy was carried out in 2013 and was required to update the Policy in particular the 'Criteria for Determining Applications' to ensure compliance with the EU Services Directive 2006/123/EC and the Provisions of Services Regulations 2009. In doing so, creating a fairer and more accessible application process.
- 3.6 The draft revised Street Trading Policy is attached as **Appendix 1** of this report and the changes to the draft are shown in Red.
- 3.7 Some of the changes relate merely to a tidying up of the wording
- 3.8 Significant changes to the Policy include additional sections at:

1.0 INTRODUCTION

- Paragraph 1.8 Mobile Street Trading (Ice Cream Traders Only)
Paragraph 1.9 School Street Trading
Paragraph 1.10 Buskers
Paragraph 1.11 Charitable Street Trading
Paragraph 1.12 Fees

2.0 APPLICATIONS

- Paragraph 2.2 Disclosure & Barring Service (DBS)
Paragraph 2.3 Suitability of the Applicant

Annex 1 - Criteria for Determining Street Trading Consent Applications

Annex 2 - Street Trading Standard Terms and Conditions and Additional Conditions Applicable to Mobile Food Vendors e.g. Ice-cream vans

Annex 3 – Guidelines on the Suitability of Applicants

- 3.9 New applicants for a Street Trading Consent and any assistants that assist on a regular basis will be required to wear an identification badge issued by the Council at all times whilst trading. An example of an identification badge that could be issued is attached as **Appendix 2** of this report.
- 3.10 The fees and charges for Street Trading in Gloucester City were last changed in 2008.

- 3.11 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.
- 3.12 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. The costs of these hearings are again not covered by the new applicant.
- 3.13 The proposed published fees can be found in **Appendix 3**. They include a new fee for 'new' street trading applications, a new fee for 'renewal' applications, a fee for a street trading identification badges, a 'Buskers' street trading fee and revised consent fees.
- 3.14 The proposed new consent fees set for street traders incorporate both daily rates for seasonal traders and an annual fee for regular traders that trade more than 4 days a week. The proposed annual consent fees are set at a reduced rate to the current charges, in light of the additional application fees required.
- 3.15 A list of comparative street trading fees can be found in Appendix 4.

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 policy and fees structure that Members consider appropriate.

6.0 Reasons for Recommendations

- 6.1 The Council's Street Trading Policy has been amended to ensure it is up to date and provides clarity and transparency on the way that street trading is controlled in the City.
- 6.2 The criteria for determining street trading applications in Annex 2 of the policy now include additional criteria from the Interim Planning Policy for assessing Mobile Catering Applications.
- 6.3 The proposed new fee structure is set at levels that recover the costs of consulting, administering and issuing consents for street trading activities. The new application fees have been calculated based on an officer time/cost analysis. A breakdown of this can be provided to Members on request.

6.4 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.

7.0 Future Work and Conclusions

7.1 The Council will where reasonably practicable review the Street Trading Policy every 5 years, or, when changes to legislation or the Council's processes/procedures deem this necessary. The next review of the Street Trading Policy is scheduled for 2021.

7.2 It is intended to conduct an 8 week consultation on the policy amendments. The following people and bodies will be consulted:

- All Existing Street Traders
- Development Control (Gloucester City Council)
- Highways (Gloucestershire County Council)
- Gloucestershire Constabulary
- Gloucestershire Fire & Rescue
- Environmental Protection Team (Gloucester City Council)
- Chamber of Commerce
- Heritage (Gloucester City Council)
- City Centre Manager (Gloucester City Council)
- Local Elected Members

7.3 A public notice will be published in the local newspaper advertising the proposed new street trading fees inviting representations over a 28 day period. Both consultations will be placed on the Council's website.

7.4 A further report will be presented to Members following the end of the consultation period.

7.5 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.

7.6 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.

7.7 Members are referred to the recommendations under paragraph 2.1 of this report.

8.0 Financial Implications

8.1 Under the Provision of Services Regulation 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 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 Local Government (Miscellaneous Provisions) Act 1982 as amended allows a Local Authority to adopt a provision concerning the control of street trading. Under the Act there is no legal requirement for the Council to have a Policy on how it proposes to control street trading. However, it is considered best practice for a Council to adopt such a Policy to encourage consistency and transparency in the way that its functions are carried out.
- 9.2 The legal implications are detailed in the main body of the report.
- 9.3 Under the law, Councils are not permitted to subsidise their general fund from street trading receipts.
- 9.4 Councils are permitted to recoup the cost of authorisation/validation procedures but not the cost of any enforcement. Fees must be cost neutral.
- 9.5 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

(One Legal 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: Schedule 4, Local Government (Miscellaneous Provisions) Act 1982