

MEETING

LICENSING COMMITTEE

DATE AND TIME

WEDNESDAY 13 NOVEMBER, 2013

AT 7.00 PM

VENUE

HENDON TOWN HALL, THE BURROUGHS, NW4 4BG

TO: MEMBERS OF LICENSING COMMITTEE (Quorum 3)

Chairman: Councillor Andreas Tambourides
Vice Chairman: Councillor Lisa Rutter

Councillors

Maureen Braun	John Hart	Wendy Prentice
Alison Cornelius	Julie Johnson	Agnes Slocombe
Claire Farrier	Andreas Ioannidis	

You are requested to attend the above meeting for which an agenda is attached.

Andrew Nathan – Head of Governance

Governance Services contact: Maria Lugangira 020 8359 2761

Media Relations contact: Sue Cocker 020 8359 7039

ASSURANCE GROUP

ORDER OF BUSINESS

Item No	Title of Report	Pages
1.	Minutes	
2.	Absence of Members	
3.	Disclosable Pecuniary interests and Non Pecuniary interests	
4.	Public Question Time (if any)	
5.	Members Item (if any)	
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7.	Review of the Licensing Policy	11 - 44
8.	Street Trading Fees	45 - 50
9.	Street Trading Policy	51 - 70
10.	Any item(s) that the Chairman decides is urgent	

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Meeting	Licensing Committee
Date	13 November 2013
Subject	Film Classification and waiver – delegation of powers and policy
Report of	Director for Place
Summary of Report	To seek to approve and adopt the delegation to officers for decisions relating to film classification and waiver. Also to amend the policy in relation to this delegation

Officer Contributors	Emma Phasey - Trading Standards and Licensing Manager
Status (public or exempt)	Public
Wards Affected	Not applicable
Key Decision	Not applicable
Reason for urgency / exemption from call-in	Not applicable
Function of	Council
Enclosures	Appendix 1 - Draft Policy
Contact for Further Information:	Emma Phasey, Trading Standards and Licensing Manager: emma.phasey@barnet.gov.uk

1. RECOMMENDATION

- 1.1 **That the committee delegate authority to the Licensing Team to act on the Council's behalf in relation to film classification and waiver of film classification.**
- 1.2 **That the draft film classification Policy be approved by the Licensing Committee and recommended for adoption as policy by full Council on 21st January 2014.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Decision by Council on 17th April 2012 to move responsibility for film classification to the licensing committee
- 2.2 Decision by Council on 16 July 2013 to adopt the current policy

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 Films shown at local small film festivals supports the objectives contained within the Corporate Plan. In particular, in relation to "maintaining the right environment for a strong and diverse local economy"
- 3.2 It also supports the Sustainable Community Strategy 2010-2020 in relation to helping create a successful London Suburb as being able to classify films for performance at local small film festivals can contribute to the economic, cultural, environmental and social well being of the borough.

4. RISK MANAGEMENT ISSUES

- 4.1 The lack of a sound policy or the adoption of an unsound policy may result in poor decisions being taken and could cause difficulty to businesses and residents. This would leave the authority open to challenge by way of Judicial Review in relation to the policy and/or appeal of a Licensing Committee decision to the Magistrates' Court. This would adversely affect the Councils reputation.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 The Council has a legal obligation to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different groups.
- 5.2 When considering applications, only issues provided for in the legislation and guidance and in addition to the authority's policy will be taken into account. This will ensure a consistent approach is adopted. Under the terms of the policy, every application will be considered on its own merits, regardless of the race, colour, nationality, ethnic origin, sex, marital status, disability or age of the individuals involved.

5.3 The community in Barnet has a richness of diversity with a broad range of cultural activities and entertainments. Applications will be dealt with in accordance with the Act.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

6.1 Administration of this function will be carried out by the Licensing team, together with support from Legal Services and from Governance Services, when arranging and co-ordinating arrangements for hearings

6.2 The current fees will be reviewed in line with the new delegation and will ensure they remain cost neutral.

7. LEGAL ISSUES

7.1 The licensing Act 2003 allows Local Authorities to classify films for exhibition. To ensure consistency in decision making an agreed sound policy is needed.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

8.1 Constitution Part 3, Section 2, details the functions of the Licensing Committee including film classification and its ability to delegate functions.

9. BACKGROUND INFORMATION

9.1 The public exhibition of all films on licensed premises must either be classified by the British Board Film Classification (BBFC) or authorised by the Licensing Authority under the powers of the Licensing Act 2003.

9.2 It is usual for most films to be released across the country and therefore be classified by the BBFC.

9.3 The Licensing Authority may be required to classify a film that has not been classified by the BBFC. A typical example of this would be a locally made film to be shown at a film festival within the Borough. Therefore, the Licensing Authority must have a formal procedure in place to determine this classification.

9.4 A distributor of a film or other party may appeal to the Licensing Authority against a decision of the BBFC requesting that the Licensing Authority reclassifies the film for local screening.

9.5 In addition to classifying films the Licensing Authority can issue a classification waiver which permits the exhibition of the film or films within the local area without a classification but subject to certain conditions and restrictions.

9.6 The London Borough of Barnet is a culturally diverse borough and therefore being able to classify films and encourage small scale film festivals is beneficial to the whole borough.

- 9.7 The responsibility for film classification moved to the Licensing Committee earlier in the year. The policy in relation to film classification was consulted on and agreed in July 2013. The fees for classification and waiver were set on a cost recovery basis.
- 9.8 The responsibility for film classification currently sits with the licensing committee as a whole. Therefore to classify a film a licensing sub committee meeting needs to be organised this is both a financial and time costly process. As the fees are set on a cost recovery basis the current fees range up to £500 per film. This is cost prohibitive for a number of small scale film festivals.
- 9.9 Following a review of the process it would appear more effective to bring film classification in line with other licensing processes in the London Borough of Barnet. With all other licensing application there is a delegation to officer level so that the officers deal with the more straight forward matters. Should the matter be more complex, only then, will the matter be submitted to the sub committee for determination.
- 9.10 Therefore by delegating film classification and film classification waiver to the licensing department, the film can be viewed by 2 officers and a consensus decision made. This is less time and resource intensive than a sub committee and therefore the cost for this process will reduce.
- 9.11 If the 2 officers cannot reach a consensus then the classification/waiver will be referred to the sub committee for their determination.
- 9.12 As a result of the proposed change to the process from this delegation the policy needs to be amended. A draft policy is attached at Appendix 1 – with all changes outlined in red. 3.1-3.3 the information is the same but has been rewritten to make this section easier to read. 5.2-5.3 is the insertion of the new procedure in relation to the licensing department. At section 8 the word authorisation has been replaced by waiver to make this section easier to read. All other amendments replace the word sub committee with licensing department.

10. LIST OF BACKGROUND PAPERS

10.1 None

Cleared by Finance (Officer's initials)	AD
Cleared by Legal (Officer's initials)	BH

Appendix 1

Film Classification Policy

POLICY FOR DETERMINING FILM CLASSIFICATIONS

1. Introduction

- 1.1 The public exhibition of all films on licensed premises must either be classified by the British Broad Film Classification (BBFC) or authorised by the Licensing Authority under the powers of the Licensing Act 2003.
- 1.2 Section 20 of the Licensing Act 2003 (the Act) provides that where a Premises Licence or Club Premises Certificate authorises the exhibition of a film(s), the licence must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by the British Board of Film Classification (the BBFC) or by the Licensing Authority itself
- 1.3 The purpose of this Policy is to set out the formal procedure for the Licensing Authority to determine the classification of previously unclassified films, appeals by distributors against the British Board of Film Classification's decisions or requests to reclassify films.
- 1.4 Where a premises seeks or intends to exhibit film(s), that venue must be covered by a Premises Licence, Club Premises Certificate or Temporary Event Notice under the Licensing Act 2003.

2. Definitions

- 2.1 *Children* - any person under the age of 18 years.
- 2.2 *Exhibition of a film* - the exhibition of moving pictures.

3. Circumstances the Licensing authority may classify a film

- 3.1 The Licensing Authority may be required to classify a film that has not been classified by the BBFC. A typical example of this would be a locally made film to be shown at a film festival within the Borough. Therefore, the Licensing Authority must have a formal procedure in place to determine this classification.
- 3.2 A distributor of a film or other party may appeal to the Licensing Authority against a decision of the BBFC requesting that the Licensing Authority reclassifies the film for local screening.
- 3.3 In addition to classifying films the Licensing Authority can issue a classification waiver which permits the exhibition of the film or films within

the local area without a classification but subject to certain conditions and restrictions.

4. Submission of film

4.1 Applications for authorisation of films shall be referred to and determined by the **Licensing department** on behalf of the Licensing Authority.

4.2 Applications should be submitted to the Licensing Authority with a minimum of **28 days** before the proposed screening.

4.3 An application for authorisation should include the following information:

1. the name of the film maker;
2. A brief synopsis of the film
3. any recommendation as may have been made by the film maker upon age limit for the intended audience for exhibition of the film;
4. any existing classification issued by an existing classification body, whether within or outside the UK;
5. information identifying the material within the film considered by the exhibitor to be likely to have a bearing on the age limit for the audience for exhibition of the film.
6. the language spoken in the film and whether there are subtitles in English.
7. details of how any age restrictions will be enforced.

4.4 All requests shall be accompanied by the film(s) where possible in DVD format to avoid delays, the cost to be borne by the applicant. If DVD format is not possible then arrangements will be made for a suitable venue to view the film.

4.5 If the film contains dialogue in a language other than English an interpreter will be required for the classification. The London Borough of Barnet will arrange for a suitable interpreter and the applicant will be responsible for the cost of this.

4.6 All requests must be accompanied by detailed reasons for the request.

4.7 Applicants must ensure that all material that is the subject of the application complies with the current interpretation of the Obscene Publications Act 1959, the Copyright Design and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence.

5. Process

5.1 Requests will be dealt with as expeditiously as possible as it is appreciated that films are generally only shown in cinemas for a relatively short period.

5.2 **Two officers from the licensing department will view the entire film and assess it against the BBFC guidelines and National Guidance.**

- 5.3 If the decision is unanimous in relation to the classification that classification will be applied. Should the officers be unable to reach consensus then the classification for that film will be referred to the Licensing Sub Committee
- 5.4 When required the Sub Committee will view the entire film and assess it against the BBFC guidelines. The Chairman of the sub committee will have the final decision on the classification to be applied to the film.
- 5.5 The Licensing Department/Sub Committee (as appropriate) shall issue a Notice of Determination of the authorisation within 5 working days from the date of viewing.
- 5.6 The Licensing Authority will formally advise the applicant and the licence holder of any recommendation(s) restricting the admission of children to the film(s).
- 5.7 Where the Licensing Authority has determined to refuse authorisation of a film clear and concise reasons shall be given

6. Classification

- 6.1 The BBFC classifies films in accordance with published Guidelines, which are based on extensive research into public opinion and professional advice.
- 6.2 The National Guidance under Section 182 of the LA03 recommends that:
- Licensing Authorities should not duplicate the BBFC's work by choosing to classify films themselves. The classifications recommended by the BBFC should be those normally applied unless there are very good local reasons for a Licensing Authority to adopt this role. Licensing Authorities should note that the provisions of the 2003 Act enable them to specify the Board in the licence or certificate and, in relation to individual films, to notify the holder or club that it will make a recommendation for that particular film*
- 6.3 The Licensing Authority considers the classification system used by the BBFC to be nationally understood and accepted. It will therefore use this system and any amendments thereto, as a reference point for determining its recommendation(s) on the restriction of access of children to the film(s). It should be noted however that the Licensing Authority is not obliged to follow these guidelines.
- 6.4 Where a licensed premises seeks to exhibit a film that has not been classified by the BBFC then it will be the responsibility of the Licensing Authority to authorise that film.
- 6.5 The Licensing Authority recognises the principle within the Human Rights

Act 1998 that adults should be free to choose their own entertainment. However material should not be in breach of the criminal law, including material judged to be obscene under the current interpretation of the Obscene Publications Act 1959 or has been created through the commission of a criminal offence.

- 6.6 In accordance with paragraph 10.31 of the National Guidance, the Licensing Authority shall concern itself primarily with the protection of children from harm. It will not use its powers to censor films save where there is clear cause to believe that this is required to promote the licensing objectives.

7. Protecting children from harm

- 7.1 In terms of film exhibitions and festivals, the most relevant licensing objective is the Protection of Children from Harm.

- 7.2 Paragraph 2.41 of the National Guidance states:

The protection of children from harm includes the protection of children from moral, psychological and physical harm and this would include the protection of children from too early an exposure to strong language and sexual expletives, for example, in the context of film exhibitions or where adult entertainment is provided.

- 7.3 In line with the National Guidance, where a film is recommended by the Licensing Authority as falling into an age restrictive category, no person under the age specified shall be admitted.

- 7.4 Where a film(s) is recommended by the Licensing Authority as falling into a category requiring any persons under a specified age to be accompanied by an adult, no person under the age specified shall be admitted unless accompanied by an adult.

- 7.5 In these circumstances, the licence holder will be required to display in a conspicuous position a notice clearly stating the relevant age restrictions and requirements. With regard to the wording of such Notices, the Licensing Authority shall have regard to National Guidance, e.g.:

- *Persons Under the Age Of [insert appropriate age] Cannot Be Admitted To Any Part of The Programme*
- *Persons Under the Age Of [insert appropriate age] Can Only Be Admitted To The Programme If Accompanied By An Adult.*

8. Classification Waiver

- 8.1 Any authorisations for the exhibition of film **without classification** issued by the Licensing Authority shall only apply when the film is exhibited within the London Borough of Barnet and does not effect the authorisation or

recommendations in any other borough.

- 8.2 Once the **classification has been waived** by the Licensing Authority a film will be authorised for a particular showing or festival only. This will be subject to the recommendations imposed by the Licensing Authority (unless further application for re-classification is made). Details of the **waiver** including any recommendations shall be available from the Council's Licensing Services.
- 8.3 The issue of any **waiver** by the London Borough of Barnet is strictly limited to the authorisation within the Borough and it is assumed that all relevant third party consents and licences in respect of any and all copyright, confidential information and all other intellectual property rights have been obtained.
- 8.4 Where the Licensing Authority authorises unclassified material to be shown the Licensing Authority will require an undertaking from the applicant that he has satisfied himself after proper enquiry that no material to be exhibited contravenes the current interpretation of the Obscene Publications Act 1959, the Copyright Design and Patents Act 1988 or an other relevant legislation and has not been created through the commission of a criminal offence.
- 8.5 The Licensing Authority shall also not be liable for any material that has been created through the commission of a criminal offence. It is the responsibility of the applicant to ensure that no film or trailer contravenes the law

9. Exemptions

- 9.1 The provision of the exhibition of a film is exempt from regulation by the Licensing Act 2003 (LA03) if:

It consists of or forms part of an exhibit put on show for any purposes of a museum or art gallery (the LA03 does not define a museum or art gallery so the ordinary meaning of the term is taken)

or:

Its sole or main purpose is to:

- demonstrate any product,
- advertise any goods or services (excluding the advertising of films), or
- provide information, education or instruction

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Meeting	Licensing Committee
Date	13 November 2013
Subject	Review of the Licensing Policy
Report of	Director for Place
Summary of Report	The Licensing Act 2003 places a responsibility on all licensing authorities to publish a licensing policy every 5 years. This report seeks approval from the Committee to engage in consultation on the draft Licensing Policy

Officer Contributors	Michelle Rudland, Senior Licensing Officer Emma Phasey, Trading Standards and Licensing Manager
Status (public or exempt)	Public
Wards Affected	Not applicable
Key Decision	Not applicable
Reason for urgency / exemption from call-in	Not applicable
Function of	Council
Enclosures	Appendix 1 – Proposed Licensing Policy Appendix 2 – Summary of changes
Contact for Further Information:	Michelle Rudland, Senior Licensing Officer

1. RECOMMENDATION

- 1.1 **That the information in this report be considered in conjunction with the information that is contained in the full report that is to follow.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Council, 14th December 2010 (Decision item 5.2.1) – adoption of the current Licensing policy in accordance with the Licensing Act 2003.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The objectives of the policy as determined by the Licensing Act 2003 are the prevention of crime and disorder, public nuisance, protecting children from harm and public safety. These contribute to the corporate priority of Barnet being ‘An attractive and successful London borough where people want to live’ and meet the strategic objective to “improve the satisfaction of residents and businesses with the London Borough of Barnet as a place to live, work and study” thereby helping ensure that the Borough maintains the right environment for a strong and diverse local economy
- 3.2 The policy supports the Sustainable Community Strategy 2010-2020 in relation to helping create a successful London Suburb

4. RISK MANAGEMENT ISSUES

- 4.1 Failure to review and adopt a licensing policy would be a breach of the Licensing Act 2003 and would mean the Council, as the licensing authority, would be unable to perform any of its licensing functions.
- 4.2 The adoption of an unsound policy may result in poor licensing decisions being taken and could cause difficulty to businesses, residents and responsible authorities and could adversely affect the Council’s reputation. Poor licensing decisions could leave the policy open to challenge by way of Judicial Review in relation to the Statement of Licensing Policy and/or appeal of a Licensing Committee decision to the Magistrates’ Court.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 When considering licensing applications and representations only issues provided for in the Licensing Act 2003 and associated guidance in addition to the authorities Statement of Licensing Policy will be taken into account. This will ensure a consistent approach is adopted. Every application under the terms of the policy will be considered on its own merits regardless of the race, colour, nationality, ethnic origin, sex, marital status, disability or age of the individuals involved.
- 5.2 The community in the Borough is diverse and rich with a broad range of cultural activities and entertainments. Applications will be dealt with in accordance with the Act. Guidance issued and conditions will only be imposed

that are reasonable, proportionate and strictly necessary for the promotion of the four licensing objectives.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 6.1 Administration and enforcement of the Licensing Act will be carried out by the Licensing Team. Legal and Governance Services are also involved in the arranging and co-ordinating arrangements for hearings where there are objections. The activities as part of the policy will be met from existing budgets.

7. LEGAL ISSUES

- 7.1 Failure to review and adopt a licensing policy would be a breach of the Licensing Act 2003 and would mean the Council, as the licensing authority, would be unable to perform any of its licensing functions.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

- 8.1 The Council's constitution delegates to the Licensing Committee:

“All functions under the Licensing Act 2003 and associated Regulations, not otherwise delegated to the Licensing Sub-Committee.”

(Part 3 “ Responsibility for Functions” Section 2 “Responsibility for Council Functions”).

- 8.2 The statutory and regulatory provisions reserve to full Council the decision to approve the draft licensing policy, and it will therefore be necessary for the Committee to approve the licensing policy as amended at the end of the consultation period and make a recommendation to the next Council meeting.

9. BACKGROUND INFORMATION

- 9.1 The Licensing Act 2003 makes the Council the licensing authority for licensing the sale of alcohol, the provision of regulated entertainment and late night refreshment in pubs, off-licences, clubs and restaurants in the Borough.

- 9.2 There are currently approximately 1000 licensed premises in the Borough.

- 9.3 In accordance with the Act, the Council must prepare, consult on and publish a Licensing Policy which it proposes to apply when exercising relevant functions. In exercising its functions, licensing authorities must have regard to the statutory guidance issued by the Home Office. The latest version of this guidance was published in June 2013.

- 9.4 If approved by the Committee, the draft policy will be submitted for consultation with all relevant stakeholders during the next 12 weeks, in

accordance with best practice. The consultation will finish on the 12th of February 2014. All replies will be taken into account and the policy, revised as necessary, will be submitted to this Committee for final approval at the next appropriate meeting. The Committee will then be asked to recommend that the Policy be adopted at a meeting of the full Council in April 2014.

- 9.5 The consultation document will be sent to the police, the fire authority, persons/bodies representative of local holders of premises licences, persons/bodies representative of local holders of club premises certificates and persons/bodies representative of local holders of personal licences. It will also be sent to all Councillors, all responsible authorities, and certain organisations working with problem drinking.
- 9.6 The consultation document will be as far as possible emailed to the relevant consultees or a hard copy sent where this is not appropriate. All of the consultation documents will also be published on our website.
- 9.7 The policy may be changed at any time after adoption (after further consultation), and must be renewed at intervals of not less than five years
- 9.8 The proposed draft policy for agreement prior to formal consultation can be found in Appendix 1. A matrix of the main changes to the policy can be found at Appendix 2.

10. LIST OF BACKGROUND PAPERS

- 10.1 Guidance issued under section 182 of the Licensing Act 2003 (June 2013)
- 10.2 10.3 Any person wishing to inspect the background papers listed above should telephone Michelle Rudland on 020 8359 7452.

Cleared by Finance (Officer's initials)	JH
Cleared by Legal (Officer's initials)	BH

Appendix 1 – Draft policy

**STATEMENT OF LICENSING POLICY
LONDON BOROUGH
OF BARNET
Jan 2014**

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1. INTRODUCTION

- 1.1 The London Borough of Barnet has produced this Licensing Policy Statement in accordance with the provisions of the [Licensing Act 2003](#) and the guidance issued under Section 182 by the Department of Culture Media and Sport.
- 1.2 The aim of this licensing policy is to set out how the Council will seek to meet the four licensing objectives and has been devised based on best practice.
- 1.3 This policy succeeds the Council's Licensing Policy statement dated January 2011 and whilst subject to on-going review will be in force for a period of 5 years from January 2014.

1.4 Scope

- 1.4.1 The sale and supply of alcohol, the provision of regulated entertainment, and of late night refreshment play a key role in our economy and society and are activities which takes place throughout the Borough. How the Council deals with this issue will impact on many residents and businesses.
- 1.4.2 The licensing policy will form an important part of the development strategy for the Borough and will work in concert with:
 - The Council's Enforcement Policy
 - [The Human Rights Act 1998](#)
 - [Crime and Disorder Act 1998](#)
 - [Disability Discrimination Act 1995](#) and other anti-discrimination legislation,
 - [Guidance](#) issued by the Home Office on behalf of the Secretary of State under section 182 Licensing Act 2003
 - Home Office Safer Clubbing Guide www.drugs.gov.uk
 - Metropolitan Police Service publication Controlled Drugs and Weapons in Licensed premises
 - [The Mayor's London Ambient Noise Strategy](#)
 - [Police Reform and Social Responsibilities Act 2011](#),
 - [Live Music Act 2012](#)

The above is not an exhaustive list.

- 1.4.3 The licensing policy has 3 main purposes:
 - To inform licence applicants of the parameters under which the Council will make licence decisions, and therefore how a licensed premises is likely to be able to operate within an area. However each case must be examined on an individual basis.
 - To inform residents and business of the parameters under which the Council will make licence decisions and therefore how their needs will be addressed.
 - To reinforce the elected Members on the licensing Committee, the powers of the Council and the limits of those powers, and to provide them with parameters under which to make decisions.
- 1.4.4 As the Licensing Authority the Council is empowered under the Act to grant, review, vary, suspend or refuse premises licences, club premises certificates, personal licences

and deal with temporary event notices in the Borough. The licensable activities dealt with by the licensing authority and set out in the act are as follows:

- The sale by retail of alcohol
- Supply of alcohol to club members
- Provision of “regulated entertainment” – to the public, to club members or with a view to profit. This includes the;
 - Performance of a play
 - Exhibition of a film
 - Indoor sporting events
 - Boxing or wrestling entertainment
 - Performance of live music
 - Playing recorded music
 - Performance of dance
- The provision of late night refreshment being the supply of hot food and/or drink from any premises between 11pm and 5am.

1.4.5 The Act divides licences into premises licences for the building and personal licences for each licensee.

2. OBJECTIVES

2.1 The Council will carry out its various licensing functions so as to promote the four licensing objectives:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance, and
- The protection of children from harm

2.2 To achieve these objectives the Council will use a full range of measures including its planning, transport, crime and disorder policies and powers together with its duties to protect children. The Council will work closely with the Police, the Fire Authority, the remaining Responsible Authorities, local businesses, community representatives and local people to meet these objectives.

2.3 A Responsible Authority details are shown in Appendices 3

2.4 The Council as a licensing authority is now included in the list of responsible authorities under the Licensing Act 2003.

2.5 The 2003 Act does not require responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes.

2.6 The Council as a Licensing authority is not expected to act as responsible authorities on behalf of other parties (for example, local residents, local Councillors or community groups) although there are occasions where the authority may decide to do so. Such parties can make relevant representations to the licensing authority in their own right, and it is reasonable for the licensing authority to expect them to make representations themselves where they are reasonably able to do so. However, if these bodies have failed

to take action and the licensing authority is aware of relevant grounds to make a representation, it may choose to act in its capacity as responsible authority.

- 2.7 It is also reasonable for the Council as a licensing authority to expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.
- 2.8 Nothing in this policy will prevent every licence application being considered on its own merits. However the Council will not ordinarily treat the following considerations as justifiable reasons to divert from this policy:
- That the premises are well managed
 - That the applicant is of good character
 - That the premises, or the capacity, or the size of the increase applied for, is small.

3. POLICY CONSIDERATIONS

- 3.1 In determining a licence application the overriding principle will be that each application will be determined on its individual merits.
- 3.2 Nothing in the Licensing Policy will:
- Undermine the rights of any person to apply the 2003 Act for a variety of permissions and have the application considered on its individual merits.
 - Override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the Act.
- 3.3 The decision taken by the Council will be focused on matters that are within the control of the individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. The Council will focus on the direct impact of activities taking place at the licensed premises on both adults and children living in, working in or visiting the area concerned.
- 3.4 In taking its decisions, the Council will take into account the fact that licensing law is not the primary mechanism for the control of nuisance and anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned. Nonetheless, licensing law will be part of a holistic approach to the management of the evening and night-time economy in town and city centres
- 3.5 Licence conditions imposed will be relevant to the individual application and those appropriate to meet the licensing objectives. Licence conditions will not be imposed where other regulatory regimes, such as fire safety legislation, provide sufficient protection for patrons and other members of the public.

- 3.6 Individual applicants are expected to address the licensing objectives in their Operating Schedule within the context of the nature of the location, type of premises, regulated activities to be provided, operational procedures and the needs of the local community (see section 15 – Operating Schedules - later).
- 3.7 Appropriate weight is given to all relevant representations made to the Council. This does not include those representations which are considered to be frivolous, vexatious or repetitious, which will be disregarded.
- 3.8 In forming this policy the Council has consulted the parties stipulated in Appendix 2. Before determination of this policy adequate weight has been given to the responses received.

4. INTEGRATING STRATEGIES & AVOIDING DUPLICATION

- 4.1 The Council recognises the need to avoid, so far as possible, duplication of the existing legislation and other mechanisms to deal with any environmental or other impacts on the leisure economy such as;
- Planning controls
 - Positive measures to create a safe and clean town centre environment
 - Powers of the Council to designate public places where the consumption of alcohol is not permitted
 - Police enforcement of disorder and anti-social behaviour
 - Prosecuting of personal licence holders and staff selling alcohol to those underage.
 - Police and the Council's powers to close down instantly any licence premises on the ground of disorder or likely to cause disorder or excessive noise emanating from the premises
 - Environmental Protection Act 1990
 - Children Act 1989
 - Health and Safety at Work Act 1974 etc.
 - Powers of the police/local residents/businesses ability to seek a review of a licence.
- 4.2 The Council recognises that there should be a clear separation of the planning and licensing regimes in respect of applications to avoid duplication or a re-run of the planning application process but also recognises that some factors affecting the planning decision may also affect the decision of the Licensing Committee.
- 4.3 The Licensing Authority will arrange for protocols with the Barnet Borough Police to enable them to liaise with the Council's Traffic Manager on the need for the swift and safe dispersal of people from licensed premises to avoid concentrations which can produce disorder and disturbance.
- 4.4 The Authority recognises that licensing applications should not be seen as a re-run of the planning application process and that there should be a clear separation of the planning and licensing regimes to avoid duplication and inefficiency. However, the Authority will normally expect applicants to demonstrate that, their proposed use of the premises is lawful in planning terms, including complying with any conditions that may be imposed upon a planning consent, prior to applications under this Act being submitted. Nevertheless, the Council recognises that it is permissible for applications for licences to be made before any relevant planning permission has been sought or granted by the planning authority.

4.5 As outlined at paragraph 13.56 of the Consolidated Guidance issued under Section 182 of the Licensing Act 2003 (October 2012 version), there are also circumstances when as a condition of planning permission a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant MUST observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

4.6 We will monitor the impact of the licensing policy.

5. APPROACH TO LICENSING APPLICATIONS

5.1 When exercising its licensing functions the Council will not be influenced by the question of need. The question of whether or not there is a need for any particular premises is a commercial matter which is not relevant to the Council's considerations. The issue of need may be a matter for planning consideration or for the market to decide and does not form part of this licensing policy statement.

5.2 The statutory guidance will be taken into account in relation to the issue of cumulative impact and the hours of operation:

6. RISK ASSESSMENT

6.1 The Council recommends that all applicants carry out sufficient risk assessments for the activities on their premises, and that the findings are put into practice. The Council encourages applicants to carry out an assessment of the likely impact of the activities to be carried on at the premises, with a view to identifying any control measures that may be appropriate.

6.2 The Council encourages applicants to send risk assessments as well as any other supporting documentation with the application.

6.3 The Council reminds the applicant that it is not the function of the responsible authority to endorse any such assessments and encourages applicants and event organisers to seek advice about control measures.

7. PUBLIC SAFETY

7.1 The Act covers a wide range of premises that require licensing including: cinemas, concert halls, theatres, nightclubs, public houses, cafes/restaurants, members clubs, fast food outlets and other entertainment venues. Each type of these premises present mixtures of risks with are common to most premises and others unique to specific operations. It is essential that premises are constructed or adapted so as to safeguard occupants by minimising these risks.

7.2 The Council will expect operating schedules to satisfactorily address public safety issues and applicants are advised to seek appropriate Health and Safety advice and consult the

London Fire and Emergency Planning Authority before preparing their plans and schedules.

- 7.3 Applicants are reminded that any performers are also members of the public and as such their safety should be specifically addressed in operating schedules.
- 7.4 Where door supervision is in operation, supervisors must be registered with the Security Industry Authority. The Council strongly recommends that a record of SIA registered staff on duty in this capacity is maintained on the premises and that an incident report book is maintained. Both of these records should be available for inspection at all reasonable times by authorised officers of the Council or a Police Officer.
- 7.5 Where necessary, the Council will attach conditions to the licences and permissions that promote public safety.

7.6 Health Considerations of Licensing

- 7.6.1 Health bodies are now responsible authorities as identified by the Act and as such are notified of all new premises applications to which they can make representations. Their representations must however still be relevant to the existing statutory licensing objectives.
- 7.6.2 The Health body will be particularly useful in providing evidence of alcohol-related health harms when the licensing authority revises its policy. PCTs/DPHs may also be useful in providing evidence such as alcohol-related A & E admissions or ambulance service data that might be directly relevant to an application under the Act.

8. PROTECTION OF CHILDREN FROM HARM

- 8.1 The wide range of premises that require licensing means that children can be expected to visit them. Children will wish to visit premises which are licensed and may or may not be accompanied by an adult. In general it is the view of the Council that the question of whether children will be admitted to any premises should be left to the discretion of the licence holder who, where there may be risks, will take adequate steps to protect them from harm. However, applicants should consider the following points when drawing up their Operating Schedule.
- 8.2 The Council will take strong measures to protect children from physical, moral or psychological harm where for example:
- Any licence holder or employee has been convicted of serving alcohol to minors or the premises have a reputation for underage drinking.
 - Premises where there is evidence of an association with drug taking or drug dealing.
 - Gambling takes place on the premises, except for the provision of a small number of cash prize machines. (The Council expects all premises which have gambling on the premises to have read its policy on Gambling licensing in relation to this exemption for small cash prize machines)
 - Whenever entertainment or services of an adult nature or sexual nature are provided.
 - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

8.3 The Council will rarely impose licence conditions that simply exclude children. Where it is considered that the protection of children from harm requires conditions to limit their access to any premises, the Council will consider options such as:

- Limitations on the hours when children may be present.
- Limitations on ages below 18.
- Limitations or exclusion when certain activities are taking place.
- Requirements for the accompanying adult.
- Full exclusion of people under 18 from the premises when any licensable activities are taking place.

8.4 It is strongly recommended that applicants, where appropriate, address the access of children to the premises in their Operating Schedule and that they state the time after which children will not be admitted to premises serving alcohol for consumption on or off the premises. Such cut-off times may be split into age groups.

8.5 The 2003 Act details a number of offences designed to protect children in licensed premises and the Council will work closely with the Police to ensure the appropriate enforcement of the law.

8.6 The Council supports the [Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks](#) and strongly recommends that traders immediately remove any products or display material that is the subject of a Retailer Alert Bulletin.

8.7 The Council strongly recommends that to prevent illegal sales to under-aged persons, licence holders work with a “proof of age scheme”.

8.8 The Council will expect traders to take all reasonable steps to prevent the unlawful sale or supply of alcohol to children. Where persons are found to be in breach of this requirement, strong enforcement action will be taken.

8.9 Showing of Films, Videos etc

8.9.1 In accordance with section 20 of the Act where the exhibition of films is permitted, the specified classification body will normally be the British Board of Film Classifications and the Council will require age restrictions to be strictly complied with in accordance with their recommendations. A mandatory condition will be imposed to this effect. Only in exceptional circumstances will variations of this general rule be considered.

8.9.2 Applicants should make it clear in their Operating Schedule what steps will be taken to ensure that only children of the appropriate age are admitted to exhibitions.

8.10 Children and Public Entertainment

8.10.1 Many children go to see and/or take part in an entertainment arranged especially for them (e.g. children’s film shows, dance productions) and additional arrangements are required to safeguard them while they are at the premises.

8.10.2 Where a regulated entertainment is specially presented for children, the Council will require their safety to be specifically addressed in the Operating Schedule.

8.10.3 Applicants are strongly recommended to pay particular attention to all safety issues and in particular to keep gangways and exits free from children and other obstructions during performances.

8.10.4 Where necessary and proportionate the Council may attach conditions to premises licences and club premises certificates to prevent harm to children. Such conditions will, as far as possible be drawn from the Model Pool of Conditions. The Council strongly recommends that applicants familiarise themselves with the model conditions in Annex D to the Guidance issued under section 182 of the Licensing Act 2003. The Council will expect applicants to address relevant considerations in their Operating Schedule as these issues will be carefully considered by the Licensing Authority and other responsible authorities.

9. CRIME & DISORDER/ANTI-SOCIAL BEHAVIOUR

9.1 In addition to the requirements for the Council to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in the Borough. The Council also has responsibilities under the Anti-Social Behaviour Act 2003.

9.2 Where necessary, the Council will attach conditions on premise licences and club premise certificates to deter and prevent crime and disorder, both inside and immediately outside premises. Such conditions will, as far as possible and reflect local crime prevention strategies.

9.3 The Council recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises including (but not limited to):

- Planning controls
- On-going measures to create a safe and clean environment in partnership with local businesses, transport operators and other Council departments.
- Regular liaison with the Borough Police on enforcement issues, including (but not limited to): fixed penalty notices, prosecution of selling alcohol to those underage, confiscation of alcohol from adults and children
- The power of the Police to close down instantly for up to 24 hours any licensed premises or temporary event on the grounds of disorder, the likelihood of disorder or excessive noise from the premises.
- The power of the Police, other responsible authority or a local resident or business to seek a review of the licence or certificate.
- Designation if necessary of parts of the Borough as designated public place order which provides police with greater powers to prevent people drinking alcohol within this zone.

9.4 In considering all licence applications, the Council will consider the adequacy of measures proposed to deal with the potential for crime and public disorder having regard to all the circumstances of the case and will particularly consider the following (which is not an exhaustive list):

- The general management of the premises and the proposed extent and manner of day to day management of the premises.

- Measures to prevent crime and disorder and anti-social behaviour have been taken, such as the use of CCTV or the employment of registered door supervisors
- The likelihood of violence, public disorder or policing problem arising if a licence were granted.
- Measures proposed to prevent the consumption or supply of illegal drugs, including any search procedures,
- If the applicant has previously held a licence within the borough/district and the history of any enforcement action arising from those premises.
- Reports of crime analysis produced by the Barnet Safer Community Partnership/Police Licensing Officer
- Irresponsible alcohol promotion

9.5 In addition to the statutory requirements for plans, applicants should indicate on the plan provided to the Licensing Authority the proposed locations for the display and storage of any alcohol and the locations where sales and/or consumption will take place.

9.6 In order to avoid disruption to businesses during the absence of the Designated Premises Supervisor, the Council strongly recommends that a minimum of one additional member of staff should hold a personal licence. It is considered good practice for personal licence holders who authorise others to sell alcohol to formalise the authorisation process and the Council encourages such authorities to be written in clear and unambiguous terms.

9.7 The Licensing Authority strongly encourages Designated Premises Supervisors and others connected with the retail sale of alcohol to attend meetings supported by the Council and/or the Borough Police aimed at the reduction of crime and disorder. An example of this would be the Pubwatch Scheme(s).

10. NUISANCE

10.1 In addition to the requirements of the Council to promote the licensing objectives, it also has a duty under the Environmental Protection Act 1990 to do all it reasonably can to prevent nuisance, including noise.

10.2 Applicants for a licence for the provision of late night refreshments for consumption off the premises are reminded under section 93-95 of the Environmental Protection Act the Council may issue a Street Litter Control Notice where there is a recurrent defacement by litter or refuse of the street in the vicinity.

10.3 Where necessary, the Council will attach conditions to licences and permissions to deter and prevent nuisance. Such conditions will so far as possible and reflect local strategies.

10.4 For all licence applications, the Council will consider the adequacy of measures proposed to deal with the potential for nuisance having regard to all circumstances of the case, and will particularly consider the following:

- The steps the applicant has taken or proposes to take to prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment and human voices. Such measures may include sound proofing, air conditioning, acoustic lobbies and sound limitation.
- The steps the applicant has taken or proposes to take to prevent disturbance created by patrons arriving or leaving the premises.

10.5 Live Music, Dancing & Theatre

10.5.1 The Licensing Authority wishes to encourage and promote live music, dance and theatre for the wider cultural benefit of the community particularly for children.

10.5.2 When considering applications for such events and the imposition of conditions on licences, the Council will carefully balance the cultural needs with the necessity of promoting the licensing objectives. The Council would wish to avoid, so far as possible, measures which deter live music, dancing and theatre.

10.5.3 Consideration will be given to the particular characteristics of any event, including the type, scale and duration of the proposed entertainment, especially where limited disturbance may be caused.

10.5.4 Where appropriate the Council may seek premises licences in its own name for community public spaces and local authority buildings. In this instance, performers and entertainers will not need to apply for a licence themselves to give a performance but would require the Council's permission and supervision as premises licence holders.

10.5.5 The Council will monitor the impact of the licensing on the provision of regulated entertainment, and particularly live music and dancing.

10.5.6 The Live Music Act came into force on 1st October 2012 and is designed to encourage more performances of 'live' music. The Act :

- Removes the licensing requirement for unamplified live music taking place between 8am and 11pm in all venues, subject to the right of a licensing authority to impose conditions about live music following a review of a premises licence relating to premises authorised to supply alcohol for consumption on the premises.
- Removes the licensing requirement for amplified live music taking place between 8am and 11pm before audiences of no more than 200 persons on premises authorised to supply alcohol for consumption on the premises, subject to the right of a licensing authority to impose conditions about live music following a review of a premises licence.
- Removes the licensing requirement for amplified live music taking place between 8am and 11pm before audiences of no more than 200 persons in workplaces (but not necessarily for workers) not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment).
- Removes the licensing requirement for the provision of entertainment facilities and widens the licensing exemption for live music integral to a performance of Morris dancing or dancing of a similar type, so that the exemption applies to live or recorded music instead of unamplified live music

10.5.7 In addition the following activities have also been deregulated and therefore NO licence is required when they take place between **08:00-23:00** on any day:

- a performance of a play in the presence of any audience of **no more than 500** people

- an indoor sporting event in the presence of any audience of **no more than 1,000** people
- **most** performances of dance in the presence of any audience of **no more than 500** people
- live music, where the live music comprises of a performance of **unamplified** live music;
- live music, where the live music comprises a performance of **live amplified music in a workplace** with an audience of **no more than 200** people
- live music, where the live music comprises a performance of live music on **licensed premises** (by virtue of a premises licence or a club premises certificate which authorises the sale of alcohol for the consumption **on** the premises) Where the performance takes place in the presence of an audience of **no more than 200** people

Live Music remains licensable where a performance of live music – whether amplified or unamplified – takes place before 08:00 or after 23:00 on any day;

11. ENFORCEMENT.

- 11.1 The Licensing Authority supports partnership with other regulatory bodies in respect of enforcing the provisions of the Act. This will be reflected in the nature and the extent of the working arrangements agreed between those bodies and the Licensing Authority, and on the need for efficient deployment of staff and avoidance of duplication of role. In particular, special arrangements will be maintained with the Police and other responsible authorities to achieve those ends.
- 11.2 The Licensing Authority will adopt enforcement regimes that will take account of the entire range of business activities and of individuals that require licensing under the new Act, with emphasis on the continued promotion of the licensing objectives. This will include both permanent business premises and premises used for temporary events. The Licensing Authority will make appropriate arrangements to monitor premises with a view to implementing targeted and proportionate enforcement action to achieve these objectives. Unlicensed activities and non compliance with conditions will not be tolerated at ANY premises.
- 11.3 Routine enforcement activity undertaken by the Licensing Authority will be targeted to ensure that high risk, poorly run premises, receive a high level of intervention, and that lower risk, well-run premises, receive a lower level of intervention. Complaint led enforcement will be subject to normal service response standards by the licensing team. The frequency of inspections will be based on a risk-rating system for the relevant licensed premises, dependent on business type and characteristics, the activities taking place and on historic data held by the Licensing Authority. Inspection frequency will be subject to review and possible amendments following the outcome of any inspection by the Licensing Authority and/or following investigation of a complaint received.
- 11.4 Enforcement action will be taken in accordance with the principles of the Cabinet Office's [Enforcement Concordat](#) in addition to the [Local Better Regulation Office Guidance](#), [Code for Crown Prosecutors](#), [Attorney Generals Guidelines](#).

The Licensing Authority has enforcement protocols with the police and will develop them with the other responsible authorities to provide for the most effective methods of monitoring and enforcing compliance with licensing requirements.

12 EARLY MORNING RESTRICTION ORDERS (EMRO)

12.1 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times in which serious public nuisance or alcohol related anti-social behaviour is not directly attributable to specific premises.

12.1.1 The Licensing Authority may introduce, vary or revoke an EMRO. This power enables the Authority to prohibit the sale of alcohol for a specified period between the hours of 12 midnight to 0600 hours in the whole or part of its area if it is satisfied that this would be appropriate for the promotion of the Licensing objectives.

12.2 Introducing an EMRO

12.2.1 The Home Office issued guidance in June 2013 under section 182 of the licensing Act 2003 outlining the process and matters that should be considered when the council believes an EMRO is required. The council will follow the guidance if it considers that an EMRO is required for an area in Barnet. Any application for an EMRO must be approved by full Council.

12.3 Exceptions to an EMRO

12.3.1 An EMRO shall not apply to:

a) Any premises on New Year's Eve (defined as 12 midnight 31 December to 0600 hours on 1 January).

b) The supply of alcohol to residents by accommodation providers between 12 midnight and 0600 hours, provided the alcohol is sold through mini-bars and/or room service.

c) A relation of the licensing hours by virtue of an order made under section 172 of the 2003 Act

13 Late Night levy

13.1 The late night levy enables the authority to raise contributions towards the cost of policing the late night economy. The levy is payable by the holders of any premises licence between midnight and 0600 hours.

13.2 The Home Office have issued guidance on the process and matters that should be considered when the authority considers that it is appropriate to introduce a night time levy. Any application for a late night levy must be approved by full Council.

14. TEMPORARY EVENT NOTICES

- 14.1 Whilst the Act requires 10 working days' notice to be given of the temporary event (exclusive of the day which the event is to start and the day on which the notice is given), the Council would wish applicants to make contact with the Licensing Authority at an early stage before a formal application is made. This is particularly important for large events and will enable responsible authorities to consider proposals. Early consideration will allow issues and the licensing objectives to be addressed and may avoid objections from the police and/or the Environmental Health Department..
- 14.2 Section 100 of the Act states that the organiser of a Temporary Event must give the Authority notice of the proposed event. Section 104 of the Act states that a copy of the notice must also be provided to the Police and Environmental Health.
- 14.3 Applicants should be aware that the serving on the Council of a Temporary Event Notice does not remove their obligations under other legislation. Where necessary, permissions should be sought from the appropriate body. The Council expects that applicants understand their obligations in respect of:
- Planning permissions
 - Health and safety
 - Noise pollution
 - The erection of temporary structures
 - Road closures
 - The use of pyrotechnics
 - Anti-social behaviour
- 14.4 Applicants intending to sell alcohol should be aware that it is an offence to supply alcohol to minors or persons who are drunk. Also that the Police have powers to close down events without notice on the grounds of disorder, the likelihood of disorder or because of public nuisance caused by noise.
- 14.5 Applicants should be aware that a limit of less than 500 persons at any one time applies to temporary events and failure to comply with this limit may lead to prosecution. Where appropriate, organisers are strongly recommended to employ means of recording the number of persons entering and leaving the premises.
- 14.6 The attention of applicant is drawn to the fact police will expect to see a completed Music Promotion / Event Risk Assessment Scheme (Form 696 & 696A). If the event involves live or DJ music and is open to the public or section of the public
- 14.7 Section 107 of the Act states that a personal licence holder may hold up to 50 Temporary Events each year and a person who is not a personal licence holder may hold up to 5 such events. Each Temporary Event may last for up to 168 hours and an individual premises may hold up to 12 such events per year so long as the total number of days used for these events does not exceed 21 per calendar year.
- 14.8 Late Temporary Events Notices
- 14.8.1 Late notices can be given no later than 5 working days but no earlier than 9 working days before the event in relation to which the notice is given. If there is an objection from either the police or Environmental Health, the event will not go ahead and a counter notice will be issued. The number of late notices that can be given in any one calendar year is limited to 10 for personal licence holders and two for a non-personal licence holders. These count towards the total number of temporary event notices (see 12.7)

15. OPERATING SCHEDULES

15.1 Protection of Children from Harm

15.1.1 This is defined by the Council as the means by which children will be protected from harm by the effective management and operation of the licensed activities. The Council will consider harm to include all damaging, detrimental or injurious effects on children and will be concerned to protect children from physical, moral or psychological harm. The issues addressed could include, where relevant:

- Restrictions on access by children, whether accompanied or not, to the whole or any part of the premises, including times when children may not be present and/or whether such restriction relates to specific age groups.
- Provision of any adult supervision
- Methods employed for the prevention of unlawful supply, consumption, and use of alcohol, drugs and other products
- Whether the premises and licensee will adopt a [Challenge 21 scheme](#), whereby anyone thought to be under 21, who wish to purchase alcohol, staff will ask for identification or the “[No ID No Sale](#)” scheme for retailers.
- Whether a notice giving details of any restrictions relating to access by children is displayed.
- The provision of unbreakable drinking “glasses” for children (especially relevant for premises with play areas and/or including outdoor areas).
- The provision of suitable safe child seating (stable high chairs with straps in dining areas etc.)
- Provision for child friendly lavatories (low urinals, smaller w.c; low wash basins and provision of nappy changing facilities etc.)
- Arrangements for the inspection of play areas and/or equipment on licensed premises.
- Any instructions to be issued to staff about action to be taken in the event of concerns for the welfare of children in the care of intoxicated parents on licensed premises.
- Any other relevant issues relating to protecting children from harm.

15.1.2 Where regulated entertainment is specifically presented for children, the Council require their safety to be specifically addressed in the Operating Schedule to include:

- Numbers and locations of supervising adults. Supervising adults should remain in the area(s) occupied by children, in the vicinity of each exit. The minimum number of attendants on duty should be a minimum of one member of staff per 50 children;
- Supervision of other areas of the premises during performances;
- Arrangements for entry and departure from the premises;
- Whether supervising adults employed or deployed by the organiser will be required to provide a current (less than 3 years old) disclosure from the Criminal Records Bureau and to renew this every 3 years or whether other staff selection procedures will prevent the employment and deployment of adults who are not fit and proper persons to supervise children.

15.2 Public Safety

15.2.1 This is defined by the Council as the means by which public safety will be promoted by the effective management and operation of the licensed activities. The issues addressed could include, where relevant:

- Arrangements to ensure the safety of users in the event of fire or other emergency.
- The safety of audiences and spectators.
- The safety of performers.
- The adequacy of transportation arrangements to ensure that customers may safely travel to and from the premises avoiding concentrations of people unable to access transport in a timely manner.
- Confirmation of arrangements of advertising of taxis and mini-cabs solely relate to those licensed by recognised licensed authority.
- Whether free water is provided for example at dance venues where persons may suffer dehydration.
- Where door supervision staff are employed, whether a record of staff on duty and an incident report will be maintained.
- Any other relevant public safety issue

15.3 Prevention of Nuisance

15.3.1 This means by which nuisance will be prevented by the effective management and operation of the licensed activities. The issues addressed could include, where relevant:

- Noise emanating from the premises included extended areas such as beer garden and smoking areas, including whether noise suppression and/or cut-off devices will be used.
- Noise, anti-social behaviour and other disturbances caused by persons leaving the premises.
- Urination in public places in the vicinity of the premises (including the adequacy of lavatories provided at the premises).
- Congregation of persons from the premises whether consuming alcohol or not
- Noise from vehicles driven by, delivering or collecting customers.
- Where more than one licensable activity is permitted whether different times of finishing will apply (e.g. serving alcohol ceases at a specific period before musical entertainment finishes).
- Whether there will be a drinking up time before the premises close.
- Whether there will be a terminal hour or specific period before closure after which there will be no further admissions or readmissions to the premises.
- Litter.
- Light pollution.
- Any proposed fireworks.
- Whether the arrangements to dispose of refuse from the premises is conducted at a reasonable hour.
- Any other relevant issues relating to nuisance.

15.4 Prevention of Crime and Disorder

15.4.1 This means by which crime and disorder will be prevented by the effective management and operation of the licensed activities. The issues addressed could include, where relevant:

- Crime prevention design, including appropriate lighting of exterior areas (applicants are reminded that planning and or building control permission may be needed for some alterations to premises).
- The amount of seating that is provided and seat/table ratio to drinking area.
- Door supervision, including screening for weapons and drugs.
- Other measures to control violent, drunken or abusive behaviour, including exclusion of trouble makers and refusal to sell to those who are or appear to be drunk or under age and in appropriate circumstances, the use of toughened and/or polycarbonate glasses and the refusal to supply drinks over the counter in glass bottles.
- Combating drug dealing and abuse
- Methods to discourage drinking in public places in the vicinity of the premises.
- In premises seeking to sell alcohol for consumption off the premises, whether displayed stock will be in the view of staff at all times and/or covered by CCTV and whether spirits will be kept behind the counter.
- Methods to discourage and prevent, in so far as possible, the handling and distribution of stolen, counterfeit or other illegal goods by customers and staff.
- Whether Pubwatch radio or other means of communication will be used.
- How the management of the premises will avoid irresponsible drinks promotions.
- Any other relevant issues relating to the prevention of crime and disorder

16. CONDITIONS

16.1 The Act sets out mandatory conditions which must be attached in respect of the supply of alcohol, exhibition of films and door supervision.

The Guidance issued under Section 182 of the Act provides pools of Model conditions as annexes.

16.2 Where necessary for the promotion of the licensing objectives, the Council will attach conditions which are consistent with the operating schedule for the premises in clubs and types of premises or, following a hearing, any other conditions attached to licences or certificates will be tailored to the individual style and characteristics of the particular premises and events concerned.

16.3 The Council recognises that the drug use of patrons is a problem which may exist. The Council expects licensees to take all reasonable steps to prevent controlled drugs coming into, or being consumed on their premises. Whilst the possession of controlled drugs is a criminal offence, it is also recognised that special conditions will need to be imposed for certain types of venues to help prevent the sale and consumption of drugs and to create a safer environment for those who may have taken them. For more information please see the home office safer clubbing guide.

17. ADMINISTRATION, DELEGATION & EXERCISE OF FUNCTIONS

17.1 The Council is involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.

17.2 Appreciating the need to provide a speedy, efficient and cost effective service to all parties involved in the licensing process, the Council has delegated certain decisions and functions to its Licensing Committee, Sub-Committees and officers.

- 17.3 The grant of non-contentious applications, including for an example, those licenses and certificates where no representations have been made, has been delegated to Council officers.
- 17.4 The table in Appendix 1 sets out agreed delegation of decisions and functions to the Licensing Committee, Sub Committee and officers. This form of delegation is without prejudice to officers referring an application to a Sub-Committee, or a Sub-Committee to the Licensing Committee, if considered appropriate in the circumstances of any particular case.
- 17.5 The Council will maintain a Licensing Register containing the information required by statute and keep it available for inspection.

18 Licence Suspensions

- 18.1 This is a power introduced as part of the amendments brought about by the Police Reform and Social Responsibility Act 2011. This power of suspension has been given to local authorities in relation to non payment of annual fees for a premises licence/club premises certificate.
- 18.2 A single request for payment will be sent and the licensing Authority will then take measures to suspend the licence if payment is not received within 28 days.
- 18.3 The regulations state that the premises licence holder will be given notice of a suspension at least 2 working days before the suspension is to take place. The council must then suspend the premises licences/club premises certificate should the outstanding annual fees remain unpaid.
- 18.4 The licence will be reinstated once full payment of all outstanding annual fees have been received.

Appendix 1 – TABLE OF DELEGATED FUNCTIONS

Matter to be dealt with	Licensing Committee	Licensing Sub - Committee	Officers
Application for a personal licence			All cases
Application for a personal licence with unspent relevant convictions		If a Police objection notice is received	
Application for a premises licence/club premises certificate		If a valid representation is made	If no valid representations are made
Application for a provisional statement		If a valid representation is made	If no valid representations are made
Application to vary a premises licence/club premises certificate		If a valid representation is made	If no valid representations are made
Application to vary a designated premises supervisor		If a Police representation is received	All other cases
Request to be removed as designated premises supervisor			All cases
Application to transfer a premises licence		If a Police representation is received	All other cases
Application for interim Authorities		If a Police representation is received	All other cases
Application to review a premises licence/club premises certificate		All Cases	
Decision on whether a representation is irrelevant frivolous, vexatious etc.			All cases
Decision to make objection when local authority is consultee and not the relevant authority considering the application		All Cases	
Determination of an objection to a temporary event notice		All Cases	
Decision on whether a minor variation application is valid, the need to go out to consultation and determination			All cases
Power to suspend a premises licence (S.55A (1))			All Cases

LA2003) or club premises certificate (S.92A (1) LA2003) for non payment of annual fees			
Determination of application to vary a premises licence at community premises to include alternative licence condition		If a Police objection is received	All other cases
Power to specify the date on which suspension takes effect. This must be at least 2 working days after the day the Authority gives notice			All Cases
Fulfil the function of the responsible authority for the Licensing Authority under the Licensing Act 2003			All Cases

Appendix 2 - Licensing Policy 2013 – 2018 Consultation

Summary of Proposed Changes

Reference	Area of Change	Proposal
Introduction 1.3	Preceding Published Policy Date – Remove 2008	January 2011
Introduction 1.3	Policy Review Period	Policy is to be in force for a period of 5 years from January 2014
Scope 1.4.2	Remove Guidance issued by the Secretary of State for Culture, Media and Sport under section 182 Licensing Act 2003	The latest Guidance is issued by the Home Office on behalf of the Secretary of State rather than the Department of Culture Media and Sport.
Scope 1.4.2	Inclusion of new pieces of legislation	<ul style="list-style-type: none"> • Police Reform and Social Responsibilities Act 2011 • Live Music Act 2012
Scope 1.4.4	Inclusion of the power to suspend a premises licence/club premises certificate	<p>This is a power brought as part of the amendments brought about by the Police Reform and Social Responsibility Act 2011. The council must suspend premises licences and club premises certificates on the non-payment of annual fees. The regulations state that the premises licence holder will be given notice of a suspension that is at least 2 working days before the suspension is to take place.</p> <p>A single request for payment will be sent and the licensing Authority will then take measures to suspend the licence if payment is not received within 28 days. Income recovery procedures will be commenced along with enforcement visits to ensure that the suspension is maintained until payment or licence surrendered</p>
Scope 1.4.4	Deletion some licensable activities	
Objectives 2.2	Additional text inserted	

Objectives 2.3 – 2.7	Insert due to change in legislation	Licensing authorities (LAs) have been made responsible authorities in their own right under the Licensing Act 2003 giving them greater powers and flexibility. This gives stronger powers to, for example, remove licences from, or refuse to grant licences to, premises that are causing problems without having to wait for the police or another responsible authority (section 103 of the PRSR Act).
Policy Considerations 3.5	Change in wording following legislation change	'Necessary' has been replaced with 'appropriate' in relation to the steps a licensing authority may take when determining applications / requests for review.
Integrating Strategies & Avoiding Duplication 4.4	Further information relating to Planning	As outlined at paragraph 13.56 of the Consolidated Guidance issued under Section 182 of the Licensing Act 2003 (October 2012 version), there are also circumstances when as a condition of planning permission a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant MUST observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.
Public Safety 7.5	Deletion of text	Model pool of conditions
Health Considerations for Licensing 7.6	Insertion due to change in legislation	Health bodies have been made responsible authorities so that they are automatically notified about new premises applications and can make representations, although these must be relevant to the existing statutory licensing objectives (Section 104).
Risk Assessment 6.3	Delete due to the change in legislation	Licensing authorities (LAs) have been made responsible authorities in their own right under the Licensing Act 2003 giving them greater powers and flexibility. This gives stronger powers to, for example, remove licences from, or refuse to grant licences to, premises that are causing problems without having to wait for the police or another responsible authority (section 103 of the PRSR Act).
Crime & Disorder/Anti Social Behaviour 9.2	Deletion of text	Model pool of conditions

Nuisance 10.3	Deletion of text	Model pool of conditions
Live Music, Dancing & Theatre 10.5.5	Changes in the legislation	<p>From 1st October 2012, the Live Music Act 2012 amends the Licensing Act 2003 by partially deregulating the performance of live music and removing regulation about the provision of entertainment facilities.</p> <p>In brief, the changes are:</p> <ol style="list-style-type: none"> 1. unamplified live music between 8am and 11pm in all venues is no longer licensable; 2. amplified live music between 8am and 11pm before audiences of no more than 200 persons on alcohol licensed premises is no longer licensable; 3. amplified live music between 8am and 11pm before audiences of no more than 200 persons in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment) is no longer licensable; 4. the licensing requirement for the provision of entertainment facilities is removed; 5. the exemption for live music integral to a performance of morris dancing or dancing of a similar type is widened, so that the exemption applies to live or recorded music instead of unamplified live music. <p>1 and 2 above are subject to the right of the licensing authority to impose conditions about live music following a review of a premises licence or club premises certificate relating to premises authorised to supply alcohol for consumption on the premises.</p>
Early Morning Restriction Orders 12	Addition due to change in legislation	<p>The power for licensing authorities to introduce an EMRO is specified in sections 172A to 172E of the 2003 Act which was amended by Section 119 of the Police Reform and Social Responsibility Act 2011. These provisions came into force on 31st October 2012.</p> <p>Regulations prescribing the requirements in relation to the process for making an early morning restriction order (EMRO) were brought in force on 31st October 2012.</p> <p>Guidance has been introduced in relation to:</p> <ul style="list-style-type: none"> • the EMRO process • the evidence base • introducing an EMRO

		<ul style="list-style-type: none"> • advertising an EMRO • dealing with representations • hearings implementation • imitations • enforcement <p>The legislation gives licensing authorities discretion to restrict sales of alcohol by introducing an EMRO to restrict the sale or supply of alcohol to tackle high levels of alcohol related crime and disorder, nuisance and anti-social behaviour. The order may be applied to the whole or part of the licensing authority area and if relevant on specific days and at specific times. The licensing authority must be satisfied that such an order would be appropriate to promote the licensing objectives. The only exemptions relating to EMROs are New Years Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and room service. The decision to implement an EMRO should be evidence based and licensing authorities may wish to outline in the policy the grounds which they will take into consideration when considering implementation of an EMRO. This should include consideration of the potential burden imposed as well as the potential benefits. The Licensing Authority reserves the right to introduce an EMRO if it so desires and consultation and evidence from responsible authorities demonstrates the need. The function of making, varying or revoking an EMRO is specifically excluded from the statutory delegation of functions to the Licensing Committee.</p> <p>This is a new provision open to the Council and it may wish to consider consulting on this issue at a later date. Initial views are sought from stakeholders during this consultation.</p>
Late night levy consideration 13	Addition due to change in legislation	<p>Addition: The legislative provisions relating to the late night levy are not part of the Licensing Act 2003 but are contained in Sections 125 to 139 of the Police Reform and Social Responsibility Act 2011. The provisions came into force on 31st October 2012.</p> <p>Regulations have been brought into force setting out the way in which the levy must be applied and administered, and arrangements for expenses, exemptions and reductions.</p> <p>Guidance has also been introduced in relation to:</p> <ul style="list-style-type: none"> • implementing the levy and the consultation process • the design of the levy • exemptions from the levy • reductions in levy charges

		<ul style="list-style-type: none"> • how revenue raised from the levy may be spent • the levy charges • the levy collection process • <p>With regard to exemptions, the licensing authority will have discretion whether to exempt certain premises or not. Licensing Authorities also have discretion whether to reduce the amount of the levy by 30% for premises which participate in business-led best practice schemes. Any revenue from the levy must be split between the licensing authority and the Police, with at least 70% of the 'net' levy (after expenses) paid to the Police. The Late Night Levy Guidance, at paragraph 1.40 suggests that licensing authorities may wish to use existing partnership arrangements with the Police to ensure that the police intentions for the share of the levy revenue paid to them are genuine.</p> <p>These new powers enable licensing authorities to charge a levy in relation to persons who are licensed to sell or supply alcohol late at night as a means of raising a contribution towards the costs of policing the night-time economy. It is a 'local' power that licensing authorities can choose whether or not to exercise.</p> <p>This is a new provision open to the Council and it may wish to consider consulting on this issue at a later date. Initial</p>
Temporary Event Notices 14	New legislation	<p>The Police and Environmental Health Officers are now able to object to TENS where they consider that the proposed activities are likely to undermine a licensing objective.</p> <p>Conditions may be applied to TENS if the Authority considers it appropriate for the promotion of the licensing objectives to do so, providing the conditions are also imposed on a premises licence or club premises certificate that has effect in respect of the same premises, or any part of the same premises, as the temporary event notice, and the conditions would not be inconsistent with the carrying out of the licensable activities under the temporary event notice.</p> <p>Time limits relating to TENS have been relaxed, including the duration of activities which has increased from 96 hours to 168 hours.</p>
Licence Suspensions 18	Delete due to the change in legislation	<p>Licensing authorities (LAs) have been made responsible authorities in their own right under the Licensing Act 2003 giving them greater powers and flexibility. This gives stronger powers to, for example, remove licences from, or refuse to grant licences to, premises that are causing problems without having to wait for the police or another responsible authority (section 103 of the</p>

		PRSR Act).
Table of delegation	Update for new powers	<p>Officers in all cases</p> <ul style="list-style-type: none"> • power to suspend a premises licence (S.55A (1) LA2003) or club premises certificate (S.92A (1) LA2003) for non payment of annual fees • power to specify the date on which suspension takes effect. This must be at least 2 working days • power to impose existing conditions on a premises licence, club premises certificate, and Temporary Event Notice where all parties agree that a Hearing is unnecessary – see S.106A LA2003 power to make representations as responsible authority Advice and Guidance Additional guidance

Interested Parties		The term 'interested parties' has been replaced by 'any other person' meaning that anyone can voice objections regardless of geographic vicinity, however any such objection must relate to one or more of the licensing objectives.
Notification of applications will be the responsibility of the Licensing Authority		The Secretary of State has been required to make changes to the Licensing Act Regulations 2005 requiring the Licensing Authority to advertise applications 'in a manner which is prescribed and is likely to bring the application to the attention of the persons who are likely to be affected by it'.
Determination of applications		'Necessary' has been replaced with 'appropriate' in relation to the steps a licensing authority may take when determining applications / requests for review.
Sanctions for persistently selling alcohol to children		<ul style="list-style-type: none"> • The fine for persistent underage sales has doubled from £10,000 to £20,000, and the new legislation makes it easier to shut down businesses found to be persistently selling alcohol to those under 18. The Government will not tolerate sales of alcohol to children. The fine for persistent underage sales has been doubled to £20,000 and it is now easier to shut down businesses found guilty. The new legislation increases the period of voluntary closure, as an alternative to a fine, from 48 to 336 hours (Section 118 of the PRSR Act).
		<ul style="list-style-type: none"> • Local residents now have a greater say – the 'vicinity test' has been scrapped so now anyone can make representations about licensing decisions regardless of whether they live close to the premises concerned (Section 105 -108 of the PRSR Act).
		As outlined at paragraph 13.56 of the Consolidated Guidance issued under Section 182 of the Licensing Act 2003 (October 2012 version), there are also circumstances when as a condition of planning permission a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant MUST observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

AGENDA ITEM 8

Meeting	Licensing Committee
Date	13 November 2013
Subject	Street Trading Fees
Report of	Director for Place
Summary of Report	This report seeks approval from the Committee to engage in consultation on the proposed new Street Trading fees.

Officer Contributors	Emma Phasey - Trading Standards and Licensing Manager
Status (public or exempt)	Public
Wards Affected	Not applicable
Key Decision	Not applicable
Reason for urgency / exemption from call-in	Not applicable
Function of	Council
Enclosures	Appendix 1 – Proposed Fees
Contact for Further Information:	Emma Phasey - Trading Standards and Licensing Manager - emma.phasey@barnet.gov.uk

1. RECOMMENDATION

- 1.1 **That the draft Street Trading fees be approved for consultation and that Officers be instructed to report to the next Licensing Committee meeting on the outcome of the consultation**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Decision by Cabinet on 31 January 2008 to adopt the current Street Trading Policy and enforcement regime
- 2.2 Decision by Council on 16 July 2013 to adopt the current Street Trading Policy.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 Street trading supports objectives contained within the Corporate Plan. In particular, in relation to “maintaining the right environment for a strong and diverse local economy” as street trading can contribute to the economic, cultural, environmental and social well being of the borough.
- 3.2 Street trading also supports the Sustainable Community Strategy 2010-2020 in relation to helping create a successful London Suburb as street trading supports enterprise within the London Borough of Barnet.

4. RISK MANAGEMENT ISSUES

- 4.1 Adopting an equitable fee structure is essential to ensure that only income, sufficient to cover the cost of administering the regime, is received. If charges are set too high compliance may be discouraged and the Council could be challenged on the legality of the fees.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 The Council has a legal obligation to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different groups.
- 5.2 When considering street trading applications, only issues provided for in the London Local Authority Act 1990 (as amended), in addition to the authority’s street trading policy will be taken into account. This will ensure a consistent approach is adopted. Under the terms of the policy, every application will be considered on its own merits, regardless of the race, colour, nationality, ethnic origin, sex, marital status, disability or age of the individuals involved.
- 5.3 The community in Barnet has a richness of diversity with a broad range of cultural activities and entertainments. Applications will be dealt with in accordance with the Act

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 6.1 Section 32 of the London Local Authorities Act 1990 allows fees to be set for the grant, renewal and variation of a licence. The Council may only recover from licence holders the reasonable costs incurred to administer the regime.
- 6.2 Administration and enforcement of street trading will be carried out by the Licensing team, together with support from Legal Services and from Governance Services, when arranging and co-ordinating arrangements for hearings in relation to Permanent Pitches.
- 6.3 The current fees were set in 2008 and although these have been reviewed they have not changed since then. The proposed fees for street trading in relation to permanent pitches and temporary street trading (tables and chairs/shop front displays) remain the same. Only the fees for street markets it is proposed will increase. This will not result in a significant increase in income however allows the department to recover their costs in relation to street markets. The resources required to administer the current level of street market within London Borough of Barnet will be managed within current resources.

7. LEGAL ISSUES

- 7.1 Section 32 of the London Local Authorities Act 1990 allows fees to be set for the grant, renewal and variation of a licence. The Council may only recover from licence holders the reasonable costs incurred to administer the regime.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

- 8.1 Constitution Part 3, Section 2, details the functions of the Licensing Committee including street trading

9. BACKGROUND INFORMATION

- 9.1 In January 2008 the London Borough of Barnet adopted the current regime in relation to street trading. The Introduction of this street trading regime has allowed for the effective control of the street scene. The Council is able to attach relevant conditions to ensure good practice and control issues such as nuisance, crime and disorder. Where there is non compliance, licences can be revoked and appropriate enforcement action taken.
- 9.2 There are currently approximately 70 temporary street trading licences and 6 permanent pitches in the borough.
- 9.3 The current fees in relation to street trading were adopted in 2008.
- 9.4 The London Borough of Barnet has very recently been contacted by traders in relation to street markets within the borough. It is widely recognised that street markets can benefit an areas not only in terms of regeneration, economic development ,culture and tourism, but also in relation to food and health, community cohesion and the environment.

- 9.5 Currently the fees do not have a section for street markets and therefore only a standard street trading fee could be charged. The result of this is that only a small fee can be charged for a regular small street market that will not cover the administration of the scheme.
- 9.6 If approved by the Committee, the proposed will be submitted for consultation with all relevant stakeholders. The legislation states that the authority must publish a notice in the local paper specifying a period in which written representations may be made in relation to the proposed charges. It also states that notice must be given to all current licence holders.
- 9.7 If approved the newspaper article will be placed this week and the representation period will run until 5pm on the 12th December. All replies will be taken into account and the fees, revised as necessary, will be submitted to this Committee for final approval at its next meeting.
- 9.8 The fees may be changed at any time after adoption (after further consultation), and will be annually reviewed by the licensing department.
- 9.9 The proposed draft street trading fees for agreement prior to formal consultation can be found in Appendix 1. There is no proposed changes to the fees for a permanent pitch or a temporary street trading licence. However there are new fees introduced for street markets.
- 9.10 To be able to trade at a street market within Barnet an application needs to be submitted by each trader to be registered as a casual temporary trader. The fee for this application process has been set at £28.00. This covers the costs of the administration and check process on the trader and the issuing of the licence.
- 9.11 Every time the market runs a charge will be made per pitch per day. This will vary between £10 to £15 per pitch. A pitch shall no exceed 2m by 2m. This means that the total revenue from an average market (10-30 stalls) will be between £150 to £300. This fee must be cost neutral and cover the cost of administrating the market application, site visit to ensure compliance and any further action that may be required.

10. LIST OF BACKGROUND PAPERS

1.1 10.1 London Local Authorities Act 1990

Cleared by Finance (Officer's initials)	AD
Cleared by Legal (Officer's initials)	BH

APPENDIX 1 – PROPOSED FEES

1. Street Trading Fee – permanent pitch

£1.32 per sq metre per day

2. Street Trading Fee– temporary licence for tables& chairs/shop front display only

For a six months licence:

up to 3 square metres	£100
3 - 10 square metres	£300
10 - 15 square metres	£600
above 15 square metres (max. 25 square metres)	£900.00

3. Street Trading Fee – temporary licence (other than tables and chairs and shop front display)

£1.32 per sq metre per day

4. Street Trading Fee - Street Market

Casual temporary trader registration (12 months validity) £28.00

Daily street trading licence charge:

Total market size	
10-14 stalls	£15 per stall per day
15-19	14 per stall per day
20-24	13 per stall per day
25-30 stalls	11 per stall per day
> 30 stalls	£10 per stall per day

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Meeting	Licensing Committee
Date	13 November 2013
Subject	Street Trading Policy
Report of	Director for Place
Summary of Report	This report seeks approval from the Committee to engage in consultation on a draft Street Trading Policy.

Officer Contributors	Emma Phasey - Trading Standards and Licensing Manager
Status (public or exempt)	Public
Wards Affected	Not applicable
Key Decision	Not applicable
Reason for urgency / exemption from call-in	Not applicable
Function of	Council
Enclosures	Appendix 1 – Draft Policy Appendix 2 – Summary of changes Appendix 3 – Consultation document
Contact for Further Information:	Emma Phasey - Trading Standards and Licensing Manager - emma.phasey@barnet.gov.uk

1. RECOMMENDATION

- 1.1 That the draft Street Trading Policy be approved for consultation and that Officers be instructed to report to the next Licensing Committee meeting on the outcome of the consultation**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Decision by Cabinet on 31 January 2008 to adopt the current Street Trading Policy and enforcement regime
- 2.2 Decision by Council on 16 July 2013 to adopt the current Street Trading Policy

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 Street trading supports objectives contained within the Corporate Plan. In particular, in relation to “maintaining the right environment for a strong and diverse local economy” as street trading can contribute to the economic, cultural, environmental and social well being of the borough.
- 3.2 Street trading also supports the Sustainable Community Strategy 2010-2020 in relation to helping create a successful London Suburb as street trading supports enterprise within the London Borough of Barnet.

4. RISK MANAGEMENT ISSUES

- 4.1 The lack of a sound policy or the adoption of an unsound policy may result in poor decisions being taken and could cause difficulty to businesses and residents. This would leave the authority open to challenge by way of Judicial Review in relation to the policy and/or appeal of a Licensing Committee decision to the Magistrates’ Court. This would adversely affect the Councils reputation.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 The Council has a legal obligation to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different groups.
- 5.2 When considering street trading applications, only issues provided for in the London Local Authority Act 1990 (as amended), in addition to the authority’s street trading policy will be taken into account. This will ensure a consistent approach is adopted. Under the terms of the policy, every application will be considered on its own merits, regardless of the race, colour, nationality, ethnic origin, sex, marital status, disability or age of the individuals involved.
- 5.3 The community in Barnet has a richness of diversity with a broad range of cultural activities and entertainments. Applications will be dealt with in accordance with the Act

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 6.1 Administration and enforcement of street trading will be carried out by the Licensing team, together with support from Legal Services and from Governance Services, when arranging and co-ordinating arrangements for hearings in relation to Permanent Pitches.
- 6.2 The current fees were set in 2008 and are being reviewed at the same time as the policy, any expenditure will be contained within the licensing departments budgets.

7. LEGAL ISSUES

- 7.1 The London Local Authorities Act 1990 allows such Authorities to license street markets. To ensure consistency in decision making an agreed sound policy is needed.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

- 8.1 Constitution Part 3, Section 2, details the functions of the Licensing Committee including street trading

9. BACKGROUND INFORMATION

- 9.1 In January 2008 the London Borough of Barnet adopted the current regime in relation to street trading. The Introduction of this street trading regime has allowed for the effective control of the street scene. The Council is able to attach relevant conditions to ensure good practice and control issues such as nuisance, crime and disorder. Where there is non compliance, licences can be revoked and appropriate enforcement action taken.
- 9.2 There are currently approximately 70 temporary street trading licences and 6 permanent pitches in the borough.
- 9.3 The current street trading policy was adopted in July 2013.
- 9.4 The London Borough of Barnet has very recently been contacted by traders in relation to street markets within the borough. It is widely recognised that street markets can benefit an area not only in terms of regeneration, economic development ,culture and tourism, but also in relation to food and health, community cohesion and the environment.
- 9.5 Currently the policy has a section in relation to street markets, however this section is restrictive in the time limits it imposes and also may not provide adequate control over the market traders. Therefore to be able to help encourage well controlled and beneficial street markets in the borough these sections have been reviewed and amended.
- 9.4 If approved by the Committee, the street trading policy will be submitted for consultation with all relevant stakeholders during the next 12 weeks, in accordance with best practice. All replies will be taken into account and the

policy, revised as necessary, will be submitted to this Committee for final approval at its next meeting. The Committee will then be asked to recommend that the Policy be adopted at a meeting of the full Council in April 2014.

- 9.5 The policy may be changed at any time after adoption (after further consultation), and will be regularly reviewed.
- 9.6 The proposed draft street trading policy for agreement prior to formal consultation can be found in Appendix 1. A matrix of the main changes to the policy can be found at Appendix 2.
- 9.7 The consultation document will be sent to the Police, all Members, all current holders of a street trading licence in our area and the Environmental Health and Highways departments of the London Borough of Barnet
- 9.8 In so far as is possible, the consultation document will be emailed to the relevant consultees, a hard copy will be sent where this is not appropriate. All of the consultation documents will also be published on the Council's website.
- 9.9 A specific consultation response document has also been produced. This can be found in Appendix 3 and this will be sent out with the consultation

10. LIST OF BACKGROUND PAPERS

- 10.1 London Local Authorities Act 1990

Cleared by Finance (Officer's initials)	JH
Cleared by Legal (Officer's initials)	BH

Appendix 1

London Borough of Barnet

Street Trading Policy 2013

**London Local Authorities Act 1990 (as
amended)**

1 DEFINITION OF TERMS

Within the terms of this policy in respect of street trading the following definitions apply:

- 1 **Authorised Officer** An officer employed and authorised by The London Borough of Barnet to act in accordance with the provisions of the London Local Authorities Act 1990 (as amended).
- 2 **Permanent Street Trading Licence** A licence given by the London Borough of Barnet to trade on a licensed street
- 3 **Temporary Street Trading Licence** A short term/provisional licence given by the London Borough of Barnet to trade on a street. Usually issued for table and chairs and shop front displays outside of an established premises
- 4 **Street Market licence** A street trading licence given by the London Borough of Barnet to an individual to allow him/her to trade on a street as a market.
- 5 **Licence** The term used when this policy applies equally to both a street trading licence and temporary street trading licence.
- 6 **Licence Holder** The person or company to whom the licence to trade has been granted.
- 7 **Market** An outdoor space where three or more stalls are situated together for the purpose of allowing people to street trade.
- 8 **Itinerant ice cream trading** shall have the meaning ascribed in Section 21(1) of the London Local Authorities Act 1990 (as amended).
- 9 **Street Trader** A trader granted permission by The London Borough of Barnet to trade from a specified position.
- 10 **Street** Shall have the meaning ascribed in Section 21(1) of the London Local Authorities Act 1990 (as amended).
- 11 **Street Trading:** Shall have the meaning ascribed in Section 21(1) of the London Local Authorities Act 1990 (as amended) and includes the use of tables and chairs on situated the highway for business purposes.
- 12 **Street Trading Pitch/Location** The area in any street authorised as a place at which street trading may be engaged in by a street trader, and includes any temporary alternative place approved by the London Borough of Barnet.

- 13 **Advertisement** Any word, letter, model, sign, placard, board, notice, whether illuminated or not, in the nature, and employed wholly or partly for the purposes of advertisement, announcement or direction and includes any hoarding or similar structure or any balloon used, or adapted for use for the display of advertisements, and references to the display of advertisement shall be constructed accordingly.
- 14 **Assistant** A person employed by and acting under the directions of a street trader to assist him/her about the business of the stall and whose name and address has been notified to the London Borough of Barnet
- 15 **Awning** A sheet of canvas or other material, used as a protection against the weather, which projects as an extension of the roof beyond the structure of the stall.
- 16 **Goods** Any goods, wares or merchandise displayed for sale at a stall
- 17 **Pitch Limits** The agreed area within which street trading is permitted.
- 18 **Refuse** Any waste material.
- 19 **Stall** Any structure used by a trader for the display of goods, or in connection with his or her business, and which occupies a licensed street trading pitch; and includes all goods offered or to be offered for sale and any additional structure or equipment used as part of the stall or business. On "isolated pitches" this also includes all rubbish created as a result of the business.
- 20 **Premises** Any shop, house or block of flats or other building.

2 INTRODUCTION

- 2.1 This document sets out the London Borough of Barnet's policy in respect of the London Borough of Barnet's licensing functions for street trading under [Part III of the London Local Authorities Act 1990 \(as amended\)](#).
- 2.2 This policy will take effect from ????
- 2.3 This policy will be kept under review and before making any amendments the London Borough of Barnet will consult with licence holders and their representatives and will give consideration to all representations received within the 28-day consultation period.
- 2.4 The policy will be formally reviewed at least every 5 years.
- 2.5 The London Borough of Barnet recognises that street trading can play a part in the cultural identity of the borough and also contributes to the local economy. It may attract visitors and can make for vibrant towns and communities, while at the same time providing employment.
- 2.6 In regulating street trading activities the London Borough of Barnet acknowledges that a balance must be struck between the legitimate objectives of applicants and the desires of the population as a whole, and in particular those members of the public living, working or engaged in normal activity in the area concerned. A balance must be struck between these, often conflicting, positions and all relevant views will be taken into account when making licensing decisions or determining a course of action.
- 2.7 This policy will apply to all street-trading activities to ensure consistency in decision-making. However, each application will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration.
- 2.8 On Barnet Council made regulations prescribing standard licence conditions in accordance with Section 27(3) London Local Authorities Act 1990 (Appendix 2)
- 2.9 The Licensing functions under The Act will be discharged by officers acting under delegated authority.

3 THE APPLICATION

- 3.1 All applications for a licence must be made to the London Borough of Barnet either electronically using the forms on the London Borough of Barnet website or addressed to:

London Borough of Barnet

Trading Standards and Licensing Team

Building 4

North London Business Park

Oakleigh Road South

London N11 1NP

3.2 New Applications – temporary licences

3.2.1 The application must be:

- Made in writing
- Made on the correct application form as prescribed by the London Borough of Barnet
- Accompanied by the full fee, unless agreed in writing that a partial fee will be acceptable.
- Accompanied by an acceptable passport sized photo
- Accompanied by the following documents:
 - An original certificate of insurance that covers the street trading activity for third party and public liability risks
 - Written proof of ownership of the land on which it is intended to trade or adjacent to or written consent of the land owner to trade from that land

3.2.2 A correctly completed application for a licence should (apart from in exceptional circumstances to be determined by the London Borough of Barnet) be received at least 28 days before the proposed start date of the licence.

3.2.3 An incomplete or incorrectly completed application will be rejected.

3.3 New Applications – permanent pitches

3.3.1 Please note that to apply for a new street trading permanent pitch the street that you wish to trade must be a designated street under the London Local Authorities Act 1990 (as amended). Currently there are no streets designated.

3.3.2 At present there are no plans to designate any street in the near future.

3.4 Renewal Applications

3.4.1 Renewal applications will only be accepted for permanent street trading licences.

3.4.2 A correctly completed application for the renewal of a permanent street trading licence must be submitted no later than two months before the existing licence will expire but not earlier than three months before that date.

3.4.3 An incomplete or incorrectly completed application will be rejected.

3.4.4 A copy of the current public liability insurance must be provided

3.4.5 An application received more than three months before the expiry date will be rejected

3.7 Fast Track application

3.5.1 All applications for temporary street trading licences will be treated as new applications.

3.5.2 However if a licence holder has held a valid temporary street trading licence within the last 12 months they are eligible for a fast track application

3.5.3 A correctly completed application for a licence should (apart from in exceptional circumstances to be determined by the London Borough of Barnet) be received at least 28 days before the proposed start date of the licence.

3.5.4 The application form must be accompanied by the fee, an acceptable passport sized picture and the current public liability documents.

3.6 Street Markets - Operator

3.5.5 All persons intending to operate a street market must submit an application for authorisation to hold a street market.

3.5.6 The initial application to hold a market in the area must be submitted at least 2 months before the market will be held. This must be submitted with

- An original certificate of insurance that covers the street trading activity for third party and public liability risks
- A management plan for the market including a risk assessment

3.5.7 If granted this authorisation remain in place indefinitely unless the licensing authority confirm in writing that it has been revoked.

3.5.7 Once authorisation is obtained a application must be submitted at least 1 months before the start of each market confirming the date(s) of the event. The maximum licence period for a market is currently six months.

3.7 Street Market – Casual Market Trader Registration

3.7.1 Any individual who wishes to trade at a street market within the London Borough of Barnet must hold a casual market trader registration

3.7.2 The application must be:

- Made in writing
- Made on the correct application form as prescribed by the London Borough of Barnet
- Accompanied by the full fee, unless agreed in writing that a partial fee will be acceptable.
- Accompanied by an acceptable passport sized photo
- Accompanied by an original certificate of insurance that covers the street trading activity for third party and public liability risks

4. DETERMINING APPLICATIONS

4.1 New Permanent pitches

4.1.1 Before deciding whether to grant or refuse a licence the London Borough of Barnet will carry out a consultation process with various persons and groups. In particular the following organisations or persons shall be consulted.

- London Borough of Barnet (Highways Authority)
- London Borough of Barnet Environmental Health Department
- The Metropolitan Police Service
- London Fire & Rescue Service

- The elected ward councillor for the proposed street trading location
- Any other person at the London Borough of Barnet believes may provide relevant information in respect of the application.

4.1.2 The consultation period will last for 21 days starting the day following receipt of a valid application for a permanent street trading licence.

4.1.3 Consultees will be given 21 days in which to make comments.

4.2 Renewal Applications

4.2.1 Before a permanent street trading licence is renewed the London Borough of Barnet will carry out a consultation process with various persons and groups. In particular the following organisations or persons shall be consulted.

- London Borough of Barnet (Highways Authority)
- London Borough of Barnet Environmental Health Department
- The Metropolitan Police Service

4.2.2 The consultation period will last for 7 days starting the day following receipt of a valid application for a permanent street trading licence.

4.2.3 The purpose of the consultation is to determine whether there has been any significant change in circumstances since the grant of the previous permanent street trading licence.

4.2.4 The applicant is not required to advertise the application for the renewal of an existing licence

4.3 Temporary licence (non fast track applications)

4.3.1 The applicant must advertise the application by placing a prescribed notice at or on the premises for 21 consecutive days starting the day following receipt of a valid application.

4.3.2 The site will be visited during this consultation period by an officer and assessed for its suitability to have a street trading licence

4.4 Temporary licence (fast track applications)

4.4.1 Fast track application will not have a consultation period or a site visit

A list of the name and address of the premises who wish to apply will be sent on a weekly basis to the following people:

- London Borough of Barnet (Highways Authority)
- London Borough of Barnet Environmental Health Department
- The Metropolitan Police Service

4.5 Street Markets - Operators

4.5.1 Before deciding whether to grant or refuse a proposal to allow an area to be used for a temporary street market a consultation will be undertaken with various persons and groups. In particular the following organisations or persons shall be consulted.

- London Borough of Barnet (Highways Authority)
- London Borough of Barnet Environmental Health Department
- The Metropolitan Police Service
- London Fire & Rescue Service

- The elected ward councillor for the proposed street trading location
- Transport for London (if the market is on a TFL route.)
- Any other person at the London Borough of Barnet believes may provide relevant information in respect of the application.

4.5.2 Notices will be displayed in the vicinity of the proposed street market outlining the application and inviting representations.

4.5.3 Letters will be sent to business immediately adjacent to the proposed street market outlining the application and inviting consultations

4.5.4 The consultation period will last for 4 weeks starting the day following receipt of a valid application for a temporary street market.

4.5.5 Consultees will be given 21 days in which to make comments.

4.5.6 If approval is given for a temporary street market to be held by a particular person in a particular area then a further applications must be submitted at least a month prior to the start of each market specifying the date(s) of the market. This information will be circulated to the following persons to consult on the suitability of the chosen date.

- London Borough of Barnet (Highways Authority)
- London Borough of Barnet Environmental Health Department
- The Metropolitan Police Service
- London Fire & Rescue Service
- The elected ward councillor for the proposed street trading location
- Transport for London)if the market is on a TFL route.

4.5.7 The parties will have 7 days to make any representations.

4.6 Street Market – Casual Market Trader registration

4.6.1 A street market trader registration will not have a consultation period.

4.6.2 A list of the name and address of the premises who wish to apply will be sent on a weekly basis to the following people:

- London Borough of Barnet (Highways Authority)
- London Borough of Barnet Environmental Health Department
- The Metropolitan Police Service

5 REPRESENTATIONS TO AN APPLICATION

5.1 In addition to the persons mentioned in paragraphs 4.1 and 5.1 above, ‘interested parties’ may also make representations to the London Borough of Barnet in writing on any application for the grant or renewal of a permanent street trading licence or temporary street trading licence. An ‘interested party’ is defined as:

- A person living in the vicinity of the premises in question
- A body representing persons living in the vicinity of the premises in question
- A person involved in a business in the vicinity of the premises
- A body representing persons involved in such a business in the vicinity of the premises

5.2 A representation will not be relevant if it is considered by the London Borough of Barnet to be frivolous, vexatious or repetitive or unrelated to the application.

- 5.3 If a relevant representation is received the London Borough of Barnet will make efforts to consult with the applicant and the person or body making the representation in an attempt to resolve any issues.

6 DETERMINATION OF THE APPLICATION

- 6.1 The decision to grant a new permanent street trading licence shall be determined by the Licensing Sub-Committee
- 6.2 The decision to renew a permanent licence can be made by an officer using delegated powers, however if the officer is unable to make a decision due to exceptional or other circumstances the application may be determined by the Licensing Sub-Committee
- 6.3 The decision to grant a temporary licence or a street market (for a period up to 6 months) shall be determined at officer level using delegated powers, however if the officer is unable to make a decision due to exceptional or other circumstances the application may be determined by the Licensing Sub-Committee
- 6.4 The London Borough of Barnet will have regard to any relevant representations received and will assess the impact of the application on the following when deciding whether to grant or refuse an application:
- Public Safety
 - Crime and Disorder
 - Nuisance
 - Visual Amenity of the area
- 6.5 The London Borough of Barnet will have regard to any relevant factors that may affect the use of a licence if granted including, but not exclusively,
- the suitability of the premises at which it is intended to trade and
 - the adequate provision of storage facilities for receptacles or perishable goods when street trading is not taking place.
- 6.6 The London Borough of Barnet will also consider whether the applicant:
- is suitable to hold a licence on the grounds of misconduct or other sufficient reason and may consider the award of penalty points on any existing licence
 - has previously failed to obtain a street trading licence
 - has previously held a licence that was revoked
 - has previously failed to pay fees or other charges in respect of a licence

7 GRANTING THE APPLICATION

- 7.1 On approving an application the London Borough of Barnet may issue a permanent street trading licence or temporary street trading licence (a licence) as appropriate.
- 7.2 A licence will be issued subject to the London Borough of Barnet's standard conditions and shall be subject to any additional terms, plans and details contained in the application.
- 7.3 A licence may also be issued subject to specific conditions that the licensing authority deems reasonable and necessary.

- 7.4 A permanent street trading licence shall be granted for a period not exceeding 12 months.
- 7.5 A temporary street trading licence may be granted on a daily, weekly or monthly basis up to a maximum period of six months.
- 7.6 A street market may be approved for a period not exceeding six months
- 7.7 Each individual trader at a street market will need to apply for and hold a casual street market registration for the London Borough of Barnet. It will be the responsibility for the market operator to confirm that each trader on each day has a valid street trading licence and to provide details of the traders and licence numbers to the Licensing Department.
- 7.8 The operators authorisation will be issued subject to the London Borough of Barnet's standard conditions. The authorisation may also be issued subject to specific conditions that the licensing authority deems reasonable and necessary.
- 7.9 The operator may also have a number of conditions imposed on them that must be complied with for the market to continue to take place – for example confirmation in advance of the suspension of parking bays

8 REFUSING THE APPLICATION

- 8.1 A licence shall not be granted unless:
- The fee has been paid in full or
 - An agreement in writing has been obtained from the London Borough of Barnet which contains details of the payment of the fee by instalments.
- 8.2 A licence shall be refused if any of the circumstances in section 25(4) of the Act apply.
- 8.3 A licence may be refused if any of the circumstances in section 25(6) of the Act apply. However, before a final decision is taken the London Borough of Barnet will give the licence holder or applicant a written notice of its intention to refuse the licence. The licence holder or applicant will be given an opportunity to appear before a senior officer and to make representations in respect of the matter.
- 8.4 A licence will not be granted if the proposed street trading pitch will not allow sufficient and safe passage for pedestrians using the footpath. In general at least 2.5 metres of clear unobstructed passage must be maintained from the roadside kerb to the outermost point of pitch. In areas of high pedestrian use or high levels of traffic a larger clearance may be required.
- 8.5 A licence will not be granted for proposed street trading pitches to extend more than 1 metre from the building and onto the highway on all routes maintained by Transport for London.
- 8.6 A licence will not be granted if it is clear that the granting of the licence will cause significant nuisance.

Street Markets

8.7 Permission to operate a market licence may be refused if the licence holder fails to give the London Borough of Barnet a notice of the intended use of the licence street for the purposes of holding a market and/or failure to advertise the market in accordance with paragraphs 4.8 to 4.10 above.

9 EXPIRY OF THE LICENCE

9.1 A licence will expire on the date specified on the licence unless it is renewed in accordance with section 3 above.

9.2 A licence holder may surrender his/her licence by sending it to the London Borough of Barnet at which time it will cease to be valid and will expire.

Lapse

9.3 If a licence lapses in circumstances as defined in Section 29A of the Act the licence holder should return the licence to the London Borough of Barnet.

Succession

9.4 This section only applies to an individual licence holder of a permanent street trading licence.

9.5 If the licence holder dies or retires or is unable to continue due to ill health as described in Section 26 of the Act the London Borough of Barnet shall not grant a licence in respect of the street trading pitch until 28 days have elapsed from the date of the event

9.6 During the 28-day period, the person named by the licence holder in his/her application may apply to the London Borough of Barnet for the licence to be transferred

9.7 The licence will be granted by the London Borough of Barnet in all circumstances.

10 REVOCATION OR VARIATION

Permanent street trading licence

10.1 The London Borough of Barnet may revoke a permanent street trading licence at any time if any of the circumstances in Section 28 of the Act apply.

10.2 However, having considered all the available evidence the London Borough of Barnet may decide that it is appropriate to vary the conditions of the permanent street trading licence to ensure that compliance with the legislation and licence conditions is achieved.

- 10.3 Before a decision is taken the London Borough of Barnet will give the licence holder a written notice of its intention to revoke or vary the licence.
- 10.4 The licence holder will then be given an opportunity to appear before a senior officer within 21 days and to make representations in respect of the matter.
- 10.5 The senior officer will consider the representations before a decision is taken.
- 10.6 The senior officer will also have regard to this policy in particular section 7 before making a decision.

Temporary Street Trading Licence

- 10.7 The London Borough of Barnet may revoke or suspend the use of a temporary licence on land within 7 metres of any road or footway as described in section 21 (1)(b) on the grounds of safety or nuisance
- 10.8 If the London Borough of Barnet revokes or suspends the temporary licence it will take effect as soon as this is notified to the relevant party.
- 10.9 The London Borough of Barnet will refund a proportion of the fee on a pro-rata basis less the administrative costs of granting the licence.
- 10.10 As an alternative to revocation or variation of a licence, the London Borough of Barnet may decide that other enforcement action is appropriate. This may include using the 'Penalty Points System' or pursuing a criminal prosecution in accordance with the Enforcement Policy.
- 10.11 Use of the penalty points system may result in the revocation of a licence in certain circumstances. The Penalty Points System is contained in appendix 4.

Temporary Street Market

- 10.12 The London Borough of Barnet may revoke or suspend the use of a temporary street market on grounds of safety or nuisance
- 10.13 The London Borough of Barnet may revoke or suspend a casual market traders registration on grounds of inappropriate conduct from the holder.
- 10.14 If the London Borough of Barnet revokes or suspends either the market operators authorisation or casual market traders registration it will take effect as soon as this is notified to the relevant party.
- 10.15 There will be no refund on fees in relation to this.

11 FEES AND CHARGES

- 11.1 The London Borough of Barnet will set the fees for all street trading licences to recover its reasonable administrative and enforcement costs. The cost of street cleaning and other appropriate costs will also be considered when setting the fee.

11.2 The fees will be reviewed annually and before any changes are made the London Borough of Barnet will consult with all licence holders and publish a notice of the proposed charges in a local newspaper.

11.2 The consultation will last for a period of 28 days from the publication of the notice in the newspaper.

11.3 Before a final decision is made the London Borough of Barnet will consider any representations received during the consultation period.

11.4 After a final decision is made, the London Borough of Barnet will inform all licence holders and publish a notice of the fees and charges in a local newspaper.

11.5 The fees and charges will take effect no less than 28 days after the publication of the notice.

11.6 If an application fee is paid by cheque, the fee shall not be deemed to have been paid until the funds have cleared.

13 DECISIONS

13.1 The reasons for any decision(s) taken by the London Borough of Barnet in respect of an application for a licence will be provided in writing to all parties to the proceedings within 7 days of the decision.

13.2 Decisions will be taken having regard to this Street Trading Policy and Part III of the London Local Authorities Act 1990 (as amended).

14 APPEALS

14.1 Any appeal against the decision of the London Borough of Barnet in respect of the grant, variation, revocation or refusal to grant a permanent licence may be made to the magistrate's court under the provisions of section 30 of the London Local Authorities Act 1990.

14.2 There is no right of appeal in respect of temporary street trading licences.

15 ENFORCEMENT

15.1 Any enforcement action instigated by the London Borough of Barnet will be in accordance with the Act and the current Enforcement Policy.

16 UNLICENSED STREET TRADING

- 16.1 Unlicensed street trading can have a negative impact on legitimate street traders and the community as a whole and will not be tolerated by the London Borough of Barnet.
- 16.2 If an authorised officer suspects that a person has committed an offence of unlawful street trading he may seize any article or thing the officer will take appropriate action in line with the current enforcement policy
- 16.3 Before taking any formal action the authorised officer will identify him/herself by showing their authority before taking any action.

17 MOTOR VEHICLES

- 17.1 The sale or exposure for sale of a motor vehicle or motorcycle in a street is prohibited.
- 17.2 If you are in the motor trade business and you offer a vehicle for sale on the internet at the same time as keeping the same vehicle on the public highway this is also classified as street trading.
- 17.3 If an authorised officer identifies a vehicle that is exposed or advertised for sale vehicle in a street he may affix a notice to the windscreen or other part of the vehicle requiring the registered owner to remove the vehicle within 24 hours.

18 DATA PROTECTION, FREEDOM OF INFORMATION AND DATA MATCHING

- 18.1 The London Borough of Barnet London Borough of Barnet (“the Council”) is the Data Controller of all personal information held by the licensing authority. The London Borough of Barnet will process and hold that information in accordance with principles of the Data Protection Act 1998.
- 18.2 The information supplied and held as part of the street trading application and enforcement processes may be disclosable in accordance with the Freedom of Information Act 2000 or Environmental Information Regulations 2004.
- 18.3 The information supplied in all applications will be given to the Audit Commission to participate in the National Fraud Initiative (NFI) data matching exercise and will be used for cross-system and cross authority comparison with other relevant organisations’ data for the prevention and detection of fraud.

Appendix 2

A summary of the changes to the policy

Section	Proposed change to July 2013 policy
3.6	<p>We have separated the current licence procedure from 1 licence for the market to a 2 separate approvals, So now the operator needs to obtain approval for the running of a street market, once they have this they can apply for a temporary street market licence for up to six months.</p> <p>In addition to this the stall holders must apply for a casual street market traders registration</p> <p>Therefore giving greater control over the street markets.</p> <p>The time taken for the procedure for a street market has been reduced. The application for a proposed market now takes 2 months instead of 3. We also now state that only 1 months notice needs to be given of each market date.</p>
3.7	<p>This is a new section. In order to have greater control over the traders who trade at our street markets we are ensuring they each hold an individual registraion to street trade. This can be kept under review and removed if there London Local Authorities Act 1990 are issues with the trader.</p>
4.5	This section is renamed however the procedure remains the same
4.6	This section is new, it reflect the process a person has to go through to get a temporary street trading licence and ensure adequate checks are done on an individual
7.5-7.9	These replace previous sections, and reflect the proposed new process
10.12 - 10.14	These replace previous sections, and reflect the proposed new process

Appendix 3

London Borough of Barnet

Street Trading Policy

FORMAL CONSULTATION: COMMENTS ON DRAFT POLICY

When you have completed this form please return to licensingadmin@barnet.gov.uk

or by letter, addressed to

Emma Phasey, Trading Standards and Licensing Manager,

London Borough of Barnet, Building 4,

North London Business Park,

Oakleigh Road South,

London,

N11 1NP

Name:

Organisation or capacity (if applicable):

Address:

E-mail:

Telephone Number:

Paragraph No.

COMMENTS

Paragraph No.

COMMENTS

Please add further rows if you wish

In addition I wish to make the following general comments: