

# Gloucester City Council

<b>Meeting:</b>	<b>Licensing &amp; Enforcement Committee</b>	<b>Date:</b>	<b>11 December 2018</b>
<b>Subject:</b>	<b>Review of Fees and Charges for the Licensing of Items to be placed on the Highway (Tables and Chairs and A-Boards)</b>		
<b>Report Of:</b>	<b>Head of Place</b>		
<b>Wards Affected:</b>	<b>All</b>		
<b>Key Decision:</b>	<b>No</b>	<b>Budget/Policy Framework:</b>	<b>No</b>
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<b>Appendices:</b>	<b>1: Comparative Fees from Other Councils</b>		

## FOR GENERAL RELEASE

### 1.0 Purpose of Report

- 1.1 To review the current arrangements for charging to place Table and Chairs and A-Boards onto the Highway.

### 2.0 Recommendations

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

(1) New charges from the 1<sup>st</sup> April 2019 for the consent of Tables and Chairs and A-Boards on the Highway are approved for an 8 week consultation.

### 3.0 Background and Key Issues

- 3.1 The placing of table and chairs and A-Boards 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.
- 3.2 There are currently 26 premises consented to display tables and chairs in Gloucester City and 56 consents issued for A-Boards. Businesses requiring tables and chairs and A-boards have proliferated in recent years, partly as a result of the relaxation in licence fees for tables and chairs on the highway.
- 3.3 Consents to place Tables and Chairs on the Highway are currently free, this decision was taken by Members in 2009, 2012 and 2015 where they agreed to keep these fees free of charge to encourage the Café Culture in the City, and boost the evening economy. The cost to place an A-board onto the Highway is currently £50.

- 3.4 The Team have received a number of complaints (6 this year) relating to the positioning of Tables and Chairs and A-boards on the Highway, these complaints have mostly related to un-licensed items, however, on occasions licensed items have also been re-positioned in an obstructive manner. Ongoing monitoring is therefore essential to ensure compliance is maintained.
- 3.5 The Power to grant permission for the provision of services, amenities, recreation and refreshment facilities on the highway and related powers is delegated to the City Council through an Agency Agreement between Gloucestershire County Council Highways and Gloucester City Council.
- 3.6 The power to set fees for these types of licences is currently delegated to the Corporate Director. Fees charged can only be set to cover the expenses of granting the Consent by virtue of section 115F.
- 3.7 A list of comparative local authority charges can be found in Appendix 1. 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.

#### **4.0 Asset Based Community Development (ABCD) Considerations**

- 4.1 There is a legal process within the terms of the Highways Act 1980 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.

#### **5.0 Alternative Options Considered**

- 5.1 The City Council may decide to leave the fees at the existing levels to support businesses to ensure the café culture continues. If this decision is taken, it should be mindful that the City Centre Improvement (Licensing) Service will not be covering their full administration costs and the Council will be subsidising businesses for use of items on the highway that helps generate them further income.

#### **6.0 Reasons for Recommendations**

- 6.1 The fees for placing of table and chairs and an A-Board on the highway have been reviewed to reflect the cost of administering the licences and monitoring compliance of those items. The Current fee levels do not cover the cost of this service.
- 6.2 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.

<b>Application Type</b>	<b>Tables and Chairs</b>	<b>A-Boards</b>
<b>New</b>	£235	£235
<b>Renewal</b>	£106	£106
<b>Copy of Licence</b>	£10.50	£10.50
<b>Refundable fee where applications is refused</b>	£50	£50

The addition of the refundable fee above, reflects the average cost of monitoring compliance and responding to complaints, which is not required if the licence is not granted. This ensures that the Council can cover the minimum cost of processing each application even if the licence is later refused.

6.3 The proposed fees are also more consistent with the City Council's licensing fees for Tables and Chairs on City Council land, as set by Asset Management. A number of property licences have been issued to businesses in Kings Square and the Docks costing on average £350 for Table and Chairs. A fee for an A-Board is currently not being charged for.

6.4 For members ease. The Asset Management Department at Gloucester City Council are responsible of issuing property licences for table and chairs on land owned by the City Council. This includes Kings Square and parts of the Docks. The City Centre Improvement Team is responsible of issuing Consents to table and chairs and A-Boards on land that is classed as a highway. If someone wants to place an item on private land then they do not need to seek permission from the City Council unless it requires planning/advertisement consent.

## **7.0 Future Work and Conclusions**

7.1 It is intended to review the policies for Consenting items on the Highway routinely every 3 years. The Policies will be reviewed at the start of next year and Licence fees will be reviewed on an annual basis, to consider changes in service and uptake of these licences.

7.2 This is an area of Licensing that needs resolving as the service continues to receive complaints about such items obstructing the highway and we continue to discover a number of unlicensed premises placing table and chairs and A-Boards on the Highway. It is important for the City to present as attractive a face as possible to residents and visitors alike.

7.3 Members are recommended to accept the proposed changes to the current levels of fees for Tables and Chairs and A-Boards in accordance with the proposed fees listed in Paragraph 6.2 and approve for an 8 week consultation on the proposal to take effect on 1<sup>st</sup> April 2019.

## **8.0 Financial Implications**

8.1 The fee levels currently set do not cover the work carried out by the service and the proposed fee will contribute to the costs of delivering this service.

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

## **9.0 Legal Implications**

- 9.1 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.
- 9.2 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.
- 9.3 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.
- 9.4 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.
- 9.5 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.
- 9.6 The City Council has express permission to utilise sections 115A to 115K under a Mini Highways Agreement with Gloucestershire County Council.
- 9.7 Where tables and chairs and “A” boards are put in the highway without consent, there are various enforcement powers in the Highways Act 1980.

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

## **10.0 Risk & Opportunity Management Implications**

- 10.1 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.
- 10.2 There is an opportunity to ensure a consistent approach for the City is taken in terms of Consenting table and chairs and A-Boards onto the highway. Whilst the City Council’s Asset Management Team has regard for our policies for consenting Table and Chairs, it does not share the same charging structure.

## **11.0 People Impact Assessment (PIA):**

- 11.1 following matters have been considered during the screening stage, impacts on Disability groups including those with mobility difficulties, partially sighted and blind a positive impact has been identified. Furthermore, wheelchair and mobility scooter users have been considered along with mothers pushing double pushchairs in

considering minimum access routes and maximum dimensions of various items on the Highway.

- 11.2 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

## **12.0 Other Corporate Implications**

### Community Safety

- 12.1 The Policies for Licensing Items on the Highway take into account community safety ensuring that an unobstructed access route is maintained on the highway at all times and for all members of the Community.

### Sustainability

- 12.2 None

### Staffing & Trade Union

- 12.3 None

### Press Release drafted/approved

- 12.4 None

### **Background Documents:**

The Highways Act 1980 as amended by the Local Government (miscellaneous Provisions) Act 1982

Mini Agency Agreement between the County Council and City Council