

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	<p>This section is renamed however the procedure remains the same</p>
4.6	<p>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</p>
7.5-7.9	<p>These replace previous sections, and reflect the proposed new process</p>
10.12 - 10.14	<p>These replace previous sections, and reflect the proposed new process</p>

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: