

REPORT TO: Executive Board

DATE: 11 April 2019

REPORTING OFFICER: Strategic Director, Enterprise, Community & Resources

PORTFOLIO: Physical Environment

SUBJECT: Widnes Market- Protocol & Charging Policy update report

WARDS: Borough-wide

1.0 PURPOSE OF THE REPORT

1.1 The purpose of the report is to seek approval from Members in respect of some proposed amendments to the Market Charging Policy and Protocol documents.

2.0 RECOMMENDATION: That Members approve the proposed amendments to the Market Charging Policy and Protocols with immediate effect.

3.0 SUPPORTING INFORMATION

3.1 As of 1st October 2018 a revised management structure was adopted for the Markets. One of the initial tasks of the new management regime was to review the charging policy and protocols to ensure they remain up to date, fit for purpose and reflected any legislative or other changes since they were last reviewed in 2014.

3.2 An Internal Audit report has recently been completed in respect of the existing control measures in place at the Market, and whilst the outcome was an adequate assurance rating, a number of recommendations were included to help strengthen existing arrangements, and as such these have been included in the revised documents.

3.3 The existing charging policy, which provides a framework for clarity, transparency and equity in how we charge traders for renting space within the Market, was approved by Executive Board on 4th September 2014, (Minute EXB54). Since the Policy was introduced the only variation has been a 3% uplift in rents which was introduced in April 2016.

3.4 Following the review of the existing charging policy document and after assessing current income levels which remain fairly positive, the budgeted net income for 2019/20 being £640k, there is no intention to

uplift rental charges as such all charges are to remain the same for 2019/20. The main proposed changes within the charging policy document are as follows:-

- a The figures within the document have been updated to reflect the 3% uplift which was introduced in 2016.
- b A clause is to be included to allow a review of electricity charges on an annual basis, to allow us to uplift them in line with variations in rates the Council is subject to from our energy provider.
- c The clause relating to the amount of deposit taken from existing traders when they take additional stalls is to be amended from one months' full rent to a half months' rent to help encourage existing traders to expand.
- d It is proposed to utilise the outdoor Market space on a Thursday for specialist markets, such as Farmers Markets, Vintage Markets etc. This will mean the current retail market on Thursday will no longer run, this is due to the lack of traders attending on a Thursday, and in some case no traders turn up at all. By making better use of this space through specialist markets this should help promote public interest and increase footfall.

3.5 Following the review of the Protocols and taking on board the recommendations from the recent Audit report the main proposed changes within the Protocol documents are as follows:-

- a The documentation prospective new traders need to provide prior to being allowed to rent a stall is being enhanced in line with Audit recommendations. In addition to existing requirements they will need to provide verification of eligibility to work in the UK, and where the proposed new business relate to food sales or skin piecing they must provide evidence that they are registered with Environmental Health before they can begin trading.
- b In addition to the public liability insurance cover all traders must have an additional clause stating all traders who employ staff must provide evidence of employers liability insurance cover is also being included, this being another recommendation from the Audit report.

- c There is currently no fixed term tenure for the Market Trader representative post, as such we propose to introduce a 3 year tenure to this position. The existing post holder has agreed to continue to 31st March 2020, so an election will be organised in due course. The remit of the position is to be the collective voice of the traders and to sit on the Market Panel in an advisory capacity only when the panel meet on a monthly basis to make decisions re potential new traders and new commodity requests.
- d A clause is being introduced to stop 'commodity blocking' which traders have raised as a concern. This will allow commodities that are not being actively sold by a trader to be offered to other traders after a period of 3 months.
- e The clause dealing with encroachment is to be amended to include a specific dimension of 600mm to ensure there is no ambiguity in respect of how much floor space a trader can use to display goods outside the boundary of their stall.
- f The section dealing with formal trader complaints is to be updated so that it corresponds with the current corporate complaints procedure which has been updated since the protocols were last amended.
- g The section dealing with suspension and termination of Traders from the Market is to be updated. Currently Market Traders who receive three formal written warning notices within any 12 month period are issued with a suspension notice. A further three formal warning notices have to be issued within the next 12 month period before a second suspension notice is issued, and then a further 3 formal warning notices issued within the next 12 month period before a termination notice is issued, meaning 9 formal warning notices have to be issued before a tenancy is terminated.
- h Under the existing arrangements it is clearly a very lengthy process to terminate the tenancy of a trader who is clearly being consistently non-compliant with the rules and procedures contained in the protocols. It is therefore proposed that following the initial 3 formal warning notices and a subsequent notice of suspension, that 1 further formal warning notice within a 12 month period from the date of the 1st notice of suspension, would lead to a second suspension notice, and likewise a further formal warning notice within the next 12 month period from the date of the second notice of suspension, would lead to a termination notice, meaning that only 5 formal warning notices would have to be issued before a tenancy is terminated.
- i The Tenancy at Will document, which is the agreement the indoor traders have, allows for termination of the tenancy at any time, if a trader is complying with the stipulations and terms of the tenancy

however the Council can still terminate the tenancy but 28 days' notice in writing will be given. This clause clearly negates the above procedure however it is envisaged this would only be used in exceptional circumstances.

J It is proposed that all new commodity requests from existing traders and all new stall requests from proposed traders will be assessed in the first instance by the market management team, and the Trader Liaison Officer. This team will make appropriate recommendations in respect of approval or otherwise which will be presented to the Market Panel for a decision on a monthly basis.

K In respect of the above it is proposed that a more relaxed approach will be taken to 'free trade principles' when both recommendations and decisions are taken in order to promote more competition within the Market, with the objective of enhancing the overall offer to the general public.

4.0 POLICY IMPLICATIONS

4.1 The updated Charging Policy and Protocols documents will ensure that there are fully up to date transparent working procedural documents in place which will help ensure that staff members and traders/tenants alike understand the consistent approach taken to both charging matters and Market procedural matters, which will be for the benefit of all.

5.0 FINANCIAL IMPLICATIONS

5.1 It is not anticipated that there will be any significant negative financial implications as a result of the updated documentation. It is anticipated that income will remain broadly in line with previous years

6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

6.1 Children and Young People in Halton

None anticipated

6.2 Employment, Learning and Skills in Halton

None anticipated

6.3 A Healthy Halton

None anticipated

6.4 A Safer Halton

Non anticipated

6.5 Halton's Urban Renewal

The Market is a key ingredient of Widnes town centre's retail core offer as such it is important to the health of the town centre as a whole that the Market remains viable and that it's businesses are helped to prosper

7.0 RISK ANALYSIS

7.1 The inclusion of the recommendations from the recent Internal Audit report on the Market will ensure that the Council's exposure to risk will be reduced as a result of the more thorough checks undertaken at the outset prior to prospective traders being allowed to commence trading.

7.2 The proposal to reuse the outdoor market space on a Thursday and introduce a specialist market day instead on certain Thursdays may cause some traders a small loss of income, as there are a handful of traders who usually do operate on a Thursday. However the number of traders operating on a Thursday has dwindled significantly over the last 12 months, with some Thursday's no traders turning up at all. In order to give traders plenty of notice and staff the time to organise these Market days it is proposed that the regular Thursday Market will close as of 30th June 2019. It is hoped that these specialist Markets will generate additional footfall which will be to the benefit of the Market as a whole.

8.0 EQUALITY AND DIVERSITY ISSUES

8.1 Our Traders are treated fairly and consistently and the updated policies will ensure that this continues. There are no negative equality and diversity issues as a result of the updated policies.

9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

9.1 None.