

Committee(s)	Dated:
Port Health and Environmental Services	6 March 2018
Subject: Street Trading Fees 2018/19	Public
Report of: Director of Markets and Consumer Protection	For Decision
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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 and include all aspects within the licensing process.

The proposed fees will result in a similar income compared with previous years.

Recommendation

Members are asked to:

- Agree the proposed fees for 2018/19 as set out in Appendix 1

Main Report

Background

1. Street Trading within the City of London is now permitted on a temporary basis in addition to those trading on a Sunday in Middlesex Street. 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, compliance with relevant byelaws and in the cleansing of that part of Middlesex Street in the City where street trading takes place.
3. Prior to the legislation coming into force the fees for trading in Middlesex Street were statutorily set at no more than £15 per week plus an annual application fee of £5. The statutory fee can now be set to cover those costs described above although the statutory £5 annual application fee remains.
 4. 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.
 5. 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 2018/19

6. 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

7. In determining the proposed fee structure the following factors have been taken into account:
 - 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.
8. Costs for 2018/19 were calculated on the above basis and assuming all 55 pitches will be full during the year. Occupancy levels have typically been above 99%.

	Number of Traders	Annual Cost £	Annual Cost per trader £	Weekly Equivalent per trader £
Cost of cleaning Middlesex Street	55	42,900	780	15
Administration/compliance costs of Middlesex Street	55	14,300	260	5
TOTAL		57,200	1,040*	20

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

9. The Act introduces a procedure which is required to be followed when fees are increased. The Corporation is required to give notice in writing of the proposed charges to all licensed street traders and how they were calculated. Representations concerning the charges can then be made to the Corporation within a minimum period of 28 days from the date of the notice. Only after these have been considered can a further notice be delivered to all licensed street traders informing them of the new fee and when those charges are to be brought into effect.
10. Any proposed increase in the fees will have to undergo this procedure and therefore would not be able to be introduced until 1 October 2018. It is not proposed that fees are increased in 2018/19.

Temporary Licences

11. The City Corporation only granted 13 temporary licenses during 2017/18 albeit 11 of these were a monthly market in Paternoster Square. The remaining two licences were for the Nocturne and a five-day Christmas market, also in Paternoster Square.
12. The type and style of the temporary trader can be many, and the circumstances associated with each application numerous. It has therefore been decided that the fee for a temporary licence should be 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.

13. It is not anticipated that the number of applications in 2018/19 is likely to increase significantly from those received in 2017/18. It is not known at this stage if there will be any additional events, and if so what type, in the Aldgate exemption area. (The area exempted from aspects of the Street Trading Policy in connection with being held only in relation to a specific event).

Proposals/Options

14. If fees are set lower than those recommended the result will be a deficit for 2018/19 as costs of administering the licences will not be fully met from income received.
15. Fees set higher than those recommended will result in a surplus i.e. an income which exceeds the cost of providing the service.
16. Any such under or over recovery of costs from 2018/19 will be calculated after the end of that financial year and be carried forward to be taken into consideration in setting the fees for 2020/21. Ignoring a surplus or deficit could result in the City Corporation being subject to legal challenge.

Implications

16. Setting the recommended fees will result in estimated income for 2018/19 of approximately £60,000, against a budgeted income of £60,000.
17. Setting fees above or below those recommended will have the implications as set out in paragraphs 14 to 16 above.

Appendices

- Appendix 1 – Proposed Fees for 2018/19

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