

ARMAGH BANBRIDGE CRAIGAVON DISTRICT COUNCIL

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AMENDMENT RECORD SHEET

Remove and destroy old pages. Insert new pages as indicated.

Revision Number	Page Number	Date Revised	Description of Revision

1. INTRODUCTION

This policy relates to the setting of discretionary level of fees under the Street Trading Act (NI) 2011 by Council considering the factors which will provide the Council with a means of covering its costs in relation to the administration of the legislation.

2. AIM/PURPOSE

The aim of this document is to ensure that the setting of discretionary fees for street trading licences under The Street Trading Act (NI) 2001 is carried out in a consistent manner and includes all relevant factors.

The purpose of this policy is to provide guidance on matters that should be considered when deciding fees for street trading licences.

3. BACKGROUND/SCOPE

The Street Trading Act (NI) 2001 came into operation on 1 October 2001.

Guidance on the Act is provided by the April 2001 Department for Social Development publication 'Guide to the Street Trading Act (NI) 2001.

Subject to the provisions of the Act, no person shall engage in street trading in any street, unless that person is authorised to do so by a Stationary Street Trading Licence or Mobile Street Trading Licence or a Temporary Licence granted by the Council.

A street includes a road, footpath or public place. A public place is defined as all land (subject to several exceptions) within 10 metres of a road and may include what might normally be regarded as private land.

There are three types of licence which may be issued by the Council namely, stationary, mobile and temporary.

Stationary	The Council may pass a resolution designating a street or part of a street within the Council District for which it may allocate street trading pitches to holders of street trading licences.
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Mobile	The Council may issue a licence to a trader who from a vehicle moves from place to place stopping for a time for the purposes of trading, for example, an ice cream van. The Council will agree the areas in which the applicant may trade.
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Temporary

The Council may issue a temporary licence where a full-term licence may not be appropriate, for example, for special events such as festivals, fairs etc. A temporary licence can last up to seven days and only five such licences can be issued to the same person in a 12 month period.

A key theme of the legislation is consultation and openness and therefore, public notice must be given of the Council's intention and subsequent decision to designate streets for the purposes of trading and the level of fees set for an application and licence.

The policy will therefore apply to Council in making decisions on fee setting for street trading licences and also inform applicants/service users of the principles applied in the decision making process.

4 GENERAL PRINCIPLES

4.1 FEE SETTING

Under Section 15 of the Street Trading (Northern Ireland) Act 2001, the Council may determine fees for the grant or renewal of a street trading licence; for the grant of a temporary licence; or for varying the conditions specified in a street trading Licence.

In determining such fees the Council may recover from the holders of licences such amounts as may be sufficient in the aggregate, taking one year with another, to recover any reasonable administrative or other costs in connection with its functions under the Act. This allows the Council to estimate costs for a particular year until actual costs are known and it may then adjust the licence fee for the next year as appropriate.

The Act restricts the maximum level of fee, to that required to cover the Council's costs in administering the scheme. Case Law ⁽¹⁾ has emphasised that Councils cannot charge for the cost of enforcing the requirements of the Act incurred against unlicensed activities.

4.2 FEE STRUCTURE

The following four elements have been included in the calculation of the proposed fee structure:

4.2.1 Designation/Rescinding of Streets

Section 3 of the Street Trading Act allows a district council to designate specific streets in its area as being suitable for stationary street trading.

The Council will review all designated areas for stationary street trading every 3 years. If at any time during a calendar year, a request is received for an area to be considered for Designation as a stationary street trading location, the applicant will be advised that this will be considered at the beginning of the next calendar year.

⁽¹⁾ (R Hemming & others v Westminster Council 103)

The duty of the Council is to make sure that each location is fairly, independently and objectively assessed and that all relevant factors are considered with each case considered on its own merits.

The Council will carry out a consultation in relation to the designation process.

The Council will publish in at least two newspapers circulating in the district a Notice regarding its intention to pass a resolution which would permit stationary street trading at a specific location(s) or to rescind or vary such existing designating resolution.

The cost for designation process, including advertising, will be spread over 3 years and any additional costs accrued from intervening designations will be considered in the next 3 year review.

The operational procedure for street trading provides further detail on these matters.

4.2.2 Review of Fees

The Application and Licence Fees will be reviewed as necessary or within a period of three years. In reviewing the scale of fees the Council will determine a fee which provides for cost recovery where possible.

The legislation sets out the administrative procedure for the review of fees which includes the publication of notices in newspapers.

4.2.3 Administration Costs

This factor includes costs for staff time for the administration and processing of a licence application.

4.2.4 Compliance Monitoring

Compliance monitoring costs consist of the cost of inspecting licensed traders throughout the term of their licence to ensure adherence to licence conditions. This cost does not include enforcement action taken against unlicensed activity.

4.3 APPLICATION AND LICENCE FEE REFUNDS

In the event of an application for a street trading licence being refused or revoked, the applicant or licence holder will receive a partial refund (excluding all administration costs). Refunds will be in accordance with the requirements of the Street Trading Act.

4.4 REVIEW

This document, including the Application and Licence Fees, will be reviewed as necessary or within a period of three years

5 RELATED POLICIES

Fees Policy

6 EQUALITY SCREENING FORM (to be attached as an appendix to all policies)

Attached.

7 DRAFT EQUALITY IMPACT ASSESSMENT AND OTHER IMPACT ASSESSMENTS

This Policy has been 'screened out' for an Equality Impact Assessment which is not required as this a technical document.

Policy Screening Form

Policy Scoping

Policy Title: Policy for Fee setting of Street Trading licences

Brief Description of Policy (please attach copy if available). Please state if it is a new, existing or amended policy.

This is a new policy dealing with the legislative and guiding principles to be applied in relation to the setting of discretionary fees associated with the administration of the Street Trading (NI) Act 2001

Intended aims/outcomes. What is the policy trying to achieve?

The purpose of this policy is to provide guidance on matters that should be considered when deciding fees for street trading licences to ensure a consistent approach which includes all relevant factors within the final charge.

Policy Framework

Has the policy been developed in response to statutory requirements, legal advice or on the basis of any other professional advice? Does this affect the discretion available to Council to amend the policy?

Policy is based on legislative provisions of the Street Trading (NI) Act 2001 and relevant guidance

Are any Section 75 categories which might be expected to benefit from the policy? If so, please outline.

No. This policy will have no impact on equality.

Who initiated or wrote the policy (if Council decision, please state). Who is responsible for implementing the policy?

Who initiated or wrote policy?
Environmental Health LGR team

Who is responsible for implementation?

Are there any factors which might contribute to or detract from the implementation of the policy (e.g. financial, legislative, other)?

None foreseen

Main stakeholders in relation to the policy

Please list main stakeholders affected by the policy (e.g. staff, service users, other statutory bodies, community or voluntary sector, private sector)

Holders or potential holders of street trading licences

Are there any other policies with a bearing on this policy? If so, please identify them and how they impact on this policy.

Fees Policy provides general overarching principles on fee setting

Available Evidence

Council should ensure that its screening decisions are informed by relevant data. What evidence/information (both qualitative and quantitative) have you gathered to inform this policy? Specify details for each of the Section 75 categories.

Section 75 category	Evidence
Religious belief	N/A
Political opinion	N/A
Racial group	N/A
Age	N/A
Marital status	N/A
Sexual orientation	N/A
Men and women generally	N/A
Disability	N/A
Dependants	N/A

Needs, experiences and priorities

Taking into account the information gathered above, what are the different needs, experiences and priorities of each of the following categories in relation to this particular policy/decision?

Section 75 category	Needs, experiences and priorities
Religious belief	N/A
Political opinion	N/A
Racial group	N/A
Age	N/A
Marital status	N/A
Sexual orientation	N/A
Men and women generally	N/A
Disability	N/A
Dependants	N/A

Screening Questions

1. What is the likely impact on equality of opportunity for those affected by this policy for each of the Section 75 categories?

Category	Policy Impact	Level of impact (Major/minor/none)
Religious belief	None	None
Political opinion	None	None
Racial group	None	None
Age	None	None
Marital status	None	None
Sexual orientation	None	None
Men and women generally	None	None
Disability	None	None
Dependents	None	None

2. Are there opportunities to better promote equality of opportunity for people within the Section 75 categories?

Category	If yes, provide details	If no, provide reasons
Religious belief	None	None
Political opinion	None	None
Racial group	None	None
Age	None	None
Marital status	None	None
Sexual orientation	None	None
Men and women generally	None	None
Disability	None	None
Dependents	None	None

3. To what extent is the policy likely to impact on good relations between people of different religious belief, political opinion, or racial group?

Category	Details of Policy Impact	Level of impact (major/minor/none)
Religious belief	None	None
Political opinion	None	None
Racial group	None	None

4. Are there opportunities to better promote good relations between people of different religious belief, political opinion or racial group?

Category	If yes, provide details	If no, provide reasons
Religious belief	None	None
Political opinion	None	None
Racial group	None	None

Multiple Identity

Generally speaking, people fall into more than one Section 75 category (for example: disabled minority ethnic people; disabled women; young Protestant men; young lesbian, gay and bisexual people). Provide details of data on the impact of the policy on people with multiple identities. Specify relevant s75 categories concerned.

N/A

Disability Discrimination (NI) Order 2006

Is there an opportunity for the policy to promote positive attitudes towards disabled people?

N/A

Is there an opportunity for the policy to encourage participation by disabled people in public life?

N/A

Screening Decision

A: NO IMPACT IDENTIFIED ON ANY CATEGORY – EQIA UNNECESSARY

Please identify reasons for this below

This is a technical document which implements legislative requirements

B: MINOR IMPACT IDENTIFIED – EQIA NOT CONSIDERED NECESSARY AS IMPACT CAN BE ELIMINATED OR MITIGATED

Where the impact is likely to be minor, you should consider if the policy can be mitigated or an alternative policy introduced. If so, EQIA may not be considered necessary. You must indicate the reasons for this decision below, together with details of measures to mitigate the adverse impact or the alternative policy proposed.

C: MAJOR IMPACT IDENTIFIED – EQIA REQUIRED

If the decision is to conduct an equality impact assessment, please provide details of the reasons.

Timetabling and Prioritising

If the policy has been screened in for equality impact assessment, please answer the following questions to determine its priority for timetabling the equality impact assessment.

On a scale of 1-3 with 1 being the lowest priority and 3 being the highest, assess the policy in terms of its priority for equality impact assessment.

Priority criterion	Rating (1-3)
Effect on equality of opportunity and good relations	
Social need	
Effect on people's daily lives	

The total rating score should be used to prioritise the policy in rank order with other policies screened in for equality impact assessment. This list of priorities will assist the council in timetabling its EQIAs.

Is the policy affected by timetables established by other relevant public authorities? If yes, please give details.

Monitoring

Effective monitoring will help the authority identify any future adverse impact arising from the policy. It is recommended that where a policy has been amended or an alternative policy introduced to mitigate adverse impact, monitoring be undertaken on a broader basis to identify any impact (positive or adverse).

Further information on monitoring is available in the Equality Commission’s guidance on monitoring

Identify how the impact of the policy is to be monitored

Policy will be reviewed should complaints or issues arise

Approval and Authorisation

A copy of the screening form for each policy screened should be signed off by the senior manager responsible for that policy. The screening recommendation should be reported to the relevant Committee/Council when the policy is submitted for approval.

Screened by	Position/Job title	Date
Gillian Topping	Head of Environmental Health (Banbridge DC)	27.10.14
Approved by	Position/Job Title	Date
Roger Wilson	Chief Executive	27.10.14

Please forward a copy of the completed form with policy attached to XXX Officer who will ensure that screening forms and policies are available on the Council website.

This officer is also responsible for issuing reports on a quarterly basis on those policies “screened out for EQIA”. This allows stakeholders who disagree with this recommendation to submit their views. In the event of any stakeholder disagreeing with the decision to screen out any policy, the screening exercise will be reviewed.