

Committee(s):	Date(s):
Port Health and Environmental Services (For decision)	13 May 2014
Planning and Transportation (For Information)	10 June 2014
Culture, Heritage and Libraries (For Information)	27 May 2014
Licensing (For Information)	21 July 2014
Subject: Street Trading Policy	Public
Report of: Director of Markets and Consumer Protection	For Decision

### **Summary**

The City of London (Various Powers) Act 2013 has made changes to the long established street trading regime within the City of London. The City Corporation will have the authority to issue temporary street trading licences so that commemorative and seasonal events will be able to include a street trading element.

Powers of enforcement against illegal street trading have been strengthened with items used to facilitate illegal sales being subject to seizure. This includes vehicles such as ice cream vans.

This report provides an introduction to the attached combined policy and procedure document. This report:

- Explains the legislation affecting street trading in the City of London;
- Sets out the City Corporation's policy in respect of the regulation of street trading, including its enforcement; and
- Offers guidance as to the procedure to be followed in seeking a street trading licence

The report outlines matters considered by the licensing service in setting the proposed temporary licence fees which follow legally established guidelines. The fees set out in the policy are designed to cover the costs associated with the licensing process. Authorities, including the City Corporation, are not able to include the costs of enforcement against unlicensed street traders within their fees.

### **Recommendations**

#### **Port Health and Public Protection**

It is recommended that your Committee:

- Agree the proposed policy attached as Appendix 1 to this report.
- Agree the fees, incorporated as part of the Policy document, and replicated as Appendix 2 to this report.

## **Planning and Transportation**

Members are invited to note the contents of this report

## **Licensing**

Members are invited to note the contents of this report

## **Main Report**

### **Background**

1. A report was considered by the Port Health and Environmental Services Committee on 11 March 2014 and the Planning and Transportation Committee on 18 March 2014 outlining the main changes introduced by the City of London (Various Powers) Act 2013. The present report concentrates on the City Corporation's policy response to the changes in the law.
2. Prior to the 2013 Act the only street trading permitted in the City of London was in part of Middlesex Street and only on Sunday mornings. Under the new measures, the City Corporation may issue temporary street trading licences for up to 21 days in any area of the City of London other than Middlesex Street. It remains the view of the City Corporation that street trading is generally not suitable within the City of London.
3. Where a temporary market is proposed, the Act provides for one person to apply on behalf of a number of traders. Provision is made by the Act for charging of fees for applications for and grant of temporary licences and for the imposition of licence conditions as to charges and the recovery of expenses.
4. A new seizure power applies to goods being unlawfully sold, and to equipment and vehicles used by unlawful street traders. This will enable, for example, an ice cream van operating in the City to be seized.

### **Current Position**

5. A prohibition on street trading in the City of London, other than in Middlesex Street, has been in force for many years. The 2013 Act liberalises the arrangements so as to permit street trading to take place for temporary periods in defined areas.
6. A combined policy and procedure document has been produced for the purpose of:
  - explaining the legislation affecting street trading in the City;
  - setting out the Corporation's policy in respect of the regulation of street trading, including its enforcement; and
  - offering guidance as to the procedure that should be followed in seeking a street trading licence.

The document can be seen as Appendix 1.

7. Of particular note is paragraph 4.3 of the document which establishes the type of occasion where a temporary licence will be acceptable i.e. as part of a one-off street festival or charity event, seasonal event or a specialist market.
8. Paragraph 4.4 looks at the criteria which will be considered prior to issuing a licence. The criteria are designed to ensure that before a temporary licence is issued environmental and public safety considerations will be taken into account, together with any other relevant City Corporation policies and strategies.
9. Also of note is paragraph 7.16 which ensures any receptacle has been approved by the City Corporation before being placed on the highway.
10. Before preparing the policy the views from a number of City Corporation services were sought including Planning, Highways, Cleansing, the Remembrancer's Office, the Comptroller's Office, and Environmental Health. Their comments were taken into consideration in the preparation of the policy.

## **Fees**

11. The City Corporation may charge such fees for applications for and the grant of temporary licences as it may determine and as may be sufficient in aggregate to cover the reasonable administrative or other costs it incurs in connection with street trading applications.
12. A high court case held on 16 May 2012 (*R (Hemming and Others) v Westminster City Council*) concluded that the amount of the fee is required to be determined every year and further that a local authority was precluded from making a profit from the licensing regime. A full account of the fee income and expenditure would therefore need to be considered to ensure a surplus is not being made.
13. In determining the proposed fee structure for temporary street trading licences the following factors have been taken into account:
  - Officer time spent on processing applications including site inspections and the issue of any licence
  - Officer time spent on the development and maintenance of processes and guidance notes
  - Training of staff as necessary
  - A percentage of the service costs such as accommodation and equipment
  - Officer time spent on inspections to ensure compliance with terms and conditions of any licence
14. Costs associated with the enforcement of unlicensed street trading activity have not been taken into account in setting the proposed fees, which are set out in Appendix 2.

## **Corporate & Strategic Implications**

15. The proposed policy and the introduction of temporary street trading in the City of London meets one of the City Corporation's aims, as stated in the Corporate

Plan 2013-2017, 'To provide modern, efficient and high quality local services and policing within the Square Mile for workers, residents and visitors with a view to delivering sustainable outcomes'.

16. It also meets one of the five key policy priorities KPP2, in that it seeks to 'support and promote the international and domestic financial and business sector.

### **Implications**

17. If fees are set lower than those recommended the result will be a deficit for 2014/15 as costs of administering the licence will not be fully met from income received. Fees set higher than those recommended will result in a surplus i.e. an income which exceeds the cost of providing the service.
18. Any such surplus or deficit for 2014/15 will be calculated after the end of that financial year and carried forward to be taken into consideration when fees are set for 2016/17. Ignoring a surplus or deficit could result in the City Corporation being subject to legal challenge.

### **Appendices**

*Appendix 1 – Street Trading policy and Procedure*

*Appendix II – Proposed fees*

### **Background Papers:**

Port Health & Environmental Services Committee Report 11 March 2014: 'City of London (Various Powers) Act 2013 London Local Authorities and Transport for London (No. 2) Act 2013'

*Transcript of (R (Hemming and Others) v Westminster City Council)*

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