



Report to:	Development Committee
Subject:	Markets rights policy – clarification on fee rates
Date:	20 January 2015
Reporting Officer:	John McGrillen, Director of Development, ext 3470
Contact Officers:	Clodagh Cassin, Markets Development Manager, ext 5455

1	Relevant Background Information
1.1	Members will be aware that, in June 2012, the Development Committee approved a new Markets Rights policy for the Council. This policy set in place a framework which allowed the Council to utilise its historic rights to hold markets and to extend these rights to third party organisations to allow them to operate independent markets.
1.2	The main driver of this policy was the growing number of requests for Council from private operators to establish their own markets. A public consultation on the policy was carried out in the Summer of 2011 and the policy was endorsed by the Development Committee at its June 2012 meeting.
1.3	The policy sets out the various types of markets, the relevant conditions and the fees applicable to each. Currently, there are two elements to the market licence fee, namely a one-off licence fee and a fee per stall for each market day. The policy states that both the licence fees and the fees per stall will be waived for any market which is organised “for solely charitable purposes”. It also notes that discounted licence fees will be payable for events run by charities or non-commercial operators.

2	Key Issues
2.1	At the time of drafting the markets rights policy, the reference to markets held for “solely charitable purposes” was intended to cover one-off fund-raising events for a specific purpose, for example a car boot sale in aid of a child’s medical treatment. However, with the policy now in operation for over two years, it has become apparent that there is some ambiguity around what types of activities this might incorporate.
2.2	Officers have therefore engaged with colleagues from the Legal Services section to consider how the policy could be amended to clarify this point. Given that

	<p>there are a number of applications pending, a proposed clarification has been provided within the report. This simply seeks to provide additional clarity around the terminology used in the existing policy with regard to fees payable. It is proposed that a full review of the policy will be carried out in the coming months, with the revised policy to be brought back to the relevant Council committee for endorsement.</p>
2.3	<p>At present, fees (both licence fees and stallage fees) are waived in the case of car boot sales/speciality markets “operated for solely charitable purposes”. Discounted licence fees and full stallage fees are payable in the case of car boot sales/speciality markets operated by a non-commercial organisers/operators or by a registered charity.</p>
2.4	<p>The current fee levels are:</p> <ul style="list-style-type: none"> – £50 for a one-off licence – £100 for a licence to cover multiple markets – £6 per stall at markets/£3 per stall at car boot sales.
2.5	<p>While the policy refers to a “discounted licence fee” in certain instances, no discounted fees have been applied to date. In all instances, markets have been either considered as “solely for charitable purposes” with no fees payable, or operated on a commercial basis, with full fees payable.</p>
2.6	<p>There are a number of different business entities working for charitable, non-commercial and commercial purposes. The Charity Commission estimates that there are between 7,000 and 12,000 charities currently operating in Northern Ireland.</p>
2.7	<p>Community Interest Companies (CICs) were created by the Companies (Audit, Investigations and Community Enterprise) Act 2004 and are a special type of limited company which is intended to benefit the community rather than private shareholders. A CIC is a social enterprise and a business with primarily social objectives whose surpluses are principally reinvested for that purpose in the business or in the community. According to the Community Interest Company Association there are nearly 10,000 CICs across the UK (no figures are currently available for Northern Ireland).</p>
2.8	<p>The benefit of establishing a CIC as opposed to a charity is, in part, due to the restrictions which are imposed on the trading abilities of charities. No such restrictions apply to a CIC. In addition, the founder of a CIC can be paid for their work.</p>
2.9	<p>Advice from our Legal Services team suggests that it is unlikely that a CIC will meet the criteria set out in the policy in respect of events for “solely charitable purposes” as there is no requirement for them to comply with this objective. While a CIC has a community focus as opposed to pursuing solely commercial interests, it does not have to exist for “solely charitable purposes”. In this regard, it is suggested that it does not meet the current stipulations of the policy in terms of organisations exempt from fee payments but that it benefits from the discounted licence fee that is applied to non-commercial organisers/operators or by registered charities.</p>
2.10	<p>If stall fees were waived for both charities and CICs, this could represent a significant loss of potential income to the Council. Given the management</p>

	<p>associated with processing these markets applications, there is a need to allocate officer time to this activity and this is likely to increase as interest as markets grow. By way of example, based on a 30 stall weekly market at £6 per stall, a full fee waiver would mean an annual loss of income of £9,000 to the Council for that market alone.</p>												
2.11	<p>In order to address the confusion with the existing policy, the following clarification is proposed:</p> <table border="1" data-bbox="327 492 1380 1243"> <thead> <tr> <th data-bbox="327 492 678 560">Description of organiser</th> <th data-bbox="678 492 1029 560">Licence fee payable?</th> <th data-bbox="1029 492 1380 560">Stallage fees payable?</th> </tr> </thead> <tbody> <tr> <td data-bbox="327 560 678 929">Organisation operating for "solely charitable purposes", namely a charity, sporting group, social group, church or one-off fundraising market where the event is staffed by volunteers and the groups receives full proceeds of the sale</td> <td data-bbox="678 560 1029 929">No</td> <td data-bbox="1029 560 1380 929">No</td> </tr> <tr> <td data-bbox="327 929 678 1198">Registered charity, non-commercial organisation including CICs, social enterprises and organisations where the primary purpose is not for commercial return</td> <td data-bbox="678 929 1029 1198">Discounted licence fee payable</td> <td data-bbox="1029 929 1380 1198">Yes</td> </tr> <tr> <td data-bbox="327 1198 678 1243">All other markets</td> <td data-bbox="678 1198 1029 1243">Yes</td> <td data-bbox="1029 1198 1380 1243">Yes</td> </tr> </tbody> </table>	Description of organiser	Licence fee payable?	Stallage fees payable?	Organisation operating for "solely charitable purposes", namely a charity, sporting group, social group, church or one-off fundraising market where the event is staffed by volunteers and the groups receives full proceeds of the sale	No	No	Registered charity, non-commercial organisation including CICs, social enterprises and organisations where the primary purpose is not for commercial return	Discounted licence fee payable	Yes	All other markets	Yes	Yes
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2.12	<p>It is also proposed that the discounted licence fee rate is set at 50% of the full licence fee, i.e. £25 licence fee payable for a one-off market and £50 licence fee for a recurring market. The full stallage fees would be payable.</p>												
2.13	<p>Should Members agree this clarification on the fees, a full review of the policy will be undertaken by the Markets Unit and Legal Services in the coming months and the revised policy will be brought back to the relevant Council committee for endorsement.</p>												

3	Resource Implications
3.1	<p>No specific resource requirements, apart from officer time to process and manage market applications. The policy is currently generating small levels of income the Council each year but the management costs are currently in excess of the licence fees generated.</p>

4	Equality and Good Relations Considerations
4.1	<p>Equality and good relations considerations were taken account of in developing the original policy.</p>

5	Recommendations
5.1	<p>Members are asked to:</p> <ul style="list-style-type: none"> – Note the current markets rights policy and references to fee waiver/discounted fee rates – Agree the clarification provided at 2.10 regarding licence fees and stallage fees payable by market operators – Note the proposal to review the markets licence policy and to bring the revised policy back to the relevant Council committee for endorsement.

6	Decision Tracking
Timeline: June 2015	Reporting Officer: John McGrillen