

Committee(s)	Dated:
Port Health and Environmental Services	28 March 2023
Subject: Street Trading Fees 2023/24	Public
Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?	4,5,10
Does this proposal require extra revenue and/or capital spending?	No
If so, how much?	n/a
What is the source of Funding?	n/a
Has this Funding Source been agreed with the Chamberlain's Department?	n/a
Report of: Executive Director of Environment	For Decision
Report author: Aggie Minas – Licensing Manager	

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.

The proposed fees will result in income similar to pre-pandemic levels.

Recommendation(s)

Members are asked to:

- Agree the proposed fees for 2023/24 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 of 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 2023/24

5. 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 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 2023/24 have been calculated on the above basis. These costs can be seen in the table below.

	Number of Pitches	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	13,750	250	4.80
TOTAL	55	62,200	1,120*	21.53

*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. Any increase in fee will take effect from 1 April 2023

Temporary Street Trading Licences

9. 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.
10. The City Corporation granted 46 temporary licenses during 2021/22 many of which were to regular small markets, and some to one off events such as the London Marathon. The regular markets are based at Monument (17 licences) and in Paternoster Square (15 licences)
11. 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.

Proposals

12. Fees for temporary street trading licences will be calculated as outlined in paragraph 12 of this report and Middlesex Street Market fees are calculated as outlined in the table in paragraph 8 of this report. Both fees are summarised in Appendix 1.
13. If fees are set lower than those recommended the result will be a deficit for 2023/24 as costs of administering the licences will not be fully met from income received.

14. Fees set higher than those recommended will result in a surplus i.e. an income which exceeds the cost of providing the service.
15. Any such under or over recovery of costs from 2023/24 will be calculated after the end of that financial year and be carried forward to be taken into consideration in setting the fees for 2025/26. Ignoring a surplus or deficit could result in the City Corporation being subject to legal challenge.

Financial Implications

16. Setting the recommended fees will result in an estimated income from street trading fees for 2023/24 of £53,000, an overachievement of £3,000 compared to the budgeted income of £50,000.

Appendices

- Appendix 1 – Proposed Fees for 2023/24

Background Papers

None

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