

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 – REVIEW OF STREET TRADING FEES**

**COMMITTEE: LICENSING COMMITTEE**

**DATE: 22 JUNE 2022**

**AUTHOR: SENIOR LICENSING OFFICER**

[X16]

1.0 ISSUE

1.1 To consider amendments to the Council's Street Trading fees.

2.0 RECOMMENDATION(S)

2.1 That Members:

Consider the content of the report and,

- i. approve the amended street trading policy contained in **appendix 2** to take effect immediately, and
- ii. authorise officers to publish the new fee structure contained in **appendix 3** to take effect immediately.

3.0 BACKGROUND

3.1 In March 2022, Members asked officers to undertake a review of the fees charged for street trading consent within the district, following a request by the National Caterers Association (NCASS) and a local representative body known as "Off the Beaten Truck" (OTBT).

3.2 NCASS and OTBT felt that the fees for trading on private land where the trading is not the primary function of the premises, but is connected to the primary premises is unfair, and does not reflect the transient nature of this area of street trading.

3.3 The current fees are contained in **appendix 1**.

4.0 SUMMARY

4.1 The 1982 Act permits a Council to:

- charge such fees as they consider reasonable for the grant or renewal of a street trading licence or a street trading consent.
- determine different fees for different types of licence or consent
- allow fees to be paid by instalments

- charge separate fees to cover cleaning of the area, that may need to be undertaken by them.
- 4.2 The current fee structure was designed to promote rural trading, by apportioning a larger part of the costs of the regime to those trading in central Ely, and to promote different types of traders by way of differing fee levels depending upon the type of product being sold.
- 4.3 The current fee structure was also designed to take into account that all annual trading consents require a public 28-day consultation, and when objections are received, a hearing of the licensing sub-committee. Some consultations cost more than others, and some applications do not require a hearing, but it was not considered equitable to differentiate fees based on cost factors outside of the applicant's control, and so these variable costs are factored into all of the annual application fees.
- 4.4 The current fees are not dependent upon the days traded by the trader themselves, as they are specifically designed to address the costs the Council incurs in administering, issuing, and dealing with compliance issues related to the street trading.
- 4.5 The current policy has four distinct types of street trading consent. Income in 2021/2022 from all sources of street trading was a total of £11,006.50. Table one shows the four types of consent issued, and the breakdown of income received in each area:

*Table 1*

Type	Number	Income
Static trader	12	£8,988
Mobile trader	4	£938.50
Daily consent	60	£900
Event consent	9	£180
Total	85	£11,006.50

- 4.6 Trading permits issued to traders wishing to trade on the car-parks of other businesses, so called Pop-Up traders accounted for £585 (39 permits) of the daily consent income in that period.
- 4.7 The licensing budget figure for 2021/2022 was £261,922, and estimates suggest 5.48% of officer time was spent dealing with street trading work in this period. This would equate to a cost recovery figure of £14,353.
- 4.8 Paragraph 4.6 illustrates that the current fees are compliant with the general rule of licence fee setting, which is, they should recover the costs of administering the service, but should not yield a profit over and above these costs.
- 4.9 Since 2016 a total of 36 new annual street trading applications have been received, 12 mobile and 24 fixed/static. Of these, 6 resulted in the need to hold a formal hearing. The type and outcome of which is shown below in table 2 on the next page:

Table 2

Type of application	Outcome
Fixed/Static	Reduced hours, generator condition
Fixed/Static	Granted as applied for
Fixed/Static	Generator condition added
Fixed/Static	Refused
Fixed/Static	Reduced hours, change of location
Fixed/Static	Reduced hours

4.10 Officers are not aware of any complaints being received that relate to consented activity. All complaints received relate to illegal traders operating in the district.

## 5.0 CONCLUSION

5.1 Setting fee levels to be cost neutral is a complex process, and by default it is not an exact science due to the nature of licensing. It is necessary to balance potential income with potential costs, whilst ensuring that the objectives for controlling street trading are upheld and legitimate trading can flourish.

5.2 Officers believe the fee structure in place at present represents a reasonable fee for trading in the district, but Officers also believe that there is an option to accommodate the points raised by NCASS and OTBT. The current policy and fee structure for annual trading does not differentiate between trading on private and public land, or whether the trading is or isn't ancillary to another business at the trading location. Officers believe this is an area where amendments can be made to the current application process in order to reduce officer time and therefore justify reducing the fees needing to be recovered. Paragraphs 5.3 to 5.5 set out this proposal.

5.3 The main objective with street trading is to prevent nuisance, and uphold public amenity in an area, and so where the street trading is the primary activity, or is being requested at a domestic premise, officers believe formal consultation is a necessary part of the process, as the premises is not likely to have been subject to scrutiny from any other official body or process. However, where the applicant:

- is requesting to trade on private land owned or leased by them, that falls within the policy definition of a Host Premises, and
- such trading is ancillary to the main purpose of that premises, and
- the trading hours requested are within the permitted hours of the main premises, or 11pm (whichever is latest)

it is suggested that the formal public consultation could be waived, as the premises is likely to be a location of existing public gathering or public movements, (whether vehicular or pedestrian), and therefore, the potential for a trader to bring a higher degree of operational nuisance is minimal.

5.4 As previously mentioned in this report, all applications receiving an objection currently result in a hearing of the sub-committee. It is suggested that in cases

where the three bullet points in paragraph 5.3 above are met, determination powers are delegated to Officers.

- 5.5 By removing the need to publicly consult, and by removing the need to attend a hearing of the licensing sub-committee, in such cases, the processing costs for these applications could be significantly and justifiably reduced without impacting the fees and processes for all other annual trading in the district.
- 5.6 The safeguard to this proposed change is that relevant responsible authorities will still be consulted on all annual street trading licence applications, and ultimately if complaints are received due to poor trading practices at these locations, consent can be revoked at any time.
- 5.7 The proposed policy contained in **appendix 2**, and the proposed fees in **appendix 3** assume Members approval of the suggestions contained in paragraph 5.3 and 5.4 of this report.

## 6.0 FINANCIAL AND EQUALITY IMPLICATIONS

- 6.1 Changing the fee levels will have no negative impact on existing traders registered with the Council, as the proposed fees are either the same as, or lower than the current fees.
- 6.2 The lowering of the fees is linked to the reduction in processing costs, and therefore, there should be no increase in deficits. The more flexible approach may result in increased revenue, but this is not guaranteed.
- 6.3 There are no other financial implications other than Member and Officer time which is already budgeted for.
- 6.4 An Equality Impact Assessment (EIA) has been completed showing there is no adverse impact on the community if Members follow the Officer recommendations.

## 7.0 APPENDICES

- 7.1 Appendix 1 Current fees
- 7.2 Appendix 2 Proposed amended Street Trading Policy 2022
- 7.3 Appendix 3 Proposed fees
- 7.4 Appendix 4 Equality Impact Assessment (EIA)

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<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer</u>
Local Government (Miscellaneous Provisions) Act 1982	Room SF208 The Grange, Ely	Stewart Broome Senior Licensing Officer (01353) 616477