

To: General Purposes Licensing Committee

Date: 28th May 2012 **Item No:**

Report of: Head of Environmental Development

Title of Report: Street Trading Consent Fees 2012/13 - Further Consultation

Summary and Recommendations

Purpose of report: To report back to Committee on the responses to the further consultation on the proposed fee for street trading outside of the City Centre and to agree a fee for Street Trading Consents in these locations.

Report Approved by:

Finance: Paul Swaffield (Approved)

Legal: Daniel Smith (Approved)

Policy Framework: Vibrant, sustainable economy

Recommendations:

Committee is recommended to:

(a) consider the responses to the consultation, and

(b) agree to implement the recommended fee structure as set out in paragraph 1 for day time street trading for sites outside the City Centre.

Introduction

1. At its meeting on the 22nd February 2012 General Purposes Licensing Committee received a report on Licence Fees for 2012/13. The report included a recommended fee structure for street trading outside the City Centre. The fees proposed are shown in the below table:

Annual Consent	£2600
Six Months Consent	£1300
Three Months Consent	£650
One Month Consent	£220
One Week Consent	£60

2. Committee resolved to agree the proposed fees for the existing street trading scheme (City Centre and evening traders) and requested the Head of Environmental Development to consult on the proposed fees, for new Street Trading Consents that are required as a consequence of the extension of the scheme.

Consultation

3. The Consultation was carried out in April. A consultation letter was sent to all traders that are directly affected by the implementation of the new fee for street trading outside of the City Centre (see Appendix A).

Summary of responses

4. Three responses have been received following the further consultation. The responses submitted are from Mr Paul Rowcliffe proprietor of the Fillin Station Snack Bar, Mr Alan Joyce a sole trader and L Bayliss a sole trader (see Appendix B, C & D).

Officer comments

5. With regard to Mr Rowcliffe's response, it is worth mentioning that he was written to as part of the original consultation on extending the scheme to the whole of the City Council area. He has also received a response to his email of 12th April 2012 from Samantha Howell, Licensing Officer, answering his questions regarding the changes to the scheme.
6. Mr Joyce raises a number of recommendations in his consultation response which he asks the committee to consider. Regarding Mr Joyce's first suggestion I would remind the committee that under the Local Government (Miscellaneous Provisions) Act 1982 a street is defined as 'any road, footway, beach or other area to which the public have access without payment'.
7. Mr Joyce suggests a single consent could be issued to cover activities on two sites. This would be acceptable where an individual trades from more than one location but does not trade simultaneously.

8. Mr Joyce lists a number of other scenarios for consideration. I can confirm that these scenarios have been considered in line with the Local Government (Miscellaneous Provisions) Act 1982.

Big Issue Sellers	Exempt under the Act
Home Garage Sales	Do not fall under the Act
Stalls in the Castle Complex	Require Street Trading Consent
Stalls inside the Westgate and similar shopping centres	Exempt under the Act
Sightseeing Tour Booths	Do not fall under the Act as they are selling a service
Tourist Walking Tours	Do not fall under the Act as they are selling a service
Traders within University Parks and Christchurch Meadow	Require Street Trading Consent
Mobile fresh fish sellers and similar	Exempt providing they act as a Roundsman. A roundsman is a person who calls by prior arrangement with the customer and sells at the customers premises.
Traders outside a shop as an extension to that business	Exempt under the Act
Fetes and Jumble Sales	Do not fall under the Act
Lemonade Stands run by Children	Do not fall under the Act
Roadside Car Sales	Require Street Trading Consent

9. With regard to the response from L M Bayliss', it is worth mentioning that L Bayliss was also written to as part of the original consultation on extending the scheme to the whole of the City Council area. A response has been sent to L Bayliss by Samantha Howell, Licensing Officer, answering the questions regarding the changes to the scheme.

Legal Implications

10. In 1986 the Council resolved that Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 should apply to its area. Under Schedule 4 of the Act the Council can manage street trading by designating streets as 'Consent Streets', 'Licence Streets' or 'Prohibited Streets'.

In relation to fees Schedule 4 provides that the Council may charge such fees as it considers reasonable for the grant or renewal of a street trading consent.

It may determine different fees for different types of consent and, in particular, but without prejudice to the generality of this sub-paragraph, may determine fees differing according—

- (a) to the duration of the licence or 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.

Licence fees should usually represent only the costs of administering the relevant function. In relation to street trading the power to charge different fees in relation to location, articles for sale and duration indicates that to limited extent market forces may also be taken into account. However, case law makes clear that licence fees should not be used to raise revenue generally.

The law requires the fee set be a *reasonable* one. In this context *reasonable* means reasonable in the view of the Council having taken into account all the circumstances. Whilst financial hardship may be relevant to the grant/renewal of individual consents, the setting of a general fee should focus on what is reasonable in the broadest sense.

Financial Implications

11. There are no material financial considerations contained within this report that apply to the Authority.
12. The Council collects licence fees for the Street Trading function. Fees are reviewed annually prior to the Council setting its budget. Predicted income from licence fees is included in the Council's budget.

Recommendations

13. Committee is recommended to:
 - (a) consider responses to the consultation, and
 - (b) agree to implement the recommended fee structure as set out in paragraph 1 for day time street trading for sites outside the City Centre.

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Background papers: Appendix A – Further Consultation Letter
Appendix B – Consultation Response P Rowcliffe
Appendix C – Consultation Response A Joyce
Appendix D – Consultation Response L Bayliss
Appendix E – Original fees report 22/02/2012

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