



## Markets Rights Policy 2012

### Contents

<b>1. Introduction .....</b>	<b>1</b>
<b>2. Purpose of this policy .....</b>	<b>4</b>
<b>3. General principles.....</b>	<b>5</b>
<b>4. Grant of licence .....</b>	<b>6</b>
<b>5. Multiple applications.....</b>	<b>6</b>
<b>6. Grounds for refusal.....</b>	<b>7</b>
<b>7. Revocation of licence.....</b>	<b>7</b>
<b>8. Suspension of a licence .....</b>	<b>8</b>
<b>9. Procedural requirements for applicants.....</b>	<b>8</b>
<b>10. General conditions.....</b>	<b>9</b>
<b>Appendix one .....</b>	<b>12</b>
<b>Appendix two .....</b>	<b>13</b>
<b>1. Car Boot sales.....</b>	<b>13</b>
<b>2. Farmers' market.....</b>	<b>14</b>
<b>3. Speciality market.....</b>	<b>15</b>
<b>4. Regular market.....</b>	<b>16</b>

## 1. Introduction

- 1.1 Belfast City Council holds the exclusive market rights for Belfast and no other market may operate legally within a 6 and 2/3 mile radius of a market operated by the Council. Exclusive market rights are therefore a valuable commercial asset to the city which the Council intends to retain, and has taken legal action in the past to protect.
- 1.2 The history as to how Belfast City Council came to be in possession of those rights is detailed in **Appendix One**.
- 1.3 However, the Council recognises that markets in Belfast have changed considerably and extend well beyond those envisaged when market rights were first obtained by the Council in the 17<sup>th</sup> century and by virtue of legislation in 1845. Markets are now often deliberately produced and consumed as authentic local experiences designed with the visitor in mind; as places to go, animated with music,

performances and entertainment; and as initiators of city and neighbourhood regeneration. A large element of markets' evolution has been their ability to attract footfall and income to localities starved of investment and as a means of kick starting community confidence in the potential of an often forgotten space or place. As part of Belfast's transformation in the post peace process era, we have seen the rapid expansion of market type activity as part of festivals, special events and community fundraisers.

- 1.4 Whilst many of these types of activities extend beyond the traditional market definition, they are a type of market and it is important to recognise that they are part of a modern environment and their operation should be supported and placed on a legally sound basis. The role of this policy is to review the current demands and requirements within the city in relation to alternative market creation, operation and enforcement and to take account of the legal position as well as the modern environment and place management agenda.
- 1.5 Belfast City Council therefore wishes to make available the rights which it holds to third parties for the purposes of operating such events, which will be held under licence from the Council, subject to adherence to such terms and conditions as deemed appropriate. The exclusive possession of market rights is a private legal right held by the Council. The purpose of this policy is to set out the basis upon which the Council will allow someone else to use the rights it holds.
- 1.6 The grant of a licence under this policy is different to a licence granted by the Council under a statutory scheme, such as for example a street trading licence under the Street Trading (NI) Act 2001.
- 1.7 Whilst welcoming all such expressions of interest and applications, the Council recognises the contribution in terms of culture, the local economy and tourism already provided in the city by St. Georges Market and Smithfield Market. In those circumstances, no licence shall be granted for a regular market in the city centre on a Friday, Saturday or Sunday save in such circumstances that the Council can be satisfied that the proposal will complement the existing market provision in the city centre.
- 1.8 The Council is also prepared to consider permitting other regular markets outside the city centre in other suitable locations, for example at the North Foreshore, but only where such applications complement existing market provision and comply with the general principles below.
- 1.9 Car boot sales are also a market, although the Council recognises that the majority of such events are held as a one off and for charitable purposes. This is recognised in the application requirements in relation

to such events, which are detailed in Appendix Two, which also holds more detailed provisions in relation to other types of markets.

- 1.10 Each application will be considered on its own merits and will be fairly and objectively assessed.
- 1.11 Belfast City Council is committed to fulfilling its responsibilities under Section 75 of the Northern Ireland Act 1998. Therefore any decision regarding the grant of a market licence will be impartial and shall not be influenced by the religious beliefs, political opinion, racial group, age, gender, marital status or sexual orientation of the applicant.

## **2. Purpose of this policy**

- 2.1 This policy has been developed to set out Belfast City Council's position with regard to markets and the general principles which shall be applied to any expression of interest or application received to hold a market. The policy shall provide guidance to the general public, potential applicants and officers in relation to the licensing of markets.
- 2.2 The policy and the fee structure in relation to holding markets are subject to review through the passage of time and the policy is subject to review where legislative changes make it necessary to do so or in other such circumstances when deemed appropriate or expedient by the Council.

### 3. General principles

- 3.1 Without prejudice to the Council's right to take into account any consideration which it believes to be relevant, when assessing an application the following matters will be considered:
- a. Will the proposal enhance the general amenity (including visual amenity) of the area?
  - b. Will the proposal animate a vacant site in the city?
  - c. Will the proposed type, location or size of the market improve the social and economic development of the area/city?
  - d. Will the proposal contribute to the development of culture, arts and tourism in the city?
  - e. Does the proposal fulfil an objective of Belfast City Council's Corporate Plan and/or is it consistent with any Council policy, strategy or other initiative?
  - f. Is the proposal consistent with any development plan or master plan applicable in or relating to the relevant area?
  - g. Whether the location at which the market is proposed is suitable?
  - h. Whether the relevant planning permission has been obtained?
  - i. Are there any other statutory provisions which appear relevant to the application?
  - j. Is there any risk to public safety?
  - k. What are the potential environmental effects such as additional litter, cleansing requirements, waste disposal, odour and noise and how those will be dealt with?
  - l. Does the location provide adequate space for the proposal without causing undue interference or inconvenience to persons or vehicles?
  - m. Is there potential for the proposal to have an adverse effect in terms of anti-social behaviour and/or public disorder?
  - n. Is the Applicant a fit person to whom a licence should be granted?
  - o. Will the proposed market complement existing market or retail provision in the locality and the city?

## 4. Grant of licence

- 4.1 Decisions regarding the grant of a licence to use the Council's market rights will be considered by the Development Committee and ratified by full Council. However, in the case of car boot sales with less than 20 persons trading; a market which is considered by officers to be *deminimus* and/or any markets which are carried out solely for charitable purposes, the decision as to the grant of such a licence may be taken by an officer or officers authorised in that regard by the Council.
- 4.2 The Council may grant a licence subject to any condition which it sees fit and may grant a licence for the applicant to trade on fewer days, or for a shorter period than that specified in the application.
- 4.3 A licence may be granted for a maximum period of three years or for such shorter period as the Council sees fit, including the grant of licences authorising the holding of a market on a certain date or dates
- 4.4 A review of the new policy will be carried out after six months and then a full review after twelve months.
- 4.5 Where an application has been lodged but the proposed location is not suitable the Council may grant a licence for a nearby alternative location which is more suitable provided the applicant can demonstrate that it has consulted with all appropriate persons.
- 4.6 The decision of the Council will be final.

## 5. Multiple applications

- 5.1 Belfast City Council acknowledge that there may be instances in which more than one application or expression of interest will be received for a proposed market at a specific location.
- 5.2 In those circumstances, the applications will be brought before the Council's Development Committee for consideration, only upon the basis that officers are satisfied that all the necessary consultation has taken place and consents as detailed above have been obtained.
- 5.3 In the case of competing applications the Council will determine which if any to grant a licence to on the merits of the applications and having regard to those matters set out in the Section headed General Principles.

- 5.4 The Council may require Applicants to appear before the Council's Development Committee to make representation and answer questions.

## **6. Grounds for refusal**

- 6.1 The Council reserves the right to refuse an application for any reason.
- 6.2 Without prejudice to that right, the Council will refuse an application in the following circumstances:
- a. Where the applicant has, in connection with the proposal, made a statement which he knows to be false in a material particular;
  - b. The applicant is, whether on account of misconduct or some other reason, unsuitable to hold a licence;
  - c. The applicant has refused or neglected to pay fees or other charges to Belfast City Council in relation to a market licence or any other matter for which the Council is entitled to charge fees;
  - d. Where there is a designated street trading site or market at the proposed location from which a licensed trader is currently operating;
  - e. The applicant has failed to provide all the information required by the Council to deal with the application;
  - f. Where the Council considers there is sufficient market provision in the area already.
- 6.3 The Council may also refuse an application where there are designated street trading sites at the proposed location regardless of whether there is a trader operating from those sites.

## **7. Revocation of licence**

- 7.1 The Council reserves the right to revoke the licence for a breach of any of the conditions under which it was granted or for any other substantial reason.
- 7.2 In any case in which the Development Committee is presented with a report to address the question of revoking a licence it shall give an opportunity to the licence holder to appear before it and make representation prior to a decision being made.

## 8. Suspension of a licence

- 8.1 If the question of revocation arises in the context of public order or public safety an authorised officer may suspend the operation of the licence pending referral to the Development Committee for a decision.
- 8.2 Where the location of a market becomes temporarily unsuitable for any reason, and in particular in relation to any road works or development, the Council reserves the right to suspend a licence until such times as the works or development have been completed.
- 8.3 Where a licence is suspended under paragraph 9.2, the Council will endeavour to facilitate moving such a market to a temporary location, depending on a suitable alternative being identified by the licensee and taking into account the type and scale of the market.

## 9. Procedural requirements for applicants

- 9.1 Applicants must apply to the Council providing full details of the proposal, its location (by reference to an Ordnance Survey map) and the dates and times of operation. The map should be 1:500 scales and should show the location of any existing street furniture and the proposed location of the market.
- 9.2 As this policy relates to the grant of the right to have a market, it does not grant the right to occupy a site for that purpose. Therefore documentary proof that the proposed venue owner consents to the market being held at their venue must be provided.
- 9.3 Applicants must demonstrate that appropriate and sufficient consultation has been undertaken in relation to their proposal with supporting documentary evidence produced. It is expected that applicants will provide all the information referred to in the preceding paragraph to consultees.
- 9.4 Applicants for a licence are required to consult the following:
  - a. P.S.N.I District Commander for the area in which the proposal is situated
  - b. Department of Regional Development as regards roads and the regulation of local traffic
  - c. Department of Social Development (to the extent that the proposed market does not conflict with any proposals DSD has for the area)
  - d. Northern Ireland Fire and Rescue Service

- 9.5 Depending on the scale, location and nature of the proposal, Belfast City Council may require an applicant to consult with such other persons or organisations as it deems appropriate. In addition, the Council may undertake its own consultation with those persons or organisations which it deems to be appropriate.
- 9.6 The Council reserves the right to require the applicant to publish notice of intention to apply for a licence in a newspaper circulating in the area, in accordance with the Council's policy regarding advertising notices, the form of which must be agreed with the Council in advance. In those cases in which the Council does not require publication of a notice, the Applicant will comply with any directions given by the Council regarding consultation with persons residing or trading in the area to which the application relates.
- 9.7 Depending on its size, location and frequency a market may require planning permission.
- 9.8 In the case of a larger market which is operated for profit on more than 14 days in any calendar year, the Council will require proof that planning permission has been granted for the market. Any application which is not supported by proof that permission has been obtained or alternatively proof that the Planning Service have confirmed that it is not required, will be refused.
- 9.9 Applicants will be required to produce a business plan, together with an environmental management plan to demonstrate the arrangements, for example, for cleansing and waste disposal. If granted a licence, a health and safety risk assessment must be carried out prior to opening the market.
- 9.10 In any case in which the application relates to the holding of a car boot sale and the proposal is to hold six or less events in a year and the scale of the event may be regarded as *deminimis* (less than 20 persons trading), the requirement to consult and produce the documents required in the preceding paragraph (with the exception of the risk assessment) will not be required.
- 9.11 The Council may require the Applicant to appear before the Development Committee and to make representation and answer questions in relation to the proposal.

## 10. General conditions

- 10.1 The following conditions will attach to every licence which is granted by the Council, subject to any other additional conditions which the Council deem necessary.
- 10.2 Periodic visits will be made to markets by an officer of the Council to ensure compliance with the conditions of licence. The standard conditions attached to any licence will include a right of access for authorised council officers.
- 10.3 Failure to pay any fees due may result in revocation of the licence and/or may result in future applications being refused.
- 10.4 It is the responsibility of the organiser and operator to ensure that the market does not become a nuisance to residents or neighbouring businesses, and are operated in an appropriate manner, including compliance with relevant legislation for public events and with Belfast City Council's Health & Environmental Services Department and Trading Standards requirements.
- 10.5 The organiser or operator agrees to indemnify the Council against any claims for personal injury, loss or damage howsoever sustained.
- 10.6 The applicant must demonstrate it holds adequate public liability insurance and, if applicable, employers liability and products liability insurance.
- 10.7 If it is proposed that entertainment will be provided at the event, the applicant may be required to apply for an entertainment licence in addition to the market licence.
- 10.8 If it proposed that food will be provided at the event, the applicant and each relevant stall holder shall ensure that the stall is registered with the Council as a food business operator.
- 10.9 All events must be promoted by lawful means. If a licence is granted, it is the responsibility of the organiser/operator to ensure that no unlawful fly posting or leafleting in relation to the event takes place and that no notices, signs or advertisements are fixed on any street furniture, structure or trees.
- 10.10 Event organisers or traders shall not display openly on their stalls, any flags, or emblems of any nature considered by the Council to cause offence.
- 10.11 It is the responsibility of the organiser/operator to ensure that no counterfeit or stolen goods are sold at their event.
- 10.12 All fees are non-refundable.

- 10.13 All matters pertaining to the conduct of the market, including consumer safety and health and safety, are the sole responsibility of the Applicant.
- 10.14 Approval to hold a market is not-transferable to any other person or company.
- 10.15 Breach of any of the above conditions will entitle the Council to determine the licence. In the event that the Council is of the opinion that any of the conditions have been breached and it is minded to determine the licence, it shall give the licence holder the opportunity of appearing before the Development Committee and making representation prior to any decision being made. The decision of the Council will be final.
- 10.16 Applicants should be aware of the council's Good Relations strategy which outlines our commitment to Equality and Good Relations and our obligations under Section 75 of the Northern Ireland Act 1998.

## Appendix one

- 1 The history of Market Rights in Belfast goes back to 1620 when extensive lands in County Antrim were granted to Lord Chichester by King James. In addition to the Grant of those lands, a franchise right to hold a market in the town of Belfast was also granted by the King. These franchise market rights were subsequently transferred to Belfast Corporation in 1847.
- 2 In addition to these franchise market rights, the then Belfast Corporation was granted the power to purchase existing market rights and to provide new market places by virtue of a number of pieces of legislation. The legislation grants Belfast City Council the exclusive right to establish a market within its district, to regulate the conduct of those markets and to make bye-laws in relation to them.
- 3 A market is legally defined as being either a franchise or statutory right to hold a concourse of buyers and sellers to dispose of commodities. The following events would be considered to be a market:
  - a. Farmers market
  - b. Car boot sale
  - c. Specialty market
  - d. Regular variety market
- 4 Any market that is owned or operated, other than by the Council, within a 6 and 2/3 radius is defined in law as a 'Rival Market' and shall be operating illegally. As the Council holds the exclusive right to hold markets, it is entitled to take legal proceedings to restrain any person or organisation from holding such a market. However, it is envisaged that the Council will only grant a licence to proposed markets within the Belfast City Council area.

## Appendix two

### 1. Car Boot sales

- 1.1 Car Boot sales shall be restricted, as far as possible, to householders selling surplus household articles.
- 1.2 No new goods are permitted for sale at any Car Boot sale unless it can be demonstrated that they are unwanted gifts.
- 1.3 The Council may limit the number of trading positions depending upon the nature of the application, particularly with regard to the proposed location of the Market.
- 1.4 Should any part of the site or premises be used for a market, any other part of the site or premises should not be deemed as a separate site or premises for the purposes of this policy. A site must be of a different location, have separate boundaries and be a suitable distance from other sites at which any Market is or has been operating.
- 1.5 If, in the opinion of the Council, any organiser of a car boot sale either directly or indirectly contravenes any of these conditions, then the Council may determine to refuse a subsequent application for a licence from that person by reason of that contravention.
- 1.6 Any venue used for the purposes of a Car Boot sale which, in the opinion of the Council, either directly or indirectly is used in contravention of these conditions will not be permitted to host any further markets of any description until such times as the matters giving rise to the breach have been remedied to the Council's satisfaction.
- 1.7 In respect of a car boot sale organised by a commercial organiser or operator, a basic market rights licence shall be payable upon application. The organiser or operator must also pay an additional fee per trading position. This fee will be waived for any market which is organised by a charity or operated for solely charitable purposes.
- 1.8 In respect of a car boot sale operated by a non-commercial organiser/operator or by a registered charity, a discounted basic market rights licence shall be payable upon application. The organiser or operator may also pay an additional fee per trading position.
- 1.9 A registered charity must provide written confirmation of their registered charity number and that the full proceeds of the event will be received by the organisation must be sent at the same time as the application for a licence.

## **2. Farmers' market**

- 2.1 A Farmers' market is a themed market whereby farmers or producers meet to sell their own produce.
- 2.2 The organiser/operator of the market must supply the Council with the register of all farmers trading at the market, together with the address of the farm.
- 2.3 The Council may limit the number of trading positions depending upon the nature of the application, particularly with regard to the proposed location of the Market.
- 2.4 Only one individual will be permitted to apply per household.
- 2.5 No licence for a Farmer's market shall be granted on a Friday or Saturday.
- 2.6 Should any part of the site or premises be used for a market, any other part of the site or premises should not be deemed as a separate site or premises for the purposes of this policy. A site must be of a different location, have separate boundaries and be a suitable distance from other sites at which any market is or has been operating.
- 2.7 If, in the opinion of the Council, any organiser of a Farmer's Market either directly or indirectly contravenes any of these conditions, then the Council may determine to refuse a subsequent application for a licence from that person by reason of that contravention.
- 2.8 Any venue used for the purposes of a Farmer's Market which, in the opinion of the Council, either directly or indirectly is used and contravention of these conditions may not be permitted to host any further markets until such times as the matters giving rise to the breach have been remedied to the Council's satisfaction and, if appropriate any necessary undertakings are provided as regards to future conduct.
- 2.9 A market rights licence fee will be charged per trading day and must be paid in full upon application. The organiser or operator may also pay an additional fee per trading position.

### 3. Speciality market

- 3.1 Speciality markets are those where there is a specialised theme or grouping of produce or goods that make the event more than a car boot sale or traditional market. For example, a continental, craft market or exhibition market.
- 3.2 The Council may limit the number of trading positions depending upon the nature of the application, particularly with regard to the proposed location of the Market.
- 3.3 An application for a speciality market licence must be lodged at least four months before the date of the proposed event.
- 3.4 Only one application per household or organisation shall be permitted.
- 3.5 Should any part of a site or premises be used for a market, any other part of the site or premises should not be deemed as a separate site or premises for the purposes of this policy. A site must be of a different location, have separate boundaries and be a suitable distance from other sites at which any other market is or has been operating.
- 3.6 If, in the opinion of the Council, any organiser of a speciality market either directly or indirectly contravenes any of these conditions, then the Council may determine to refuse a subsequent application for a licence from that person by reason of that contravention.
- 3.7 Any venue used for the purposes of a speciality market which, in the opinion of the Council, either directly or indirectly is used in contravention of these conditions may not be permitted to host any further markets of any description until such times as the matters giving rise to the breach have been remedied to the Council's satisfaction.
- 3.8 In respect of a speciality market organised by a commercial organiser or operator, a basic market rights licence shall be payable upon application. The organiser or operator must also pay an additional fee per trading position. This fee will be waived for any market which is organised by a charity or operated for solely charitable purposes.
- 3.9 In respect of a speciality market operated by a non commercial organiser/operator or by a registered charity, a discounted basic market rights licence shall be payable upon application. The organiser or operator may also pay an additional fee per trading position.
- 3.10 A registered charity must provide written confirmation of their registered charity number and that the full proceeds of the event will

be received by the organisation. That confirmation must be sent to the Council at the same time as the application for a market rights licence.

#### **4. Regular market**

- 1 A regular market is a market which is held on a number of days throughout the year and will be a general retail market where a variety of goods are available for sale or swap.
- 2 An application for a regular market licence must be lodged at least 4 months before the date of the proposed event.
- 3 Proof of the permission of the venue owner to hold the market must also be lodged with the application.
- 4 The applicant must also provide a full business plan to include:
  - a. A plan showing the proposed layout of the market;
  - b. A financial plan;
  - c. The organisers health and safety policy, coupled with the necessary risk assessments;
  - d. The organisers food safety policy;
  - e. An environmental statement;
  - f. Documentary evidence, to include two supporting references, demonstrating the applicants experience and track record.
- 5 Upon receipt of an application, the Council may decide not to issue a typical market licence but instead enter into a negotiated contract which reflects the needs of the market as well as providing suitable remuneration to the Council for the provision of market rights.
- 6 It may be necessary for Belfast City Council to carry out a procurement exercise in relation to any proposed regular market to comply with its obligations under EU procurement requirements.
- 7 Any agreement reached in respect of a regular market shall reflect the principles within this policy including the right of the Council to determine in the event of any breach of condition.