

<b>Meeting:</b>	<b>Licensing &amp; Enforcement Committee</b>	<b>Date:</b>	<b>13.December 2016</b>
<b>Subject:</b>	<b>Revised Street Trading Policy</b>		
<b>Report Of:</b>	<b>Gill Ragon – Head of Public Protection</b>		
<b>Wards Affected:</b>	<b>All</b>		
<b>Key Decision:</b>	<b>Yes</b>	<b>Budget/Policy Framework:</b>	<b>Yes</b>
<b>Contact Officer:</b>	<b>Rebecca Tuck – Licensing and Enforcement Officer</b>		
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<b>Appendices:</b>	<b>1. Revised Street Trading Policy</b>		
	<b>2. Consultee Responses</b>		
	<b>3. Public Notice – Fees for Street Trading Charges</b>		

## FOR GENERAL RELEASE

### 1.0 Purpose of Report

- 1.1 To present the result of the consultation feedback on the draft revised Street Trading Policy.
- 1.2 To consider the consultation feedback and agree a final version the Draft Revised Street Trading Policy for adoption by the Licensing and Enforcement Committee.

### 2.0 Recommendations

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

(1) The revised Policy and consultation feedback be noted by Members and adopted by the Licensing and Enforcement Committee to take immediate effect.

### 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 19<sup>th</sup> 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 All the proposed amendments and revisions to the policy are shaded in red and can be seen at **Appendix 1** of this report.
- 3.7 At the Licensing and Enforcement Committee held on 13 September 2016 members agreed that the draft revised street trading policy go out for an eight week consultation.
- 3.8 The following people were 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

The draft revised policy was also published on the Council's website.

- 3.9 During the consultation period we received 5 responses from consultees to the draft revised street trading policy. Copies of these responses in full can be found at **Appendix 2** of this report.
- 3.10 The first response was from Mr John Williams a member of the public who raised two points firstly, why are we requesting in the policy that we require a DBS check from Disclosure Scotland. ***Members are advised that we are asking for a DBS check with disclosure Scotland because it is cheaper to obtain a standard check of their criminal record. If the applicant would rather use the Disclosure and Barring Service based in England we would be happy to accept this.***

Mr Williams second points refers to conflicting paragraphs at 1.9 and 1.8.4 and additional condition 5 of the revised policy. **Members are advised that there is no conflict between these paragraphs as it clearly states that if a mobile street trader wants to park outside or near a school then written consent must be obtained from the head teacher.**

The second response was from Mr Tarun Patel a member of the public who states that he would like to see a wider diversity of food outlets on offer within the city.

The third response was from Verona Vidal in Community Engagement at the City Council who noted that the Gloucester City Centre Partnership has been dissolved. **Members are advised that the policy has been amended to reflect this. For members ease of reference this is in paragraph 2.5.1 of the policy.**

The fourth response was from Charlotte Bowles-Lewis Principal Design and Conservation Officer for the City Council who suggests that pitch numbers are restricted within the gate streets as these can have an adverse impact on the character and appearance of the street scene. She also suggest uniformity for traders through the introduction of a standard kiosk, she has stated that this has been introduced in a number of larger cities and woks well in a historic context. **Members are advised that the draft revised street trading policy does not specify any prohibited streets, and all streets are classed as consent streets. This means that an applicant is not barred from making an application within the city limits, as long as the necessary consultation is carried out.**

The fifth response was from Matthew Stevens an existing street trader who has registered a strong objection to the introduction of compulsory ID badges for street traders and their assistants on the basis that it is discriminatory and could compromise the safety of street traders or their assistants' in particular young females. **Members are advised that the reason for the introduction of ID badges is to help authorised officers identify traders' names when carrying out enforcement checks.**

3.9 A public notice was also published in the Gloucester Citizen advertising the proposed new street trading fees inviting representations over a 28 day period. This consultation was also published on the Council's website

3.10 No responses were received regarding the proposed new street trading fees.

#### **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 Members may choose to accept the suggested changes as noted on the revised document in whole, accept the revisions in part or add any of the suggested comments from the consultees.

- 5.2 Members may request for further amendments to be made to the suggested revisions which they consider suitable for the Committee to consider.

## **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 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(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 have been 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