

Decision Maker: GENERAL PURPOSES AND LICENSING COMMITTEE

Date: 10 April 2013

Decision Type: Non-Urgent Non-Executive Non-Key

Title: REVIEW OF LICENSED STREET TRADING

Contact Officer: Peter Turvey, Head of Street Regulation
Tel: 020 8313 4901 E-mail: Peter.Turvey@bromley.gov.uk

Chief Officer: Nigel Davies, Executive Director of Environment and Community Services

Ward: (All Wards);

1. Reason for report

This report reviews the scale of fees and amendments to locations and goods in respect of the existing licensed street trading scheme, (the "scheme")

2. **RECOMMENDATION(S)**

2.1 **To approve, in principle, the following:**

- a) **Amendments to locations and goods where street trading be permitted, as set out in Appendix "A", to take effect from 1st October 2013, subject to formal consultation being undertaken and a further report being submitted thereafter.**
- b) **Note the fees payable for street trading applications and licences, as set out in Appendix "B".**

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Quality Environment Vibrant, Thriving Town Centres:
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Financial

1. Cost of proposal: Estimated Cost: Increase in income in line with inflation (£2,546)
 2. Ongoing costs: Recurring cost: Increase in income of £2,546 per annum
 3. Budget head/performance centre: Highways (Streetscene and Greenspace Division)
 4. Total current budget for this head: £2.4m
 5. Source of funding: Existing revenue budget for 2013/14
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Staff

1. Number of staff (current and additional): 1.5 FTE
 2. If from existing staff resources, number of staff hours:
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Legal

1. Legal Requirement: Statutory Requirement:
 2. Call-in: Not Applicable:
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All residents and visitors
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 For the purpose of controlling street trading in the borough, the Council implemented the London Local Authorities Act 1990. The scheme started in 1991 with eight individual licensed street traders and this has increased to 16 individual pitches with permanent licences and 41 individual pitches with temporary licences. The scheme has also successfully controlled illegal street trading activities, not only by itinerant traders, but also the advertising of vehicles for sale on the street for commercial purposes. For the various street markets that take place around the borough on a regular and ad hoc basis, the scheme has been successful in controlling these activities to align with current legislation. However, for the purposes of this report, licence fees and other matters related specifically for street markets will be the subject of a separate future report.
- 3.2 The scheme was last reviewed in October 2007 when it was approved to use the legislation to enable certain businesses to utilise the public footway, where there was sufficient space, for the purposes of placing their tables and chairs outside and for external shop displays. This has proved successful for appropriate businesses to use the public footway in a legal and controlled way. It was also approved to licence street trading activities on open privately maintained areas of land adjacent to the street, such as private forecourts, to street traders not in association with the business of the landowner. At the meeting of the Environment PDS Committee on 5 March 2013 (Report No.RES13057), the Environment Portfolio Holder approved for temporary items, such as, tables and chairs, placed on open private forecourt areas that had established rights of way across them, to be licensed under this scheme. This arrangement started on 1 April 2013 and will continue on a case by case basis.
- 3.3 From December 2007 fixed penalty notices were introduced in respect of street trading offences. To date a total of 56 fixed penalty notices have been issued, the majority of which have been for vehicles being advertised for sale on the street, a practice where a street trading licence would not be considered. The use of fixed penalty notices has proved to be a quick and efficient method for taking enforcement action.
- 3.4 There are four categories of licences for street trading activities, as follows;
- a) Full licence – valid for a three-year period, granted to established traders where their goods/services have been designated and where the pitch has been designated as a “licensed street”.
 - b) Temporary licence – valid for any period up to six months, granted to new and seasonal traders that can be renewed to appropriate traders.
 - c) One-day temporary licence – valid for one day only, granted mainly to traders for special events.
 - d) Temporary charity licence – valid for any period from one day up to six months, granted only to registered charities wishing to sell goods in connection with their fundraising activities. These are issued free of charge.
- 3.5 All established street traders, where their trading is continuous throughout the year, should be granted full licences. It is proposed to designate the goods/services and pitches to “licensed streets” to 23 of the existing street traders currently on temporary licences to enable the granting of full licences. It is also proposed to de-designate Pitch 24 where the street trader has moved away, no further street trading has taken place and the site is no longer considered suitable for street trading purposes. Appendix “A” describes the proposed changes at individual pitches.

3.6 The scale of fees for street trading is intended to recover the cost of administering the scheme and for enforcement against illegal street trading. Annual fees for full licences are paid six months in advance, half payable in March and the balance in September. Fees for temporary licences are paid in advance for the full amount. The level of the fee is based on the number of days trading in a week. There is an enhanced rate of fee for those pitches within the pedestrian area of Bromley town centre to account for the additional enforcement and monitoring requirements. For licences granted for tables and chairs, external shop displays and trading from private land, the fees are reduced by 25% as these businesses are already subject to business rates. The processing of a new application for a temporary street trading licence, can be time consuming involving site visits, meetings and other enquiries being made, it is therefore proposed to introduce an application fee to the scale of fees. For successful applicants the application fee would be deducted from the first licence fee invoice. The application fee will not apply for licence renewals, one-day temporary licences or for the temporary charity licence. The licence fees for full and temporary licences are to increase by the rate of inflation on an annual basis from the 1st April of each year.

4. POLICY IMPLICATIONS

4.1 The control of licensed street traders and enforcement action being taken against illegal traders has meant safer roads and pavements for the travelling public. The scheme has also enabled local businesses, mainly restaurants and cafes, to provide al fresco facilities, which has helped towards vibrant thriving town centres for Building a Better Bromley.

4.2 The street trading licensing scheme continues to be self-financing from the fees collected.

5. FINANCIAL IMPLICATIONS

5.1 The legislation allows the Council to recover sufficient fees to cover administration and enforcement costs. To enable full recovery of costs incurred, an application fee for new street trading applicants has been introduced and for the licence fees to increase by the rate of inflation on an annual basis and implemented from the 1st April of each year. The licence fees for the financial years 2012 / 2013 and 2013 / 2014 are as indicated in Appendix "B".

5.2 The present income from street trading licence fees for regular street traders, not including those from town centre markets or one-day temporary street trading licences, is £107,412. With the rate of inflation increase and assuming the same number of traders, the income in 2013/2014 is expected to be £109,958. An analysis of street traders' licence fee income is shown in Appendix "C".

6. LEGAL IMPLICATIONS

6.1 When it is proposed to designate or de-designate a pitch, change the goods to be sold or alter the scale of fees and charges, notice of the proposal must be given and a period of consultation undertaken. If the present proposal is approved, it is intended that at least 28 days will be allowed for such consultation and thereafter a further report will be submitted giving details of the comments and objections received and seeking the Portfolio Holder's approval (with or without modification) to the proposed changes.

6.2 In considering the level of fees charged to traders the Council may set them at such rates that in the aggregate taking one year with another they are sufficient to cover the reasonable costs, not otherwise, recovered of:

- a) the collection, removal and disposal of refuse or other services given to the licence holders;
- b) street cleaning so far as this is attributable to the trading;

c) reasonable administrative or other costs incurred in administering and enforcing the scheme;

6.3 At the present time the traders themselves are responsible for the disposal of any refuse at their stalls. There is no additional street cleaning. If the changes are approved, this will constitute a resolution pursuant to Section 24 of the London Local Authorities Act 1990 and the Council must publish details for two consecutive weeks in the local press at least 28 days before the resolution is due to come into force.

7. PERSONNEL IMPLICATIONS

7.1 There has been an increase in the number of street trading activities taking place. These additional commitments are currently being met through existing resources.

Non-Applicable Sections:	None
Background Documents: (Access via Contact Officer)	Pitch Designations and Licence Fees for Street Trading, dated 26 June 2007. Report number ELS07093. Proposal to Introduce Fixed Penalty Notices in Respect of Street Trading, dated 02 October 2007. Report number ELS 07133 Enforcement Policy Concerning Shop Forecourts under the Highways Act 1980. Report number RES13057.