

<b>Committee(s)</b>	<b>Dated:</b>
Port Health and Environmental Services	21 July 2020
<b>Subject:</b> Street Trading Fees 2020/21	<b>Public</b>
<b>Report of:</b> Director of Markets and Consumer Protection	<b>For Decision</b>
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### **Summary**

The City of London Corporation may set annual fees for issuing a licence to those persons wishing to participate in Street Trading in Middlesex Street and for those persons wishing to apply for a temporary street trading licence.

The matters considered by the licensing service in setting the proposed fees are discussed in this report and include all aspects within the licensing process. These matters would have produced fees resulting in a similar income compared with previous years.

However, from the end of March 2020 market traders (and markets themselves) were not permitted to trade due to restrictions placed on them by the Government in order to prevent the spread of coronavirus (COVID-19).

Whilst Middlesex Street Market re-opened on 7<sup>th</sup> June 2020, many traders are shielding and unable to trade until later in the summer. In order to assist traders as much as possible whilst staying within legislative requirements, it is intended to reduce fees for 2020/21 in order to compensate them and show support.

The proposed fees will result in a loss of income compared with previous years and against budgeted income targets.

### **Recommendation(s)**

Members are asked to:

- Agree the proposed fees for 2020/21 as set out in Appendix 1

## **Main Report**

### **Background**

1. Street Trading within the City of London is permitted on a temporary basis in addition to those trading on a Sunday in 'Middlesex Street Market'. The City of London (Various Powers) Act 2013 (the Act) permits temporary Street Trading licences to be granted for up to 21 days in the City of London providing any application complies with the criteria laid down in the Street Trading Policy.
2. The Act also permits the City Corporation to recover charges from those trading in Middlesex Street for:
  - The removal of refuse or other services rendered by the City Corporation to licensees; and
  - Expenses incurred by the City Corporation in the administration concerned with granting and issuing the licence, ensuring compliance with relevant byelaws and in the cleansing of that part of Middlesex Street in the City where street trading takes place.
3. 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.
4. Successive appeals/decisions in the Court of Appeal, The Supreme Court and the European Court of Justice decided that the fee can include administrative costs involved, the costs of vetting the applicants (in the case of applications for a licence) and the costs of investigating/enforcing the licensing scheme including costs involved in enforcement against those premises that are not licensed.

### **Calculation of Fees for 2020/21**

5. In order to avoid possible complications arising from non-compliance with the Hemming decision, the licensing service has carried out an in-depth examination of the processes that are undertaken in order to administer licence applications/renewals, the costs of investigating compliance with any licence conditions/byelaws and the cost of cleaning the area in Middlesex Street where street trading takes place.

#### Middlesex Street Traders

6. In determining the proposed fee structure, the following factors have been considered:
  - Officer time spent on processing applications 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
- Administration cost and inspections to ascertain compliance with byelaws.
- Costs connected with cleaning the area in Middlesex Street and associated areas, but only in relation to Middlesex Street Traders licensed by the City Corporation.

7. Costs for 2020/21 have been calculated on the above basis and assuming all pitches will be full during the year. Occupancy levels have typically been above 99%. These costs can be seen in the table below.

	Number of Traders	Annual Cost £	Annual Cost per trader £	Weekly Equivalent per trader £
Cost of cleaning Middlesex Street	55	47,900	870	16.73
Administration/compliance costs of Middlesex Street	55	14,300	250	4.90
TOTAL		62,200	1,120*	21.63

\*This does not incorporate the statutory £5 application fee.

8. Street Trading Licences for Middlesex Street Market are valid for up to twelve months from the date of grant unless revoked. The licence fee is due for payment quarterly and all licences expire on 31 December each year.
9. From the end of March 2020 until 7 June 2020, Petticoat Lane Market Traders were unable to trade due to restrictions placed on them by the government in order to prevent the spread of coronavirus (COVID-19). Although these restrictions have eased, many traders have indicated they would still be unable to trade due to shielding guidelines and that they would be unlikely to return until September 2020 at the earliest.
10. To date only 20 traders (out of a maximum 55) have commenced trading in Middlesex Street with customer numbers significantly reduced.

#### Temporary Street Trading Licences

11. Temporary Street Trading Licences can be granted for up to 21 days in the City of London providing any application complies with the criteria laid down in the Street Trading Policy. The licence fee is due for payment as and when an application is submitted.

12. The City Corporation granted 29 temporary licenses during 2019/20 many of which were to regular small markets or to one off events. The regular markets were based at Monument and in Paternoster Square.
13. The type and style of the temporary trader can vary, and the circumstances associated with each application numerous. Consequently, the fee for a temporary licence is calculated separately for each application. The fee is based on the number of officer hours required to manage the application process and ensure licence conditions are being adhered to. Typically, this is between 1 to 4 hours per application.
14. As of the end of March 2020, there were two regular markets operating in the City requiring a monthly temporary street trading licence, and various other events annually requiring a temporary street trading licence. However, there have been no temporary street trading applications received from the end of March to date, due to the Government restrictions introduced to reduce the spread of COVID-19. The two regular markets are expected to resume trading in August 2020.

## **Proposals**

15. In order to assist Middlesex Street traders as much as possible, and still remain within legislative requirements, the recommended fees for 2020/21 have been reduced by approximately 33% from that required for full cost recovery. The reduction is to assist traders towards the payment of their licence fee which they were not able to use during April and May 2020 due to Government restrictions and not able to fully utilise during June and July 2020. (Although market traders were permitted to return on June 7<sup>th</sup> only approximately 15 traders began trading. The remainder did not feel safe or would have lost money, if they had returned, due to insufficient customers). The proposed fees for 2020/21 can be seen in Appendix 1.
16. It should be noted that during the week beginning 6 July 2020 Market Traders were given a discretionary grant by the Corporation of £1,700 to compensate them for loss of earnings during the period Middlesex Street market has been closed. 29 of the 45 market traders applied for the grant albeit the opportunity was given to all of them. All 29 applicants were successful in obtaining the grant.
17. Fees for temporary street trading licences will be calculated as outlined in paragraph 13 of this report and can be also be seen in Appendix 1.

## **Financial Implications**

17. Setting the recommended fees will result in an estimated income for 2020/21 of approximately £42,000, against a budgeted income of £60,000.
18. During April and May 2020 there has not been the requirement for the market to be cleaned under the existing cleansing contract. The contract was for cleaning the market once it closes each Sunday afternoon. The annual cleansing costs are approximately £48,000, so there is a potential maximum saving of £8,000 due to this service not being provided during the closure. However, it should be noted

that this does not take into account any ongoing contractual costs during this period and any increases in cost due to the contractor needing to meet the COVID secure guidelines when delivering the service moving forward.

19. Additionally, prior to lockdown, licensing officers were inspecting the market approximately every 3 weeks. During the period the market was closed, the inspections were not necessary resulting in overtime savings of approximately £1.5k. However, during this period of easing of Government restrictions, this saving is likely to be offset by increased officer overtime in supporting the market traders to recommence trading whilst meeting all current legislative requirements.
20. Officers are investigating the possibility of meeting any additional shortfall in budgeted income by including it as part of a wider COVID-19 fund bid.

### **Appendices**

- Appendix 1 – Proposed Fees for 2020/21

### **Background Papers**

None

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