

| |
|---|
| <u>MEETING</u> LICENSING COMMITTEE |
| <u>DATE AND TIME</u> MONDAY 12TH NOVEMBER, 2018 AT 7.00 PM |
| <u>VENUE</u> HENDON TOWN HALL, THE BURROUGHS, LONDON NW4 4BG |

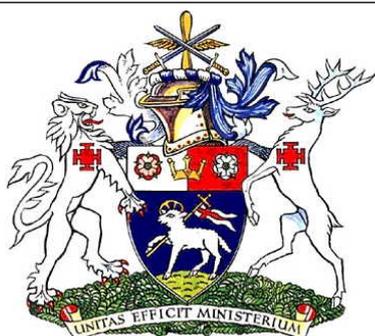
Dear Councillors,

Please find enclosed additional papers relating to the following items for the above mentioned meeting which were not available at the time of collation of the agenda.

| Item No | Title of Report | Pages |
|---------|---|-----------|
| 6. | LICENSING FOR ANIMAL ACTIVITIES - FEES AND CHARGES | 3 - 10 |
| 7. | SEX ESTABLISHMENT AND SEX ENTERTAINMENT VENUES POLICY | 11 - 38 |
| 8. | FIREWORKS LICENCE POLICY | 39 - 56 |
| 9. | GAMBLING POLICY | 57 - 108 |
| 10. | STREET TRADING FEES AND CHARGES | 109 - 116 |

Jan.natynczyk@barnet.gov.uk

This page is intentionally left blank



Licensing Committee

12th November 2018

| | |
|--------------------------------|--|
| Title | Licensing for Animal Activities - Proposed New Fees and Charges |
| Report of | Commissioning Director for Environment |
| Wards | All |
| Status | Public |
| Urgent | No |
| Key | No |
| Enclosures | Appendix 1 – Proposed Fees and Charges |
| Officer Contact Details | Emma Phasey Group Manager Commercial Premises Emma.phasey@barnet.gov.uk |

Summary

This report seeks approval from Members to adopt the attached new fees and charges in relation to animal activity applications.

Officers Recommendations

1. That the draft fees be approved by the Committee with immediate effect.
2. To send the fees to the next policy and resources committee for noting.

1. WHY THIS REPORT IS NEEDED

- 1.1 In April 2018 the Government passed the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (hereinafter referred to as “the Regulations”). The Regulations replaced a number of pieces of legislation that governed the licensing of animals.
- 1.2 The main purpose of the Regulations is to introduce an updated licensing system in England for five activities involving animals:
- a) selling animals as pets;
 - b) providing for or arranging for the provision of boarding for cats or dogs;
 - c) hiring out horses;
 - d) dog breeding; and,
 - e) keeping or training animals for exhibition.
- 1.3 The Regulations primarily repeal or amend the following pieces of legislation:
- Animal Boarding Establishments Act 1963;
 - Breeding of Dogs Act 1973;
 - Breeding of Dogs Act 1991;
 - Pet Animals Act 1951;
 - Performing Animals (Regulation) Act 1925;
 - Riding Establishments Act 1964.
- 1.4 The Regulations amend the licensing regime in a number of ways but the key changes are:
- a) A premises can have a single licence covering a number of licensed activities (similar to premises licences under the Licensing Act 2003);
 - b) A licence can last for 1 – 3 years depending upon a risk assessment
 - c) More activities are now covered within the scope of the legislation, and the regulations require a higher standard of animal welfare
- 1.5 Following an application for a new or renewal licence premises must be inspected for their suitability to hold a licence. Within the London Borough of Barnet this inspection will be undertaken by the Animal Health & Welfare Services of the Corporation of the City of London. The London Borough of Barnet have contracted the City of London in relation to these inspections to ensure visits are undertaken by competent officers in the most cost effective way.
- 1.6 Having undertaken an inspection of a premises the London Borough of Barnet may impose conditions on the licence where it is deemed appropriate to do so. This is in accordance with Regulation 4(3).
- 1.6 The London Borough of Barnet may vary a premises licence at any time with the consent of the licence holder or without the consent of the licence holder when
- the licence conditions are not being complied with,
 - there has been a breach of the Regulations,

- Information supplied by the licence holder is false or misleading, or
 - When it is necessary to protect the welfare of an animal
- 1.7 A licence holder has a right under regulation 16(4) to make written representations to the Council against the suspension or variation of their licence, and this will be heard by a sub-committee of the Licensing Committee
- 1.8 As part of the inspection process the Council will determine the level of risk posed by the activities on site using the DEFRA guidance. This risk assessment will determine the length of time that a licence will last for. Due to the reduction in administration, longer licences are much better value for money than shorter licences. This should encourage applicants to improve their welfare standards in order to obtain longer licences, which is an obvious benefit to both applicants and the Council.
- 1.9 A person can appeal against a risk assessment score, and this appeal can be made in writing to the Licensing Department. This will be determined by the Group Manager for the team (or equivalent level post holder).
- 1.10 A licensee can also request a re-score visit at any time, however the Council can charge for the reasonable costs that they incur in attending the premises and re-scoring them.
- 1.11 At Section 13(2), the Regulations allows licensing authorities to charge a reasonable amount that does not exceed the cost of considering the grant, renewal or variation of a licence.
- 1.12 Fees that the London Borough of Barnet propose to charge can be found in Appendix 1 of this Report.
- 1.13 The Regulations will have an impact on the numbers of premises licenced. With some premises finding they are now no longer suitable for the type of licence they hold, and other now being caught by the legislation. This has made forecasting the fees more difficult than usual. The Licensing team will therefore ensure that the fees are kept under review over the next 12 months to ensure that they are set at a cost recovery level.
- 1.14 Although some applicants will see the fee that they are charged increased, as mentioned earlier licences can now be granted for up to 3 years. Responsible operators who are awarded a full three year licence will therefore make a significant cost saving as opposed to applicants who have to apply/renew every year.
- 1.15 A policy for these applications is currently being drafted in line with recent guidance. Due to the late publication of the guidance by the Department for Environment, Food and Rural Affairs the draft is not yet ready for consultation. The draft policy will be submitted for the next Licensing Committee.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The London Borough of Barnet has not yet set any fees for licensing applications arising out of the Regulations.
- 2.2 Regulation 13 of the Regulations allows the licensing authority to charge fees for applications made under the Regulations.
- 2.3 The fees proposed have been set on a cost recovery basis, as required by the Regulations.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The alternative option would be for the Council not to set any fees for carrying out the licensing functions required by the Regulations.
- 3.2 The Council has a statutory obligation to administer this licensing scheme and issue licenses. If no fees were set the Council would not be able to charge a fee or seek recovery of its costs of operating a licensing scheme in accordance with the Regulations from service users.
- 3.3 The operations of the licensing scheme set out in the Regulations would have to be carried out at cost to the Council.

4. POST DECISION IMPLEMENTATION

- 4.1 The fees will take immediate effect.
- 4.2 The Committee are being asked to send the fees, once agreed, to the Policy and Resources Committee for noting.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 Fees and charges need to be reviewed to ensure value for money and cost recovery. This complies with the 2015-2020 Corporate Plan priority for Barnet to be in the lowest 25% of all Councils (Boroughs and County Councils) for expenditure per head of population. The fees support the Corporate plan priorities of “safer Communities” “Building Compliance” and “financial planning”

5.1.2 The Fees and Charges review is a means of ensuring that net costs are kept under control.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 With public and Member expectations increasing, fees and charges should be set so that sufficient resources are made available to manage and prioritise those expectations.
- 5.2.2 All fees and charges will ensure effective cost recovery for delivering the service; prices listed do not include VAT.
- 5.2.3 The Constitution requires that all new charges, and charges that are proposed to be increased by more than inflation plus 2%, are agreed by the relevant Theme Committee, and also reported to Policy and Resources Committee for noting.
- 5.2.4 Administration and enforcement of the legislation will be carried out by the Licensing team within Re, together with support from HB Public Law and from Governance Services.
- 5.2.5 The recommendations within this report have no financial implications as this will be delivered within existing resources.

5.3 Social Value

- 5.3.1 Not relevant to this report

5.4 Legal and Constitutional References

- 5.4.1 The Regulations allow the Council to charge a fee for processing applications for licences made under the Regulations.
- 5.4.2 Charges must be made on a cost recovery basis. That is to say that the charges applied by the Council must not exceed the cost of providing the service.
- 5.4.3 Section 13 of the Regulations states:

“13(1) A local authority may charge such fees as it considers necessary for—

(a)the consideration of an application for the grant, renewal or variation of a licence including any inspection relating to that consideration, and for the grant, renewal or variation,

(b)the reasonable anticipated costs of consideration of a licence holder’s compliance with these Regulations and the licence conditions to which the licence holder is subject in circumstances other than those described in subparagraph (a) including any inspection relating to that consideration,

(c)the reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator, and

(d)the reasonable anticipated costs of compliance with regulation 29.

(2) The fee charged for the consideration of an application for the grant, renewal or variation of a licence and for any inspection relating to that consideration must not exceed the reasonable costs of that consideration and related inspection.”

5.5 Risk Management

5.5.1 It is important that the London Borough of Barnet processes licences in relation to animal activities in an efficient and cost neutral way.

5.6 Equalities and Diversity

5.6.1 The Council has a legal obligation under section 149 of the Equality Act 2010 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.

5.6.2 A consistent approach will be adopted when considering applications. All applications will be considered in line with the relevant legislation and policy.

5.6.3 An initial equalities impact screening has been completed and there is no identified impact on any of the groups with protected characteristics. Therefore a full impact assessment is not required.

5.7 Corporate Parenting

5.7.1 There will be no impact on looked after children and care leavers.

5.8 Consultation and Engagement

5.8.1 All Current licence holders have been contacted to make them aware of the changes to the legislation. Once the fees have been approved these will be publicised on the London Borough of Barnet’s webpage and also sent to all licence holders.

5.9 Insight

5.9.1 Not relevant to this report

5 BACKGROUND PAPERS

5.4 None

Appendix 1 – Proposed New fees

The fees have been set broken down into 3 fees.

- Fee 1 is the application fee which is non-refundable and covered the administration process.
- Inspection fee – covers the cost of the inspection
- Fee 2 is an annual fee payable every year of the holder of a valid licence and covers the costs of compliance and enforcement activities

| Description of Charge | UNIT | Subject to VAT | Proposed Fee |
|---|------------------|--------------------|---|
| Animal Welfare (Licensing of Activities) | | | |
| Animal Welfare (Licensing of Activities) - New Application | Each Application | VAT not applicable | Fee 1 £125 plus inspection fee Fee 2 - Annual fee £150 |
| Animal Welfare (Licensing of Activities) - Variation of Licence | Each Application | VAT not applicable | £125 plus inspection fee (if required) |
| Animal Welfare (Licensing of Activities) - Transfer | Each Application | VAT not applicable | £125 |
| Animal Welfare (Licensing of Activities) - Change of details | Each Application | VAT not applicable | £25 |
| Animal Welfare (Licensing of Activities) - Duplicate Licence | Each Application | VAT not applicable | £20 |
| Animal Welfare (Licensing of Activities) - Request revisit | Each Application | VAT not applicable | £40 plus inspection fee |

| | |
|--|--|
| AGENDA ITEM 7 | |
|  <p>Licensing Committee 12th November 2018</p> | |
| Title | Sex Establishment and Sex Entertainment Venues Policy |
| Report of | Commissioning Director for Environment |
| Wards | All |
| Status | Public |
| Urgent | No |
| Key | No |
| Enclosures | Appendix 1 – Draft Policy Appendix 2 – Summary of responses |
| Officer Contact Details | Emma Phasey Group Manager Community Protection (Regulation) Emma.phasey@barnet.gov.uk |

Summary

This report seeks approval from Members to adopt the 2018-2023 draft policy in relation to sex establishments and sex entertainment venues following a review of the current one and a public consultation exercise.

Officers Recommendations

- 1. That the proposed Sex Establishment and Sex Entertainment Venues Policy be approved by the Committee.**

1. WHY THIS REPORT IS NEEDED

- 1.1 Sex shops are licensed under the Local Government (Miscellaneous Provisions) Act 1982. This regime gives the Licensing Authority a wide discretion in determining whether to grant or refuse licences, a power to set a limit on the number of premises that may be suitable for a particular locality, and flexibility on applying licence conditions. It also gives the ability to accept representations from a wide scope of the community.
- 1.2 The Local Government (Miscellaneous Provisions) Act 1982 was amended through the Police and Crime Act 2009 so as to create a new category of “sex establishment venue” (SEV) licence that would include lap, table and pole dancing. This allowed local authorities to have more powers to control the number and location of lap dancing clubs and similar venues in their area. These powers are not mandatory and will only apply where they are adopted by local authorities. The London Borough of Barnet adopted these powers in January 2013.
- 1.3 Currently there are no sex shops or sex cinemas in the London Borough of Barnet and there have not been any applications for premises licences for venues to provide lap dancing or similar entertainment.
- 1.4 The current policy for sex establishments and sex entertainment venues was adopted in 2013. All policies within the Licensing team are informally reviewed annually with a formal review needed every five years.
- 1.5 The proposed policy (which can be found in Appendix 1) is an update on the previous policy taking into account any changes in guidance and best practice.
- 1.5 A consultation was undertaken from 1st September 2018 until 3rd November 2018. The responses received can be found in Appendix 2.

2. REASONS FOR RECOMMENDATIONS

- 2.1 It is good practice to regularly review policies to ensure that they remain up to date. The draft policy is updated in line with current guidance. All responses to the consultation have been considered as part of the consultation process.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 **Do not review/update the policy** –This is not recommended. The London Borough of Barnet must ensure that its policies are kept under regular review and remain up to date with current guidance and best practice.

4. POST DECISION IMPLEMENTATION

- 4.1 If the Committee approves draft policy for adoption, the policy will take immediate effect.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 The Policy will support objectives contained within the corporate plan. In particular in relation to a “successful place” and “quality service” by ensuring that only legal, well-regulated trading is permitted within the borough.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 Administration and enforcement is carried out by the Licensing team in Re, together with support from HB Public Law and from Governance Services, when arranging and co-ordinating arrangements for hearings.

5.2.2 In relation to the decisions made as the Licensing Authority there is always a risk of an appeal. However making consistent decisions in line with agreed policies, guidance and procedures minimises this risk.

5.2.3 The recommendations within this report have no financial implications as this will be delivered within existing resources

5.3 Social Value

5.3.1 Not relevant to this report

5.4 Legal and Constitutional References

- 5.4.1 The Local Government (Miscellaneous Provisions) Act 1982 provides powers to local authorities (if adopted by them) in relation to licensing

sex establishments and sex entertainment venues. The proposed policy sets out how the London Borough of Barnet will discharge this function.

- 5.4.2 Article 7 – Committees, Forums, Working Groups and Partnerships, of the Council’s Constitution states that the Licensing Committee is responsible for, “*all policy matters relating to licensing with licencing hearings concerning all licencing matters delegated to sub-committees.*”

5.5 Risk Management

- 5.5.1 It is prudent to monitor performance to ensure that the Licensing function is delivered efficiently and effectively. By regularly reviewing and updating the policy as needed, it ensures accuracy, and supports effective decision making..
- 5.5.2 It is important that the London Borough of Barnet adopts a robust and accountable regulatory regime in relation to all Licensing. It needs to ensure that the risk of non-compliance and the regulatory burden to both the Local authority and to the trade is minimised.

5.6 Equalities and Diversity

- 5.6.1 The Council has a legal obligation under section 149 of the Equality Act 2010 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.
- 5.6.2 When considering applications, only issues provided for in the relevant legislation, 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. An initial Equalities Impact Assessment (EqIA) has been carried out in relation to the proposed policy and this has found that a full EqIA is not required as there are no anticipated impacts on any of the protected groups.

5.7 Corporate Parenting

- 5.7.1 There will be no impact on looked after children and care leavers.

5.8 Consultation and Engagement

5.8.1 The consultation ran from 1 September 2018 to 3rd November 2018. The document was sent to the Metropolitan Police, Children and Families, Environmental Health, the Fire Brigade and all ward Councillors. The consultation was also published on the Council's online website. As noted earlier, the summary of consultation responses can be found at appendix 2. The response received did not propose any changes to the policy.

5.9 Insight

5.9.1 Not relevant to this report

6 BACKGROUND PAPERS

6.1 None

London Borough of Barnet

Sex Establishment and Sex

Entertainment Venues Policy 2018

Contents

| | | |
|----------|--|----------|
| 1 | Definition of Terms | 5 |
| 2 | INTRODUCTION | 7 |
| 3. | THE APPLICATION | 8 |
| 4 | NEW APPLICATIONS | 9 |
| 5 | RENEWAL APPLICATION | 9 |
| 6 | VARIATION OR TRANSFER APPLICATION | 9 |
| 7 | CONSULTATION..... | 10 |
| 8 | DETERMINING THE APPLICATION | 10 |
| 9 | CONDITIONS | 12 |
| 10 | REFUSAL OF AN APPLICATION | 12 |
| 11 | EXPIRY OF A LICENCE..... | 12 |
| 12 | REVOCATION OF A LICENCE | 13 |
| 13 | FEES | 13 |
| 14 | DECISIONS | 13 |
| 15 | APPEALS | 13 |
| 16 | ENFORCEMENT | 14 |
| 17 | PUBLIC REGISTER..... | 14 |
| | a. Appendix A: Schedule of standard conditions | 16 |

1 DEFINITION OF TERMS

In this policy the following expressions have the meaning set out below

| | |
|----------------------------------|---|
| 2009 Act | The Policing and Crime Act 2009 |
| 1982 Act | The Local Government (Miscellaneous Provisions) Act 1982 |
| 2003 Act | The Licensing Act 2003 |
| Section 27 | Section 27 of the Policing and Crime Act 2009 |
| Schedule 3 | Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 |
| Sexual Entertainment Venue (SEV) | Any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser of the entertainer |
| Relevant entertainment: | <p>The meaning of 'relevant entertainment' is 'any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means)'</p> <p>The definition of relevant entertainment would apply to the following forms of entertainment as they are commonly understood :</p> <ul style="list-style-type: none"> _ Lap dancing _ Pole dancing _ Table dancing _ Strip shows _ Peep shows _ Live sex shows |
| Sex establishment | Sex Cinema, Sex Shop or SEV |
| Sex Shop: | Any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating: |

| | |
|--------------|--|
| | <p>(a) sex articles; or</p> <p>(b) other things intended for use in connection with, or for the purpose of stimulating or encouraging:</p> <p>i) sexual activity</p> <p>ii) acts of force or restraint which are associated with sexual activity.</p> |
| Sex Cinema: | <p>Any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which :</p> <p>(a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage:</p> <p>i) sexual activity; or</p> <p>ii) acts of force or restraint which are associated with sexual activity.</p> <p>(b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions, but does not include a dwelling-house to which the public is not admitted</p> |
| Sex article: | <p>(a) anything made for use in connection with, or for the purpose of stimulating or encouraging:</p> <p>i) sexual activity; or</p> <p>ii) acts of force or restraint which are associated with sexual activity. and</p> <p>(b) anything:</p> <p>i) containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and</p> <p>ii) to any recording of vision or sound, which;</p> <p>A) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or</p> <p>B) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.</p> |

2 INTRODUCTION

- 2.1 This document sets out the London Borough of Barnet's policy in respect of licensing functions for sex establishments and sex entertainment venues
- 2.2 This policy will take effect from November 2018
- 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 consultation period.
- 2.4 Section 27 of Policing and Crime Act 2009 introduced a new type of sex establishment called 'sexual entertainment venue'. The London Borough of Barnet consulted on these additional powers and adopted them on 22 January 2013
- 2.5 This new category allows the London Borough of Barnet to regulate lap dancing clubs and other similar venues under Schedule 3.
- 2.6 Previously a sex establishment licence was not usually required for striptease or lap dancing venues, as the relevant permissions for adult entertainment would have been included on a Premises Licence issued under the Licensing Act 2003.
- 2.7 Paragraph 2A (3) of Schedule 3 sets out those premises that are not sexual entertainment venues and these include sex shops and cinemas and those premises that provide relevant entertainment on an infrequent basis. Those premises that provide infrequent relevant entertainment will continue to be regulated under the 2003 Act either by virtue of a premises licence or club premises certificate or a temporary events notice.
- 2.8 The London Borough of Barnet is mindful of possible local community concerns arising from premises applying for a sex establishment licence in their neighbourhood and the potential conflict that this may trigger between the applicant and community to such an application.

- 2.9 The London Borough of Barnet is a densely populated borough with many small town centres. Therefore commercial and business areas also have many residential properties in close proximity. Community facilities such as schools and places of worship, are situated close to each other and to the residential populations they serve. As a consequence any location considered for a sex establishment is likely to have a large residential population and a number of community facilities in relatively close proximity
- 2.10 In regulating sex establishments and sex entertainment venue activities the London Borough of Barnet acknowledges that they need to take account of the potential conflict between the legitimate objectives of applicants and the desires of the population as a whole. A balance must be struck between these positions and all relevant views will be taken into account when making licensing decisions or determining a course of action.
- 2.11 This policy will apply to all 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.

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

Community Protection Team

Barnet House

1255 High Road

Whetstone

London

N20 0EJ

Licensingadmin@Barnet.gov.uk

3.2 In order to avoid any duplication or inefficiency between the licensing and planning processes, the London Borough of Barnet will expect that, prior to the submission of a licensing application the appropriate planning permission will have been granted in respect of the premises concerned.

4 NEW APPLICATIONS

4.1 New applications must be:

- Made in writing
- Made on the correct application form as prescribed by the London Borough of Barnet
- Accompanied by the full application fee

4.2 An incomplete or incorrectly completed application will be rejected.

5 RENEWAL APPLICATION

5.1 A correctly completed application for the renewal of a licence must be submitted no later than two months before the existing licence will expire.

5.2 An incomplete or incorrectly completed application will be rejected

5.3 A renewal application will be treated the same as a new application in relation to consultation and determination.

6 VARIATION OR TRANSFER APPLICATION

6.1 Where an application is made to vary a licence in terms of the activity, hours of operation or certain conditions as previously licensed or transfer a licence to another person (whether on renewal or not), the London Borough of Barnet will take into account:

- Levels of recorded crime and disorder in the area
- Evidence of past demonstrable impacts from the operation of the premises on the safety and amenity of local residents
- Whether appropriate measures have been agreed and put into effect by the applicant to mitigate any adverse impacts

7 CONSULTATION

- 7.1 A notice of the application must be displayed in a prominent place on the exterior of the premises visible 24 hours a day for a continuous period of 21 days.
- 7.2 A notice outlining the details of the application must also be published in a local newspaper within 7 days of the submission of the application. A copy of the notice once published should be sent to the Licensing Team.
- 7.3 Once the application is received, the licensing department will consult with:
- Ward Councillors
 - Police
 - Fire Brigade
 - Planning Service
 - Environmental health
 - Community Safety
 - Licensing Authority
 - Safeguarding Children
- 7.4 The application will also be published on the London Borough of Barnet's website

8 DETERMINING THE APPLICATION

- 8.1 All applications shall automatically be referred to the Licensing Sub Committee for hearing regardless of whether or not any objections have been received.

8.2 The London Borough of Barnet will assess the possible adverse impacts especially on local residents when considering an application for the grant, renewal, variation or transfer of licence, and will take into account the following:

- a. The type of activity to which the application relates;
- b. The duration of the proposed licence
- c. The days and hours of operation of the activity
- d. The layout and condition of the premises
- e. The character of the locality in which the proposed premises are to be situated. (This will include the likely character of an area as a result of redevelopment of that area.)
- f. The use to which other premises in the vicinity are put

8.3 The inside of sex establishments should not be visible to passers by on retail thoroughfares or pedestrian routes. Applicants should consider locating premises at basement level.

8.4 The London Borough of Barnet recognises under Schedule 3 of the 1982 Act that it can set a quantity limit regarding the number of sex establishments in an area but has not chosen to do so based on the specific geographical characteristics and nature of the borough.

8.5 The London Borough of Barnet has not imposed a limit on the number of premises that may be licensed in any area, it will consider each application on its own merits. However, it will not grant licences if it is deemed inappropriate having regard to the character of the relevant locality and in particular in relation to the following:

- Purely or primarily residential accommodation
- Schools, play areas, nurseries, youth clubs, children's centres or similar places
- Access routes to and from schools, play areas, nurseries, children's centres or similar premises
- Places of worship
- Community facilities or public buildings including, but not limited to, swimming pools, leisure centres, public parks, youth centres/clubs and sheltered housing.
- Historic buildings or tourist attractions

8.6 “Relevant Locality” is defined as an area of 75 metres radius around the proposed location. The London Borough of Barnet will in general, in areas where the relevant locality includes one or more of the above list, consider it inappropriate for a licence to be granted.

8.7 London Borough of Barnet acknowledges that a concentration of sex establishments in a particular area can result in the potential for fear of crime, anti-social behaviour, disorder, noise pollution and other disturbance to residents. In such cases the amenity of local residents can be placed under severe pressure.

8.8 The London Borough of Barnet would also consider the following factors when deciding if an application were appropriate:

- Cumulative adverse impact of existing sex related licensed activities in the vicinity of the proposed premises
- Proximity to areas with the highest levels of recorded crime
- Whether the premises has met the relevant planning requirements
- Whether the applicant is fit and proper to hold the licence. This may include considering the operation of existing or previous licences held by the applicant, and/or any reports received about the applicant from the police or other sources.

8.9 In all cases, The London Borough of Barnet will consider each application on its own merit.

8.10 The Licensing Sub Committee will communicate their decision at the end of the hearing and all parties will receive written confirmation within 5 working days.

9 CONDITIONS

9.1 The London Borough of Barnet recognises that all applications should be considered on an individual basis and any condition attached to such a licence will be tailored to individual premises.

9.2 Examples of conditions that may be attached to a licence are shown in Appendix A below.

10 REFUSAL OF AN APPLICATION

10.1 The London Borough of Barnet would not be able to consider granting a licence in the following circumstances:

- To a person under the age of 18;
- To a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of London Borough of Barnet within the last 12 months;
- To a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

10.2 The London Borough of Barnet would consider refusing a licence where

- The applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- If the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if they made the application themselves;

11 EXPIRY OF A LICENCE

11.1 A licence will expire on the date specified on the licence unless it is renewed in time.

11.2 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.

12 REVOCATION OF A LICENCE

12.1 The London Borough of Barnet may revoke a licence on any of the grounds contained within the 1982 Act which include when it is deemed the licence holder is unsuitable to hold the licence.

12.2 The London Borough of Barnet will not revoke a licence without first giving the holder of the licence the opportunity of appearing and making representations before the Licensing Sub-Committee.

13 FEES

- 13.1 The application process involves paying a non-returnable application fee. Should the application be successful a further licence fee will apply and will be payable.
- 13.2 The fees applied are laid out in the London Borough of Barnet's Fees and Charges Schedule.

14 DECISIONS

- 14.1 The reasons for any decision(s) on the application 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 5 working days of the decision.
- 14.2 Decisions will be taken having regard to this Policy and Schedule III of the 1982 Act.

15 APPEALS

- 15.1 Any applicant who is refused a licence, or refused the renewal of a licence may within 21 days of receiving the decision notice, appeal to the local magistrates court.
- 15.2 However, the right to appeal does not apply where the licence was refused on the grounds that:
- the number of sex establishments in the area exceeds the number which the authority consider is appropriate;
 - the grant of the licence would be inappropriate considering the character of the area, the number of other premises in the area, or the premises themselves.
- 15.3 A licence holder who wishes to appeal against a condition added to their licence can appeal to the magistrates' court.
- 15.4 Licence holders may at any time apply to London Borough of Barnet to vary their licence. If the London Borough of Barnet refuses a variation, or if the licence is revoked, the licence holder may, within 21 days after receiving the decision notice, appeal to the magistrates' court.

- 15.5 The licence holder also has rights of appeal to the crown court against any magistrates' court decision.

16 ENFORCEMENT

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

17 PUBLIC REGISTER

- 17.1 A public register of all current licences issued can be made available and can be accessed on line on the Licensing webpage

a. Appendix A: Schedule of standard conditions

The following are standard conditions which would be attached, as appropriate, to any licence issued for a Sex Establishment :

| Premises Condition applicable to | Condition |
|----------------------------------|--|
| All Sex Establishment premises | A copy of the Sex Establishment Licence and the standard conditions made by the authority must be kept exhibited in the public area of the premises. |
| All Sex Establishment premises | No person under 18 years of age to enter the premises. |
| All Sex Establishment premises | All customers appearing to be under the age of 21 to be required to provide proof of their age before being allowed access to the premises. |
| All Sex Establishment premises | No person under 18 years of age is to be employed in the business of the establishment. |
| All Sex Establishment premises | At all entrances there shall be prominently displayed, so as to be visible at all times to persons approaching the premises, a notice prohibiting entry to all persons under 18 years of age |
| All Sex Establishment premises | The Licensee shall not display outside, near to, or within the premises any advertising material, sign or pictorial display referring to the licensed premises or the goods, articles or services provided at the premises, in such a position or manner that it is visible to any person using adjacent highways, streets, footpaths or forecourts except any notice displaying the name or trading title of the Licensee, any Notice indicating the times of opening of the premises for business, any Notice required by any statute, regulation or bylaw applicable to the premises or business carried thereon or any notice prescribed by these conditions. The use of loudspeakers and displays on business vehicles is strictly prohibited |

| | |
|--------------------------------------|---|
| All Sex Establishment premises | The licensed premises shall be so arranged by screening or obscuring windows, doors and other openings so that the interior of the licensed premises and the displays of articles sold at the premises shall not be visible at any time to persons outside the building. The external doors shall be fitted with automatic closing devices which shall be maintained in good working order. |
| All Sex Establishment premises | All refuse produced on the premises and materials, goods or articles discarded for any reason shall be securely stored within the premises and delivered in sealed containers to the refuse collection service |
| All Sex Establishment premises | The Licensee shall make such provision for the reception of goods and articles for sale, hire, exchange, loan, demonstration or display on the premises so that they are received directly into the premises and not subject to storage for any period of time on any pavement, footpath, forecourt or yard nor in any vessel or vehicle, etc. |
| All Sex Establishment premises | The Licensee or a responsible person nominated by him in writing for the purpose and approved by the London Borough of Barnet shall be in charge of and upon the licensed premises during the whole time they are open to the public. Such written nominations shall be continuously available for inspection by authorised officers of the London Borough of Barnet or the Police |

| | |
|--------------------------------|---|
| All Sex Establishment premises | No part of the premises shall be used by prostitutes (male or female) for the purpose of solicitation or of otherwise exercising their calling or profession. |
| Sexual entertainment venues | The Licensee shall ensure that no employee or other person shall seek to obtain custom for the premises by means of personal solicitation outside or in the vicinity of the premises. |
| All Sex Establishment premises | No advertisements, other than advertisements relating to other licensed sex establishments or relating to goods sold from the premises, shall be displayed in the premises |
| All Sex Establishment premises | A record shall be kept of all mail order transactions (if any) in such form as agreed by the London Borough of Barnet. |
| All Sex Establishment premises | The Licensee shall immediately notify the London Borough of Barnet he intends ceasing to carry on the business. |
| All Sex Establishment premises | <p>The Licensee shall inform the London Borough of Barnet if he is convicted under the Obscene Publications Act, 1959, the Protection of Children Act, 1978, or the Customs and Excise Management Act, 1979 or if an order for forfeiture is made under the Obscene Publications Act, 1959 following the service of a summons on the Licensee.</p> <p>The London Borough of Barnet will take into consideration any such conviction or orders for possible revocation or non renewal of the licence.</p> |
| All Sex Establishment premises | <p>The Licensee shall not in the conduct of the business employ any person:-</p> <ul style="list-style-type: none"> • Whose application for a licence to carry on a sex establishment, or renewal thereof, has been refused by the London Borough of Barnet or any other licensing authority; • Whose licence to carry on the business of a sex establishment has been revoked by the London Borough of Barnet or any other licensing authority; <p>The name, address, date of birth and details of any criminal convictions of all individuals who will have responsibility for the operation or management of the premises in the absence of the licence holder are to be provided to the Licensing Authority prior to such persons commencing their role at the premises</p> |

| | |
|--------------------------------|---|
| All Sex Establishment premises | The Licensee shall not, in the conduct of the business, employ any person who has a criminal conviction or simple caution under: <ul style="list-style-type: none"> • The Obscene Publications Act, 1959, • The Protection of Children Act, 1978, or • The Customs and Excise Management Act, 1979 |
| All Sex Establishment premises | No external signage is to be displayed on the premises, except for the company name, the hours of business and details of the age restriction, without the written authorisation of the Licensing Authority |
| All Sex Establishment premises | The windows of the premises must be such that there is no view from outside into the interior of the premises and no window display is to be permitted |
| All Sex Establishment premises | A lobby area is to be installed with double doors so restricting the view into the premises when patrons are entering and leaving |
| All Sex Establishment premises | The premises shall not, for any purpose of the licence, be opened before 0900 hours and shall not be kept open beyond 2300 hours |
| All Sex Establishment premises | CCTV is to be installed, operated and maintained to a standard agreed with by the Police and the Licensing Authority. The system is to include 31 day imaging storage and be available for inspection in accordance with the Police's requirement. |
| Sex Shop | All goods to be discreetly wrapped before leaving the premises. |
| Sex Shop | No part of the premises is to be used for the showing of recorded videos, DVDs or other moving pictures. |
| All Sex Establishment premises | Any breach of or failure to comply with the Conditions attached to this Licence may result in the revocation of the Licence. |

| | |
|-----------------------------|--|
| Sexual entertainment venues | There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices which shall be illuminated and placed in such a position that it can easily and conveniently be read by persons before entering the premises. No employee shall stand in such a position as to obscure the notice. |
|-----------------------------|--|

| | |
|--------------------------------|---|
| Sexual entertainment venues | Any striptease entertainment must only be provided on a designated stage area, adjacent to tables where customers are seated and adjacent to the bar |
| Sexual entertainment venues | Performances of striptease / lap dancing shall be undertaken only by the performers/entertainers, and the audience shall not be permitted to participate. |
| Sexual entertainment venues | No performer shall make physical contact with the breasts and / or genitalia of any other performer during a performance nor shall there be performances or demonstrations of simulated sex or related activities. |
| Sexual entertainment venues | When striptease entertainment takes place on the designated stage, it must be ensured that the performer has direct and clear access to the dressing room at the end of their performance. The access shall be maintained available without passing through or in close proximity to the audience. |
| Sexual entertainment venues | Nudity shall only be permitted by performers and not by customers |
| Sexual entertainment venues | It must be ensured that no performances of striptease, lap dancing or any other form of nudity can be seen from the street. |
| Sexual entertainment venues | <p>The only physical contact permitted between customers and performers is:</p> <ul style="list-style-type: none"> • the placing of money in a garter worn by a female performer or in the performer's hand at the conclusion of a performance. • a brief handshake at the beginning or end of a performance . • a kiss by the performer on the customer's cheek after the performer has replaced her clothing at the end of a performance. <p>A notice repeating the precise wording of the above conditions shall be displayed at the entrance of the premises, at each table and in each bar area</p> |
| All Sex Establishment premises | The only external advertising of the agreed activity at or in the immediate vicinity of the premises shall be one showcase measuring no more than 60cm by 45cm. No such advertising shall be sexually explicit or be likely to cause offence to a reasonable person |

| | |
|--------------------------------------|---|
| All Sex Establishment premises | No payment may be made or offered to any person in any public place to encourage or persuade them to enter the premises |
| All Sex Establishment premises | The licensee shall ensure that no music played in connection with the Licensed activity is audible at or within the site boundary of any residential premises |

Appendix 2 – Summary of responses

| Response received from | Summary of Comments | Licensing team Comments |
|-------------------------------|---|--------------------------------|
| London Fire Brigade | Confirmed that to reduce the regulatory burden they do not require applications to be sent to them. | |

| | |
|---|--|
|  | AGENDA ITEM 8 |
| | Licensing Committee 12th November 2018 |
| Title | Fireworks Licence Policy |
| Report of | Commissioning Director for Environment |
| Wards | All |
| Status | Public |
| Urgent | No |
| Key | No |
| Enclosures | Appendix 1 – Draft Policy Appendix 2 – Summary of responses |
| Officer Contact Details | Emma Phasey Group Manager Community Protection (Regulation) Emma.phasey@barnet.gov.uk |

| |
|---|
| Summary |
| This report seeks approval from Members to adopt the attached policy in relation to Fireworks Licences. |

| |
|--|
| Officers Recommendations |
| 1. That the draft policy be approved by the Committee for adoption. |

1. WHY THIS REPORT IS NEEDED

- 1.1 The London Borough of Barnet is the licensing authority under Schedule 1, Section 1(a)(ii) of the Explosives Regulations 2014 for licences relating to the storage of explosives (including fireworks).
- 1.2 Under the Firework Regulations 2004, the permitted periods for anyone to sell fireworks are –
- during the period beginning on the 15th October and ending on the 10th November;
 - during the period beginning on the 26th December and ending on the 31st December;
 - on the first day of the Chinese New year and the three days immediately preceding;
 - on the day of Diwali and the three days immediately preceding it.
- 1.3 A licence is required in order to be permitted to sell fireworks all year round and not just during the periods set out in paragraph 1.2 above. Pursuant to regulation 9 of the Fireworks Regulations 2004 the London Borough of Barnet is the licensing authority for such applications.
- 1.4 The London Borough of Barnet does not currently have a policy in relation to dealing with applications for licenses to store and/or sell fireworks. It is best practice to have a policy in relation to licence application processes and decisions.
- 1.5 The proposed new policy in Appendix 1 outlines the application process and gives details on the grounds that the Licensing Team will consider in considering applications for the grant or refusal of a licence or the revocation of a licence. The policy also outlines the appeals process available to an applicant or licence holder in the event that their application is refused or licence is revoked
- 1.6 A consultation took place between 1st September 2018 and 3rd November 2018. Details of the consultation can be found in Section 5.3. The responses can be found in Appendix 2

2. REASONS FOR RECOMMENDATIONS

- 2.1 It is best practice to have policies for each different licensing regime in order to ensure consistency of approach. This ensures clarity for traders and other interested parties in both the application and enforcement processes.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 **Do nothing** – However the London Borough of Barnet should ensure that its policies are kept under regular review and remain up to date with current guidance and best practice.

Not implementing a policy for this kind of licensing could lead to an inconsistent approach or decision making.

4. POST DECISION IMPLEMENTATION

- 4.1 If the committee approves this policy it will take immediate effect.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The Policy will support objectives contained within the corporate plan. In particular in relation to a “successful place” and “quality service” by ensuring that only legal, well-regulated trading is permitted within the borough.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 Administration and enforcement is carried out by the Licensing team in Re, together with support from HB Public Law and from Governance Services, when arranging and co-ordinating arrangements for hearings.
- 5.2.2 In relation to the decisions made as the Licensing Authority there is always a risk of an appeal. However making consistent decisions in line with agreed policies, guidance and procedures minimises this risk.
- 5.2.3 The recommendations within this report have no financial implications as this will be delivered within existing resources

5.3 Social Value

- 5.3.1 Not relevant to this report

5.4 Legal and Constitutional References

- 5.4.1 The Local Authority has been provided powers under the Fireworks Regulations 2004 and Explosive Regulations 2014 in order to be able to licence premises to store and sell fireworks all year round within the London Borough of Barnet. This policy sets out how the London Borough of Barnet will discharge this function.

- 5.4.2 Article 7 – Committees, Forums, Working Groups and Partnerships, of the Council’s Constitution states that the Licensing Committee is responsible for, *“all policy matters relating to licensing with licencing hearings concerning all licencing matters delegated to sub-committees.”*

5.5 Risk Management

- 5.5.1 It is prudent to monitor performance to ensure that the Licensing function is delivered efficiently and effectively.
- 5.5.2 It is important that the London Borough of Barnet adopts a robust and accountable regulatory regime in relation to all Licensing. It needs to ensure that the risk of non-compliance and the regulatory burden to both the Local authority and to the trade is minimised.

5.6 Equalities and Diversity

- 5.6.1 The Council has a legal obligation under section 149 of the Equality Act 2010 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.
- 5.6.2 When considering applications, only issues provided for in the relevant legislation, 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.

5.7 Corporate Parenting

- 5.7.1 There will be no impact on looked after children and care leavers.

5.8 Consultation and Engagement

- 5.8.1 The consultation document was sent to the Metropolitan Police, Planning, Environmental Health, the Fire Brigade and all ward Councillors. The consultation will also be published on the Council’s online website.
- 5.8.2 All replies have been taken into account.

5.9 Insight

- 5.9.1 Not relevant to this report

6 BACKGROUND PAPERS

6.1 None

London Borough of Barnet

Explosives Licence Policy

2019 - 2024

Contents

| | |
|---|----|
| Definitions | 8 |
| Introduction | 8 |
| The Application | 9 |
| New applications | 10 |
| Renewal application | 10 |
| Variation or transfer application | 10 |
| Consultation | 11 |
| Determining the application | 11 |
| Conditions | 12 |
| Refusal of an application..... | 13 |
| Expiry of a licence | 14 |
| Revocation of a licence | 15 |
| Fees | 16 |
| Decisions | 17 |
| Appeals | 17 |
| Enforcement and Inspection | 17 |
| Public Register | 18 |

DEFINITIONS

1.1 In this policy the following expressions have the meaning set out below

| | |
|--------------------------|--|
| 2014 Regulations | The Explosives Regulations 2014 |
| 2003 Act | Fireworks Act 2003 |
| 2004 Regulations | Fireworks Regulations 2004 |
| Storage Licence | Refers to a licence under the Explosive Regulations 2014 |
| Licence to sell all year | Refers to a licence under the Fireworks Regulations 2004 |
| Licensing Authority | The London Borough of Barnet exercising its powers as a licensing authority. |

INTRODUCTION

2.1 The London Borough of Barnet is the licensing authority under Schedule 1, Section 1(a)(ii) of the Explosives Regulations 2014

2.2 The permitted sale periods for selling fireworks are –

- during the period beginning on the 15th October and ending on the 10th November;
- during the period beginning on the 26th December and ending on the 31st December;
- on the first day of the Chinese New year and the three days immediately proceeding;
- on the day of Diwali and the three days immediately proceeding.

2.3 A licence is required in order to be permitted to sell fireworks all year round and not just during the periods set out in paragraph 1.2 above. Pursuant to regulation 9 of the Fireworks Regulations 2004 the London Borough of Barnet is the licensing authority for such applications.

2.4 There are currently 40 premises licensed to store explosives in the London Borough of Barnet, the majority of these are supermarkets and convenience stores. There are currently 40 premises licensed to sell fireworks all year round.

2.5 A consultation took place on this policy between September 2018 and November 2018. This policy was approved at a meeting of the Full Council on 16th December 2018 and came into force on 1st January 2019.

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
Community Protection Team
Barnet House
1255 High Road
Whetstone
London
N20 0EJ

3.2 Applicants can be an individual, company or partnership.

NEW APPLICATIONS

4.1 New applications must be:

- Made in writing

- Made on the correct application form as prescribed by the London Borough of Barnet
- Accompanied by the full fee

4.2 An incomplete or incorrectly completed application will be rejected.

RENEWAL APPLICATION

5.1 A correctly completed application for the renewal of a licence should be submitted no later than one month before the existing licence will expire.

5.2 An incomplete or incorrectly completed application will be rejected

5.3 A renewal application will be treated the same as a new application in relation to consultation and determination.

VARIATION OR TRANSFER APPLICATION

6.1 The Licensing Authority may vary a storage licence:

a) where there has been a change in circumstances such that the separation distances can no longer be maintained and the consequent reduction in the maximum amount of explosive that may be stored is required;

b) in relation to any of the matters it relates to, by agreement with the licensee.

6.2 A storage licence may be varied without the agreement of the licensee. The licensee must be given written reasons for the proposed variation. The licensee will be given the opportunity of making representations to the licensing authority, within a period of 28 days from the date of the notification. Representation can be made in writing, or both in writing and orally.

6.3 If the storage licence is varied without the agreement of the licensee, the variation takes effect from a date to be determined by the licensing authority which must be a date after the 28 day period for representations.

6.4 The licensing authority must grant the application for the transfer of a storage licence or a licence to sell all year unless it is of the opinion that the applicant is not a fit person to store explosives as per Section 20(2)(b) of the 2014 Regulations.

CONSULTATION

7.1 All applications made under this policy will be published on the London Borough of Barnet's website.

7.2 A copy of the application will also be emailed to the London Fire Brigade.

DETERMINING THE APPLICATION

8.1 The London Borough of Barnet will consider each application on its own merits.

8.2 Storage licences can be granted or renewed for a period of up to five years. Licences to sell all year can be granted or renewed for a period of up to 12 months.

8.3 The Council will take a proportionate, risk-based approach when dealing with licence applications and the duration of the licence requested.

8.4 Storage licences will only be issued to new retailers with no inspection or enforcement history for a maximum period of one year.

8.5 Storage licences will only be issued to existing licensed sites with a mixed or poor history of compliance for a maximum period of one year.

8.6 Storage licences will only be issued to existing licensed sites:

- that have a history of regularly requiring advice;
- where minor breaches have been identified at inspections;
- that has for example high (relevant) staff turnover

for a maximum period of one year.

CONDITIONS

9.1 The 2014 Regulations at Regulation 13 (6) allow for conditions to be placed on storage licences.

9.2 The London Borough of Barnet recognises that all applications should be considered on an individual basis and any condition attached to such a licence will be tailored to individual premises.

9.3 Appropriate conditions can be imposed on a licence. Each licence must include conditions that specify:

- the site and, within it, the places where the explosives may be stored
- the hazard type, if any, the description and maximum amount of explosives which may be stored or be present, at any one time at any place so specified.

9.4 For licences which relate to the storage of pyrotechnic articles at any site where those articles are to be offered for sale, conditions may be attached considered appropriate which relate to:

- the storage and display of those article in areas where they can be purchased;
- the prevention of risk of fire arising in respect of those articles;
- the safe use of fire escapes in that area.

9.5 The London Borough of Barnet expects licence holders to comply with the legal requirements of the 2014 Regs and any relevant guidance issued by the HSE.

REFUSAL OF AN APPLICATION

10.1 The London Borough of Barnet may refuse an application to sell fireworks all year if the applicant has committed an offence specified in Section 9(5) of the 2004 Regulations.

10.2 If the London Borough of Barnet refuse an application to sell fireworks all year notice will be given in writing to the applicant within 5 working days of the decision.

10.3 The London Borough of Barnet will refuse an application for a storage licence where they are of the opinion that the applicant is not a fit person to store explosives as defined by Section 20(2)(b) of the 2014 Regulations.

10.2 Where the London Borough of Barnet is minded to refuse an application for storage it will, before taking such action, notify the applicant of its proposed course of action and afford the applicant the opportunity of making representations, within a period of 28 days from the date of the notification.

10.3 If the London Borough of Barnet refuses an application for a storage licence, representations may be made to the licensing authority in writing, or both in writing or orally.

10.4 The final decision to refuse an storage licence application will be made by a senior member of the Licensing team. Consideration will be made of the circumstances surrounding the application and any representations received from the applicant.

10.5 Where the London Borough of Barnet decides to refuse an application the applicant will be provided with written reasons for its decision. This will be provided within 5 working days from the decision.

EXPIRY OF A LICENCE

11.1 A licence will expire on the date specified on the licence unless it is renewed in time.

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

REVOCAION OF A LICENCE

12.1 The London Borough of Barnet may revoke a licence to sell all year if the licence holder is convicted of an offence specified in Section 9(5) of the 2004 Regulations.

12.2 If the London Borough of Barnet revoke an application to sell fireworks all year notice will be given in writing to the applicant within 5 working days of the decision.

12.2 The London Borough of Barnet may revoke a storage licence on any of the grounds contained within the Act which include:

- where there has been a change in circumstances such as that the site is no longer suitable for the manufacture or storage;
- where it appears to the licensing authority on information obtained by it after the grant of the licence that the licensee is not a fit and proper person as per Section 20(2)(B) of the 2014 Regulations to store explosives,
- by agreement with the licensee.

12.2 Where the licensing authority proposes to revoke the storage licence, it must, before taking such action, notify the licensee of its proposed course of action and afford that person the opportunity of making representations to the licensing authority about it, within a period of 28 days from the date of the notification.

12.3 Representation when the London Borough of Barnet is minded to revoke a storage licence must be given in writing, or both in writing and orally.

12.4 Where the licensing authority decides to revoke a licence, it must provide in writing to the licensee the reason for its decision.

12.5 Where the licensing authority revokes the storage licence, that revocation takes effect from a date to be determined by the licensing authority which must be a date after the 28 day representation period.

12.6 A person whose storage licence is revoked must ensure that:

- all explosives are removed from site as soon as practicable after revocation of a licence in respect of that site
- those explosives are deposited at a licensed site, or suitable arrangements are made for those explosives to be disposed of
- the licence is returned to the licensing authority within 28 days of the date that the revocation takes effect.

FEES

- 13.1 Fees for a storage licence are set by the Health and Safety (Fees) Regulations and are variable dependant on the amount of explosives to be stored and safety distances
- 13.2 Fees for a licence to sell all year are set by the Fireworks Regulations 2004.
- 13.3 The current fees applicable are set out in the London Borough of Barnet's Fees and Charges Schedule.

DECISIONS

- 14.1 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 5 working days of the decision.
- 14.2 Decisions will be taken having regard to this Policy and the relevant legislation

APPEALS

- 15.1 Any applicant who is refused a licence to sell fireworks all year rounds may within 28 days of receiving the decision notice, appeal to the local magistrate.

ENFORCEMENT AND INSPECTION

- 16.1 Any enforcement action instigated by the London Borough of Barnet will be in accordance with the Act and the current Enforcement Policy.
- 16.2 Site inspection will be undertaken:
- (a) prior to the grant of a licence;

(b) if required, following the grant of a licence;

(c) prior to or following the renewal of a licence: and if information is received that the licence holder is operating outside the requirements of the licence.

16.3 Enforcement visits will be undertaken to unlicensed premises.

PUBLIC REGISTER

17.1 The London Borough of Barnet will maintain a register containing information relating to the application and licence. This information will be held electronically on the Council website.

Appendix 2 – Summary of responses

| Response received from | Summary or response | Licensing Team Comments |
|-------------------------------|---|--|
| London Fire Brigade | We would like to be advised of any application you receive for the licensing of premises storing fireworks, we can then decide on what action, if any, we may want to take in terms of inspection and maintaining records. Providing us with a copy of the licence application or the licence issued would be sufficient in meeting this request. | This can be actioned by the team and has been added at 7.2 |

| | |
|---|---|
|  | <p>Licensing Committee 12th November 2018</p> |
| <p style="text-align: right;">Title</p> | <p>Gambling Policy</p> |
| <p style="text-align: right;">Report of</p> | <p>Commissioning Director for Environment</p> |
| <p style="text-align: right;">Wards</p> | <p>All</p> |
| <p style="text-align: right;">Status</p> | <p>Public</p> |
| <p style="text-align: right;">Urgent</p> | <p>No</p> |
| <p style="text-align: right;">Key</p> | <p>No</p> |
| <p style="text-align: right;">Enclosures</p> | <p>Appendix 1 – Draft Statement of Principles Appendix 2 – Summary of responses</p> |
| <p style="text-align: right;">Officer Contact Details</p> | <p>Emma Phasey Group Manager Community Protection (Regulation) Emma.phasey@barnet.gov.uk</p> |

Summary

The Gambling Act 2005 places a responsibility on local authorities to publish a statement of principles in respect of how it will licence gambling premises every three years. The London Borough of Barnet’s policy is due for renewal and this report attaches a revised statement of principles

Officers Recommendations

1. That the draft Gambling Statement of Principles (appendix 1) be approved by the Committee.
2. That the Committee recommend that this Statement of Principles be adopted at the next meeting of the full Council (18th December 2018).

1. WHY THIS REPORT IS NEEDED

- 1.1 The Gambling Act 2005 (hereinafter referred to as “the Act”) places a duty on London Borough of Barnet to act as the ‘Licensing Authority’ for gambling premises in the Borough. It requires that a licensing authority should aim to permit the use of premises for gambling in so far as it thinks it is:
 - a) in accordance with any relevant code of practice or any guidance from the Gambling Commission;
 - b) reasonably consistent with the licensing objectives; and
 - c) in accordance with its gambling licensing policy.
- 1.2 The London Borough of Barnet has a number of important regulatory functions in relation to gambling. These include licensing premises, regulating gaming and gaming machines in clubs, granting permits to what the Guidance refers to as ‘family entertainment centres’ for the use of certain lower stake gaming machines, regulating gaming and gaming machines on alcohol licensed premises, granting permits for prize gaming, and registering small society lotteries.
- 1.3 In accordance with the Act, the London Borough of Barnet must prepare, consult on and publish a statement of principles which it proposes to apply when exercising relevant functions under the Act. In exercising their functions, licensing authorities must have regard to the statutory guidance issued by the Gambling Commission.
- 1.4 The proposed policy (which can be found in Appendix 1) is an update on the previous policy taking into account any changes in guidance and best practice.
- 1.5 Pursuant to s.166 of the Gambling Act 2005, the London Borough of Barnet resolved not to issue casino premises licenses. This resolution has remained in place since 2006. There is no current desire for this resolution to be revoked. The proposed statement of principles therefore leaves the resolution undisturbed.
- 1.6 A consultation on the proposed statement of principles ran from 1st September 2018 until 3rd November 2018. Information on how the consultation has been carried out can be found in section 5.8 of this Report.
- 1.7 There were two responses received to the consultation. They can be found in appendix 2 of this Report.
- 1.8 Following consideration of the responses in appendix 2 it is recommended that the Licensing Committee adopt the proposed Statement of Principles at appendix 1.

2 REASONS FOR RECOMMENDATIONS

- 2.1 The local authority is required by the Act, to review its statement of principles every 3 years. The current policy runs until 13th January 2019. The draft policy is updated in line with current guidance. All responses to the consultation have been considered as part of the consultation process.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 **None** - The London Borough of Barnet has a duty to prepare, consult and publish a statement of principles or any proposed changes to the same. A failure to do so could leave London Borough of Barnet susceptible to a challenge over the enforceability of the statement of principles or its failure to comply with statutory requirements.

4. POST DECISION IMPLEMENTATION

- 4.1 The Committee are being asked to recommend that the Statement of Principles be adopted at the next meeting of the full Council (18th December 2018) to come into effect on 13th January 2019.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 The Gambling Statement of Principles will support objectives contained within the corporate plan. In particular in relation to a “successful place” and “quality service” by ensuring that only legal, well-regulated gambling is permitted within the borough.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 Administration and enforcement is carried out by the Licensing team in Re, together with support from HB Public Law and from Governance Services, when arranging and co-ordinating arrangements for hearings.

5.2.2 In relation to the decisions made as the Licensing Authority there is always a risk of an appeal. However making consistent decisions in line with agreed policies, guidance and procedures minimises this risk.

5.2.3 The recommendations within this report have no financial implications as this will be delivered within existing resources

5.3 Social Value

5.3.1 Not relevant to this report

5.4 Legal and Constitutional References

5.4.1 Under the Gambling Act 2005 there are three statutory objectives to be met through licensing:

- (1) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- (2) Ensuring that gambling is conducted in a fair and open way; and
- (3) Protecting children and other vulnerable persons from being harmed or exploited by gambling.

A good statement of principles ensures that these objectives are promoted by the London Borough of Barnet.

5.4.2 The Act requires London Borough of Barnet to prepare a statement of principles that they propose to apply in exercising their functions under the Act before each successive period of 3 years and to publish the statement.

5.4.3 Where there are any proposed changes to the statement of principles, London Borough of Barnet is required under the Act to consult on any revisions.

5.4.4 Article 7 – Committees, Forums, Working Groups and Partnerships, of London Borough of Barnet’s Constitution states that the Licensing Committee is responsible for, “*all policy matters relating to licensing with licencing hearings concerning all licencing matters delegated to sub-committees.*”

5.5 Risk Management

5.5.1 It is prudent to monitor performance to ensure that the Gambling Licensing function is delivered efficiently and effectively.

5.5.2 It is important that the London Borough of Barnet adopts a robust and accountable regulatory regime in relation to gambling. It needs to ensure that the risk of non-compliance and the regulatory burden to both the Local authority and to the trade is minimised. However it must balance this with the need to uphold the licensing objectives.

5.6 Equalities and Diversity

5.6.1 London Borough of Barnet has a legal obligation under section 149 of the Equality Act 2010 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.

5.6.2 When considering applications, only issues provided for in the relevant legislation, 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.

5.7 Corporate Parenting

5.7.1 There will be no impact on looked after children and care leavers.

5.8 Consultation and Engagement

5.8.1 The consultation document was sent to the Police, trade associations for gambling businesses, and residents groups. It was also sent to councillors, responsible authorities, gambling businesses in the borough, faith groups, voluntary organisations, community organisations working with children and young people and organisations working with problem gambling. The consultation was also published on London Borough of Barnet's online website so anyone interested could submit a reply.

5.8.2 All replies have been taken into account.

5.9 Insight

5.9.1 Not relevant to this report

6 BACKGROUND PAPERS

6.4 None

London Borough of Barnet

Statement of Principles

Gambling Act 2005

2019-2022

Contents

Introduction

The Licensing Objectives

Declaration

Responsible Authorities

Interested parties

Exchange of Information

Inspection and Enforcement

Licensing Authority's Functions

Applications: General Principles

Premises Licences

General

Definition of "premises"

Location

Premises "ready for gambling"

Duplication with other Regimes

Adult Gaming Centres

Licensed Family Entertainment Centres

Tracks

Casinos

Bingo

Betting Premises

Provisional Statements

Licence Conditions

Reviews

Permits

Unlicensed Family Entertainment Centres

Alcohol Licensed Premises Gaming Machine Permits

Prize Gaming Permits

Club Gaming and Club Machine Permits

Temporary and Occasional Use Notices

Travelling Fairs

Small Society Lotteries

Integration of Licensing with other Strategies

Tourism and Employment

Promotion of Equality

Licensing Register

Relevant Documents

Complaints about the Licensing Service

Further Information

Commencement and Review

Delegation of Functions

Annex 1: Scheme of delegation

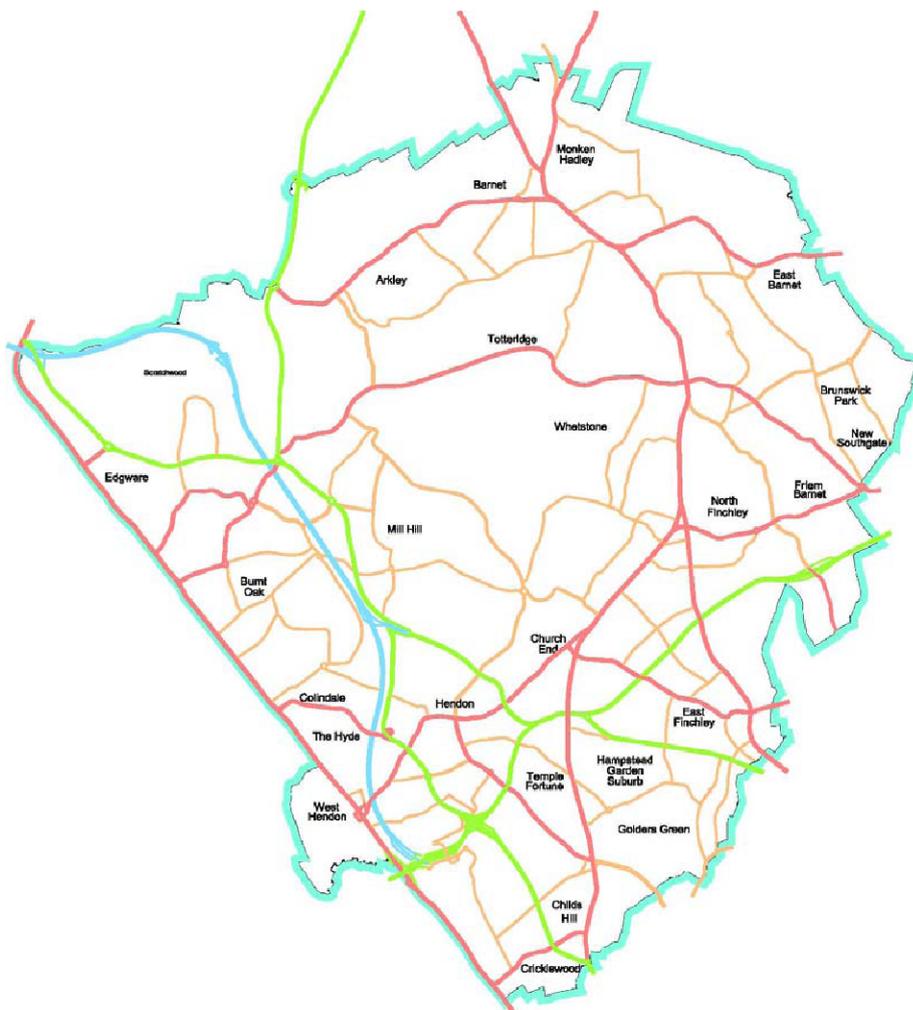
Annex 2: Local area plan

INTRODUCTION

- 1.1 The London Borough of Barnet herein sets out a statement of principles that it will apply when carrying out its functions as a licensing authority in accordance with the Gambling Act 2005.
- 1.2 The London Borough of Barnet is situated in North London. Barnet's overall population in 2013 was projected to be 369,088, the second largest population of the 32 London boroughs.

In terms of area it is the fourth largest. 36% of the borough is undeveloped, being green belt (28%) and metropolitan open land (8%). The rest of the borough is made up of densely populated suburban areas, 20 town centres and the transport network.

- 1.2 The Borough is shown in the map below and in detail at <http://maps.barnet.gov.uk/>



- 1.4 Licensing Authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions under the Act. This statement must be published at least every three years and may also be reviewed from “time to time”. Any amendments must be consulted upon and the statement published before giving it effect.
- 1.5 In preparing a statement, the Act requires Licensing Authorities to consult the following:
- The Chief Officer of Police;
 - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area;
 - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Gambling Act 2005.
- 1.6 The London Borough of Barnet has consulted widely upon this statement in accordance with the Act. A list of the groups consulted upon is provided below:
- The Metropolitan Police Service
 - Social Services
 - Trade associations
 - Resident associations
 - Responsible authorities
 - Councillors
 - Faith Groups
 - Voluntary Groups
 - Gambling businesses

A full copy of the individuals and groups consulted can be found in appendix 1 of this statement.

- 1.7 This Statement of Principles was approved at a meeting of the Full Council on 18 December 2018 and will come into effect on 13 January 2019.
- 1.8 The Gambling Commission states in the introduction to its Guidance to Licensing Authorities:
- ‘The aim of this Guidance is to ensure that every licensing authority has the information it needs to make effective decisions. It does not seek to impose a ‘one size fits all’ model across all licensing authorities. We recognise that every licensing authority is different and will have different views about how it wishes to manage gambling locally. Indeed, the Act establishes a high degree of local accountability for gambling regulation.

This Guidance does not, therefore, attempt to fetter the discretion that licensing authorities have under the Act and it is not intended to replace their judgement in individual cases. Moreover, this Guidance cannot anticipate every set of circumstances that may arise and, as long as it has been understood and taken into account, licensing authorities may depart from it where they consider it would be right to do so. There should, however, be strong reasons for departing from this Guidance and these need to be clearly expressed and explained if a licensing authority is to avoid judicial review or challenge on appeal for failing to take this Guidance into account.’

- 1.9 It should be noted that this Statement of Principles will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and in accordance with the statutory requirements of the Gambling Act 2005.

The Gambling Act 2005 is available at:

<http://www.legislation.gov.uk/ukpga/2005/19/contents>

and the Gambling Commission’s Guidance to Licensing Authorities is available at:

<http://www.gamblingcommission.gov.uk/PDF/GLA5-updated-September-2016.pdf>

2. THE LICENSING OBJECTIVES

- 2.1 In exercising functions under the Gambling Act 2005 licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

- Preventing gambling being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
- Ensuring that gambling is conducted in a fair and open way.
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

- 2.2 The London Borough of Barnet as the relevant licensing authority accepts that the term “vulnerable person” is not defined. It may for example include people who gamble more than they want to, or beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs. The London Borough of Barnet will consider this objective on a case by case basis and will not interpret the term narrowly.

2.3 The London Borough of Barnet recognises that harm in relation to gambling is not limited to harm from gambling but includes wider child protection considerations, including the risk of child sexual exploitation.

3. DECLARATION

3.1 In preparing this Statement of Principles, the licensing authority has had regard to the licensing objectives of the Act, and the Guidance to Licensing Authorities issued by the Gambling Commission and any responses from those consulted on this Statement of Principles.

4. RESPONSIBLE AUTHORITIES

4.1 The responsible authorities with respect to licensing premises in Barnet are:

- The Gambling Commission
- The Metropolitan Police Service
- London Borough of Barnet's Planning Service
- The London Fire and Emergency Planning Authority
- The Safeguarding Children Board
- HM Revenue and Customs
- London Borough of Barnet itself as the licensing authority

4.2 The London Borough of Barnet are required by regulations to state the principles it will apply in exercising its powers under Section 157 of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

- The need for the body to be responsible for an area covering the whole of the licensing authority's area and
- The need for the body to be answerable to the democratically elected persons rather than any particular vested interest group

4.3 In accordance with the suggestion in the Gambling Commission Guidance to Local Authorities the London Borough of Barnet designates the local Safeguarding Children's Board for this purpose.

4.4 In selecting the Safeguarding Children Board as the body competent to advise about the protection of children from harm, the London Borough of Barnet took into account the following points:

- The Safeguarding Children Board has a responsibility under the Children Act 2004 to promote the welfare and safety of children and young people in the London Borough of Barnet
- The Board includes a variety of professionals with skills and experiences directly relevant to the need to protect children from being harmed or exploited by gambling
- The Board is answerable to democratically elected persons and does not represent any particular interest group
- The Board is the responsible authority for the purposes of the Licensing Act 2003 and has experience of the licensing process

- The Board works in partnership with other local authority services and other organisations to make Barnet a safer place for children
- The Board is able to provide advice about protecting children and guidance in accessing appropriate training
- The Board works within the wider pan London framework of child protection so as to promote a consistent approach across London

4.5 Responsible authorities have the right to make representations in connection to an application, or to ask for a review of an existing licence. Any such representation must be relevant to the application.

5. INTERESTED PARTIES

5.1 Interested parties are defined in Section 158 of the Act as follows:

“A person is an interested party in relation to a premises licence or in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person;

- (a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities
- (b) Has business interests that might be affected by the authorised activities
- (c) Represents persons who satisfy paragraph a) or b)”

5.2 Interested Parties have the right to make representations in connection to an application, or to ask for a review of an existing licence. Any such representation must be relevant to the application.

5.3 To enable the London Borough of Barnet to decide whether a person is an interested party it will expect any person making a representation to give their name and address and explain how they or their business interests would be affected by the authorised activities. If this information is not provided then the representation will not be accepted by the licensing authority.

5.4 In considering whether an interested party lives or has business interests sufficiently close to the premises certain factors will be taken into account including:

- The size of the premises
- The nature of the premises
- The distance of the premises from the habitual residence or workplace of the person making the representation
- The potential impact of the premises (number of customers, routes likely to be taken when visiting the premises)
- The circumstances of the complainants and their interest that may be relevant to the distance from the premises

- 5.5 In determining whether a person or organisation has “business interests” the London Borough of Barnet will adopt the widest possible interpretation and may recognise certain groups which include but are not limited to; trade unions, partnerships, charities, faith groups, residents and tenants associations and medical practices.
- 5.6 If the representation is from an association or any other body then these will only be accepted provided that they have at least one member who is an interested party.
- 5.7 Unless the person making the representation is a locally elected councillor or Member of Parliament the London Borough of Barnet as licensing authority will require written evidence that they represent identified interested parties. A letter from one of these persons will be sufficient.
- 5.8 If individuals wish to approach locally elected councillors to ask them to represent their views then those councillors cannot sit on a licensing committee that meets to determine the licence application.
- 5.9 To be deemed relevant, a representation must relate to the licensing objectives or raise issues under the policy or the Gambling Commissions guidance or codes or practice.
- 5.10 In deciding whether to treat a representation as frivolous or vexatious the following will be taken into account
- Who is making the representation and whether that person has a history of making representation that are not relevant
 - Whether or not it raises a relevant issue
 - Whether it raises issues specifically to do with the premises which are the subject of the application
- 5.11 The validity of each representation will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission’s Guidance to Licensing Authorities.

6. EXCHANGE OF INFORMATION

- 6.1 The London Borough of Barnet as licensing authority will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information with the Gambling Commission and other persons listed in Schedule 6 to the Act. This includes the provision that the Data Protection Act 2018 will not be contravened.

6.2 The London Borough of Barnet as licensing authority will also have regard to any guidance issued to local authorities by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under powers provided in the Act.

6.3 The London Borough of Barnet as licensing authority will seek to establish information exchange protocols with the responsible authorities and will make these available.

7. INSPECTION AND ENFORCEMENT

7.1 The London Borough of Barnet is required to state the principles to be applied by the authority in exercising its functions under Part 15 of the Act with respect to the inspection of premises; and the powers under Section 346 of the Act to institute criminal proceedings in respect of the offences specified.

7.2 The London Borough of Barnet's principles are that it will have regard to the Gambling Commissions Guidance for Local Authorities and in doing so will endeavour to be:

- Proportionate - London Borough of Barnet will only intervene when necessary; remedies will be appropriate to the risks posed and costs identified and minimised
- Accountable - London Borough of Barnet must be able to justify decisions and will be subject to public scrutiny
- Consistent - rules and standards will be implemented fairly
- Transparent - London Borough of Barnet will be open and do its best to keep things simple and user friendly
- Targeted – London Borough of Barnet will focus on the problem and do its best to minimise side effects.

7.3 Any enforcement action will be in accordance with the relevant enforcement policy.

7.4 The main enforcement and compliance role for the London Borough of Barnet in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the London Borough of Barnet but should be notified to the Gambling Commission.

7.5 The London Borough of Barnet also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities. The Better Regulation Executive is a government agency within the Department for Business, Energy and Industrial Strategy which aims to achieve more effective regulation and reduce existing

regulatory burdens affecting business, the third sector and frontline staff in the public sector.

- 7.6 The London Borough of Barnet's licensing officers will monitor ongoing compliance with licence conditions. They may carry out inspections without prior notice to the occupier or licensee.
- 7.7 As per the Gambling Commission's Guidance to Licensing Authorities the London Borough of Barnet will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 7.8 Planned enforcement activity will be prioritised according to assessed risk (the potential for harm to the licensing objectives). This London Borough of Barnet has adopted and implemented a risk-based inspection programme, based on:
- The licensing objectives
 - Relevant codes of practice
 - Guidance issued by the Gambling Commission, in particular at Part 36
 - The principles set out in this statement of licensing policy
- 7.9 When assessing risk, London Borough of Barnet will take into account the following matters:
- The type of gambling and its potential to result in harm
 - The size of the premises and the number of patrons
 - The standard of compliance with licence conditions
 - Officers' confidence in the ability and intention of the management of the premises to maintain good standards of compliance with licence conditions
 - Relevant information from other agencies.
- 7.10 The risk rating for each premises will be kept under constant review and may change at any time.
- 7.11 The London Borough of Barnet is prepared to receive complaints about licensed premises and, with the agreement of the complainant, deal with them informally with the aim of securing improvement if necessary without the need for a formal review of the licence.
- 7.12 The London Borough of Barnet will not tolerate non-compliance with licence conditions or licensable activity at unlicensed premises except in accordance with a Temporary Use Notice.

8. LICENSING AUTHORITY'S FUNCTIONS

8.1.1 The London Borough of Barnet are required under the Act to assume responsibility for;

- Licensing premises where gambling activities are to take place by issuing premises licences

- Issuing provisional statements
- Regulation of members clubs and miners welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issuing Club Machine Permits to Commercial clubs
- Granting permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres
- Receiving notifications from alcohol licensed premise (Under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issuing Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines.
- Registration of small society lotteries below the prescribed thresholds
- Issuing Prize Gaming Permits
- Receiving and endorsing Temporary Use Notices
- Receiving Occasional Use Notices
- Providing information to the Gambling Commission regarding details of licensing issues
- Maintaining registers of the permits and licences that are issued under these functions.

8.2 It should be noted that the London Borough of Barnet are not involved in licensing remote gambling at all. This falls within the remit of the Gambling Commission via operating licences. Remote gambling is defined as "gambling in which persons participate by the use of remote communication" namely, the internet, telephone, television, radio or "any other kind of electronic or other technology for facilitating communication".

9. APPLICATIONS: GENERAL PRINCIPLES

9.1 The London Borough of Barnet has no rigid rules about the acceptability of applications and will consider each on its merits.

9.2 The matters that it will generally take into account when considering applications for permits and licences and when reviewing a licence are set out below:

- The type and nature of the gambling activity.

- The proximity of the gambling premises to sensitive premises such as schools or centres for vulnerable adults, or to residential areas where there may be a high concentration of families with children, and the likelihood that children or vulnerable adults will enter the premises.
 - Where permits or licences are sought for use at premises that may attract children, or where children may be present, the London Borough of Barnet will give particular weight to child protection issues. The London Borough of Barnet is aware that children may be harmed not only by taking part in gambling, but also if they are able to watch it taking place. This concern may be particularly relevant at premises where there are multiple licences, where only part of a premises is licensed or where permits are to be used in part of a premises only.
 - The adequacy of any proposed measures to prevent crime connected with gambling.
 - The adequacy of any proposed steps to prevent access by children and vulnerable adults, or to prevent such people from seeing gambling taking place.
 - The public availability at the premises of information about organisations that can provide advice and support in relation to gambling and debt, for example GamCare, Gamblers Anonymous, the Gordon Moody Association, the National Debtline and local Citizens Advice Bureaux and other relevant advice agencies.
 - The existence of crime and disorder (particularly if it has required police intervention) or actual harm to children or vulnerable adults, where these are connected to gambling at the premises.
- 9.3 It will assist the sub-committee in contested cases if applicants, responsible authorities and interested parties address these matters.
- 9.4 When considering applications, sub-committees will decide matters of fact on the balance of probabilities.
- 9.5 The London Borough of Barnet will place information about licence applications on its web site, and will notify ward councillors when applications are received.
- 9.6 The London Borough of Barnet expects the premises licence application, and plan accompanying the application, to be sufficiently detailed for the authority to determine the application. This would include for example entry, exit, the location of the gaming machines and counter. The London Borough of Barnet need to determine whether the application is 'in accordance with the relevant code of practice' and this will include social responsibility codes. The authority must also determine whether the application is 'reasonably consistent with the licensing objectives' - such as protecting the young and vulnerable. The application and the accompanying plan must be sufficient to satisfy these requirements

10. PREMISES LICENCES

10.1 General

10.1.1 A premises licence may authorise:

- The operation of a casino
- The provision of facilities for playing bingo
- Adult Gaming Centres
- Licensed Family Entertainment Centres
- The provision of facilities for betting.

10.1.2 Premises licences are subject to the requirements as set out in the Act and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

10.1.3 The London Borough of Barnet recognises that every application and representation made in connection with premises licences, with the exception of applications for a casino licence, must be treated on its merits.

10.1.4 The London Borough of Barnet is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of licensing policy.

10.1.5 It is appreciated that as stated in the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" and also that unmet demand is not a criterion for London Borough of Barnet as licensing authority.

10.1.6 Premises licences that are granted must be consistent with the licensing objectives. In consideration of the Gambling Commission's Guidance to Licensing Authorities the following comments are made:

- This Council is aware that the Gambling Commission takes a lead role in preventing gambling from being a source of crime. The guidance does envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective.
- The London Borough of Barnet has noted that the Gambling Commission states it generally does not expect licensing authorities to

be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

- The London Borough of Barnet has noted that Gambling Commissions Guidance on protecting children from being harmed or exploited by gambling means preventing children from taking part in gambling as well as restriction of advertising so that gambling products are not aimed at or are particularly attractive to children.

10.2 DEFINITION OF “PREMISES”

10.2.1 In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place.

10.2.2 However, the London Borough of Barnet will pay particular attention if there are issues about sub-divisions of a single building or plot and will ensure that mandatory conditions relating to access between premises are observed.

10.2.3 In most cases the expectation is that a single building or plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer.

10.2.4 The London Borough of Barnet does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.

10.2.5 The London Borough of Barnet will take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular, the attention of applicants is drawn to the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children

are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.

- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence.

10.2.6 Other factors which The London Borough of Barnet will consider are:

- Do the premises have a separate registration for business rates?
- Are the neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises

The London Borough of Barnet will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

10.2.7 The Gambling Commission’s relevant access provisions for each premises type are reproduced below:

Type of premises

Casinos

Access provisions

- the principal entrance to the premises must be from a ‘street’
- no entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- no customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.

AGCs

- no customer must be able to access the premises directly from any other licensed gambling premises.

Betting shops

- access must be from a 'street' or from other premises with a betting premises licence
- no direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind unless that shop is itself a licensed betting premises.

Tracks

- no customer must be able to access the premises directly from a casino or AGC

Bingo premises

- no customer must be able to access the premises directly from a casino, an AGC or a betting premises, other than a track

FECs

- no customer must be able to access the premises directly from a casino, an AGC or a betting premises,



10.2.8 Part 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which this authority will also take into account in its decision-making.

10.3 LOCATION

10.3.1 The London Borough of Barnet will take into account the location of premises in the context of the crime prevention objective. For example, if an application for a licence or permit is received in relation to premises that are in an area noted for particular problems with organised crime, the London Borough of Barnet will consider what, if any, controls might be appropriate to prevent those premises becoming a source of crime. These might include conditions being put on the licence, such as a requirement for door supervisors. London Borough of Barnet has not identified any such areas, but will be receptive to advice from the Police when considering applications.

10.3.2 As stated in the Gambling Commissions Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling. Applications for granting licences in respect of gambling premises that are in close proximity to locations for such vulnerable persons for example schools, centres for

gambling addicts, hostels, centres catering for people with mental disabilities or learning difficulties or those with drug or alcohol abuse problems, will receive very careful consideration.

- 10.3.3 Should any policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. Again it should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

10.4 LOCAL AREA PROFILE (LAP)

10.4.1 The London Borough of Barnet have created a Local Area Profile. (LAP) The current version can be found here:

(Insert current web link)

The LAP will be regularly reviewed to ensure that it reflects the current profile of the London Borough of Barnet.

The LAP contains detail on the location of all schools and also hotspots of anti-social behaviour (ASB).

The London Borough of Barnet will pay particular attention to applications for the new grant of, or variations to existing, premises licences where those premises lie within areas with a concentration of schools, ASB, hostels/homes for vulnerable people and centres for people with a gambling addiction.

- 10.4.2 Where paragraph 10.4.1 applies this Authority will expect applicants to fully explain in their applications how their proposal will not exacerbate any problems to individuals living in the vicinity, or exacerbate any ASB problems within the vicinity generally.

- 10.4.3 Applicants should also be aware of areas with concentrations of hostels and other types of accommodation for vulnerable people. Where they propose to make an application for the new grant of a premises licence, or a variation to an existing licence, in such areas they should explain fully in their risk assessments how they will mitigate any risks of operating gambling premises in close proximity to concentrations of housing for vulnerable people.

- 10.4.4 Some further publicly available sources of information to assist in operators completing a Local Risk Assessment include:

(a) the Crime Mapping website;

<https://www.police.uk/>

(b) Neighbourhood Statistics websites;
<https://www.ons.gov.uk/help/localstatistics>

(c) websites or publications by local responsible authorities;
<https://www.barnet.gov.uk/citizen-home/council-and-democracy/council-and-community/maps-statistics-and-census-information/statistics-about-barnet.html>

10.4.5

10.5 LOCAL RISK ASSESSMENTS (LRA)

- 10.5.1 The LRA must be submitted with any new or variation application, otherwise the application has not been properly served
- 10.5.2 Applicants will be expected to tailor their application, and have site specific policies, procedures and control measures to mitigate any risks.
- 10.5.3 All premises should have the appropriate numbers of trained staff, and propose licence conditions, to cater for the local area in which they propose to run their business.
- 10.5.4 LRAs should be kept on the individual premises and be available for inspection.
- 10.5.5 The LRA must also be submitted when changes in the local environment or the premises warrant a risk assessment to be conducted again. If the changes are minor then the premises holder may alternatively email notification that a minor change has taken place to the London Borough of Barnet.
- 10.5.6 Examples of what the London Borough of Barnet will expect to be considered within the LRA include:
- Information held by the licensee regarding self-exclusions and incidences of underage gambling
 - Arrangement for localised exchange of information regarding self-exclusions and gaming trends
 - Urban setting such as proximity to schools, commercial environment, factors affecting footfall
 - Range of facilities in proximity to the licensed premises such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities
 - Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities, etc.

- Assessing staffing levels when a local college closes and the students begin to vacate the grounds.
- Proximity of machines to the entrance door
- Age verification policies including 'Think 21' and 'Think 25'.
- Consideration of line of sight from the counter to gambling machines.
- Larger operators (William Hill, Coral, Ladbrokes, Betfred and Paddy Power) are responsible for conducting/taking part in underage testing, results of which are shared with the Gambling Commission. However, operators are urged to also make the results available to the London Borough of Barnet if an issue is identified with a premises within the area.
- Information on where a child or young person repeatedly attempts to gamble on the premises, this information should also be contained in a register held at the premises which can be inspected upon reasonable request by the London Borough of Barnet.
- Institutions, places or areas where presence of children and young persons should be expected such as schools, youth clubs, parks, playgrounds and entertainment venues such as bowling alleys, cinemas etc
- Any premises where children congregate including bus stops, café's, shops, and any other place where children are attracted
- Areas that are prone to issues of youths participating in anti-social behaviour, including such activities as graffiti/tagging, underage drinking etc
- Gaming trends that may mirror days for financial payments such as pay days or benefit payments
- Proximity of premises which may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctor's surgeries, council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate etc.

10.5 PREMISES "READY FOR GAMBLING"

10.5.1 The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the London Borough of Barnet can be

satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

10.5.2 If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement may be deemed as appropriate. The current guidance from the Gambling Commission and recent case law will be used to assess which application is more appropriate in the circumstance and it is prudent for applicants to discuss this with the London Borough of Barnet prior to submitting an application for such premises.

10.5.3 In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, the London Borough of Barnet will determine applications on their merits, applying a two stage consideration process;

- First, whether the premises ought to be permitted to be used for gambling
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

10.5.4 Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

10.6 DUPLICATION WITH OTHER REGIMES

10.6.1 The London Borough of Barnet seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. The London Borough of Barnet will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

10.6.2 When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, building control and other regulations and must not form part of the consideration for the premises licence.

10.6.3 The London Borough of Barnet wishes to reconcile planning, building control and licensing considerations whenever possible. However, it should be noted that licensing decisions will not over-rule planning or building control decisions, as the legal framework for each is different.

10.6.4 Licensable activities cannot lawfully be carried on at premises unless there is a premises licence or permit (other than in accordance with a Temporary or Occasional Use Notice) and any necessary planning permission and building regulation approval. A licence will not remove the need for planning permission or building regulation approval, should these be necessary. The onus is on the licence holder or applicant to ensure that these permissions exist.

10.6.5 The London Borough of Barnet has a duty to take into consideration all relevant matters and not to take into considerations irrelevant matters; i.e. those not related to gambling and licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their application.

10.6.6 The London Borough of Barnet will take into account any concerns about conditions that are not able to be met by licence holders due to planning restrictions

10.7 LICENSING OBJECTIVES

Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, the London Borough of Barnet has considered the Gambling Commissions Guidance to licensing authorities and some comments are made below.

Preventing Gambling from being a source of crime and disorder or being associated with crime and disorder or being used to support crime

10.7.1 The London Borough of Barnet is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commissions guidance does however envisage that licensing authorities should pay attentions to the proposed location of gambling premises in terms of this objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This London Borough of Barnet is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

Ensuring that gambling is conducted in a fair and open way

- 10.7.2 The London Borough of Barnet has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. For Local Authorities with tracks: There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section– see page 14).

Protecting children and other vulnerable persons from being harmed or exploited by gambling

- 10.7.3 The London Borough of Barnet has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). London Borough of Barnet will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

- 10.7.4 The London Borough of Barnet expects operators of gambling premises to have in place policies and measures to ensure children and other vulnerable people are protected from being harmed or exploited by gambling. Harm in this context is not limited to harm from gambling but includes wider child protection considerations, including the risk of child sexual exploitation.

- 10.7.5 This London Borough of Barnet is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

10.8 ADULT GAMING CENTRES

- 10.8.1 The London Borough of Barnet will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that those who are aged under 18 years old are not attracted to or gain access to the premises.

10.8.2 The London Borough of Barnet may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

10.8.3 The London Borough of Barnet will have particular regard to the location and management of entrances to adult gaming centres. It will wish to see that the opportunities for children to gain access are minimised. This will be of particular importance if young people are likely to be unsupervised and the gaming centre is in a complex, such as a shopping centre.

10.9 LICENSED FAMILY ENTERTAINMENT CENTRES

10.9.1 Gaming machines are a form of gambling which is attractive to children and Licensed Family Entertainment Centres will contain machines of the Category D machine types on which they are allowed to play. Because gaming machines provide opportunities for solitary play and for immediate pay-outs, they are likely to engender repetitive and excessive play. In considering applications the London Borough of Barnet will have regard to the need to protect children and vulnerable people from harm or being exploited by gambling and will expect the applicant to satisfy the London Borough of Barnet, for example, that those aged under 18 years old do not have access to the adult only gaming machine areas.

10.9.2 The London Borough of Barnet may consider measures to meet the licensing objectives such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

- Measures / training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

10.9.3 The London Borough of Barnet will refer to the Gambling Commission's website from time to time to ascertain any conditions that may apply to operating licences regulating the way in which the area containing the category C machines should be delineated. The London Borough of Barnet will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

10.10 TRACKS

10.10.1 Licensing authorities have a power under the Gambling Act 2005 to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premises licence. London Borough of Barnet has no special policy on these issues, but will take into account the size of the track and associated area and the ability of staff to monitor the use of the machines by children and vulnerable people when determining the number of machines permitted.

10.10.2 The London Borough of Barnet will normally attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public.

10.11 CASINOS

10.11.1 London Borough of Barnet resolved in 2006 not to license casinos, with immediate effect. Any applications received will be returned with a notification that a 'no-casino' resolution is in place.

10.12 BINGO

10.12.1 London Borough of Barnet will need to be satisfied that appropriate conditions exist for bingo to be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

10.12.2 London Borough of Barnet also notes the Gambling Commission's Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of

a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

10.12.3 Children and young people are allowed into bingo premises. However, they are not permitted to participate in the playing of bingo and if category B or C machines are made available for use, then these must be separated from areas where children and young people are allowed.

10.13 BETTING PREMISES

10.13.1 London Borough of Barnet is aware that there is a trend to enlarge betting offices and that this can result in improved customer facilities. The London Borough of Barnet will look favourably on applications to improve customer facilities by enlarging or relocating existing premises, provided this does not entail risk to the licensing objectives.

10.13.2 London Borough of Barnet recognises that certain bookmakers have a number of premises within its area. In order to ensure compliance and that issues are recognised and resolved at the earliest stage, operators are requested to give the London Borough of Barnet a single named point of contact, who should be a senior individual, and whom the London Borough of Barnet will contact first should any compliance queries or issues arise.

10.13.3 Betting machines - This London Borough of Barnet will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons or by vulnerable people, when considering the number, nature and circumstances of betting machines an operator wants to offer.

10.14 PROVISIONAL STATEMENTS

10.14.1 Developers may wish to apply to this London Borough of Barnet for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

10.14.2 Section 204 of the Gambling Act provides for a person to make an application to the London Borough of Barnet for a provisional statement in respect of premises that he or she:

- expects to be constructed;
- expects to be altered; or
- expects to acquire a right to occupy.

10.14.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

10.14.4 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. London Borough of Barnet will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage,
- they reflect a change in the applicant's circumstances.

10.14.5 In addition, London Borough of Barnet may refuse the premises licence or grant it on terms different to those attached to the provisional statement only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage;
- which in the London Borough of Barnet's opinion reflect a change in the operator's circumstances;
- where the premises have not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this London Borough of Barnet notes that it can discuss any concerns it has with the applicant before making a decision.

10.15 LICENCE CONDITIONS

10.15.1 Premises licences will be subject to the permissions and restrictions set out in the Gambling Act 2005 and Regulations, as well as specific mandatory and default conditions detailed in regulations. It is expected that in most cases the mandatory and default conditions will be appropriate and sufficient but the London Borough of Barnet is able to exclude default conditions and also attach others. London Borough of Barnet will be concerned to ensure that appropriate conditions are attached to licences and if it believes that the mandatory and

default conditions will not be appropriate or sufficient in a particular case, it will be minded to impose others. Similarly, it may be prepared to remove or amend default conditions if satisfied that to do so would not harm the licensing objectives.

10.15.2 The London Borough of Barnet accepts that conditions, other than mandatory ones, must be tailored to the individual style and characteristics of the premises concerned. Apart from the mandatory conditions, the London Borough of Barnet will not apply conditions from a standard list without regard to the particular circumstances of the application. It will only apply conditions if they are:

- Relevant to the need to make the proposed building suitable as a gambling facility, or
- Directly related to the type of licence applied for
- Relevant to one or more of the licensing objectives
- Fairly and reasonably related to the scale and type of premises
- Reasonable in all other respects.

In this way, unnecessary or disproportionate conditions will be avoided.

10.15.3 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures the London Borough of Barnet will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This London Borough of Barnet will also expect the licence applicant to offer his/her own suggestions as to ways in which the licensing objectives can be met effectively.

10.15.4 This London Borough of Barnet will also consider specific measures which may be required for buildings that are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives.

10.15.5 The London Borough of Barnet believes that children should not normally be permitted access to premises or parts of premises where gambling takes place.

10.15.6 The London Borough of Barnet will ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;

- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder;
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18 years of age.
- Ages of younger patrons are checked.

These considerations will apply to premises including buildings where multiple premises licences are applicable.

10.15.7 The London Borough of Barnet is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. The London Borough of Barnet will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

10.15.8 If there is justified concern about serious, disruptive or threatening disorder, particularly if Police intervention has been necessary, suitable licence conditions such as door supervision or the use of CCTV will normally be appropriate.

10.15.9 Licence conditions may be imposed if there is justified concern about burglary targeted at gaming machines or the use of gaming machines by children.

10.15.10 If The London Borough of Barnet is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence condition to this effect.

10.15.11 Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be Security Industries Act licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the Gambling Commission's Guidance, Part 33).

10.15.12 When considering whether to impose a licence condition to restrict the number of betting machines in particular premises, London Borough of Barnet will take into account the size of the premises, the number of counter positions available for person to person transactions, and the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons.

10.15.13 It is noted that there are conditions which the London Borough of Barnet cannot attach to premises licences which are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- conditions in relation to stakes, fees, winning or prizes

10.15.14 The fairness and openness of gambling are primarily matters for the Gambling Commission, which has the power to impose relevant conditions on operating and personal licences. The London Borough of Barnet will not impose conditions on premises licences in connection with this objective except in the case of track licences, where the track operator may not have an operating licence.

10.16 REVIEWS

10.16.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities. However, it is for the London Borough of Barnet to decide whether the review is to be carried out. This decision will be made on the basis of whether the request for the review is relevant to the matters listed below but London Borough of Barnet will not review a licence if it considers the request to be frivolous, vexatious or repetitious, or that a review will certainly not cause the London Borough of Barnet to alter, revoke or suspend the licence, or the request is substantially the same as previous representations or requests for review. The holding of a review must be:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- consistent with the licensing objectives and

- in accordance with the authority's statement of principles.

10.16.2 The London Borough of Barnet can itself initiate a review of a licence and may do so if it appears to its officers that the licensing objectives are being harmed. It is open to any officer of the London Borough of Barnet authorised to do so to initiate a review in the London Borough of Barnet's name but it is expected that in most cases licensing officers will take the lead.

10.16.3 The London Borough of Barnet does not wish its licensing officers to take on the initiation of a review that could otherwise be requested by another responsible authority or an interested party. Where evidence of harm to the licensing objectives is provided by either a responsible authority or interested party wanting a review to take place, London Borough of Barnet expects that they, not the licensing officers, will normally initiate the review.

10.16.4 Once a valid application for a review has been received by The London Borough of Barnet, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by London Borough of Barnet, who will publish notice of the application within 7 days of receipt. London Borough of Barnet must carry out the review as soon as possible after the 28 day period for making representations has passed.

10.16.5 The purpose of the review will be to determine whether The London Borough of Barnet should take any action in relation to the licence. If action is justified, the options open to the London Borough of Barnet are;

- (a) add, remove or amend a licence condition imposed by The London Borough of Barnet;
- (b) exclude a default condition imposed by the Secretary of State or remove or amend such an exclusion;
- (c) suspend the premises licence for a period not exceeding three months; and
- (d) revoke the premises licence.

10.16.6 In determining what action, if any, should be taken following a review, the London Borough of Barnet will have regard to the principles set out in section

153 of the Act, as well as any relevant representations. In particular, London Borough of Barnet will also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

10.16.7 Once the review has been completed, the London Borough of Barnet must, as soon as possible, notify its decision to:

- the licence holder
- the applicant for review (if any)
- the Gambling Commission
- any person who made representations
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs

11. PERMITS

11.1 General

11.1.1 The London Borough of Barnet believes that gambling, including the use of category D gaming machines, is harmful to children. London Borough of Barnet believes that the use of gaming machines by children is not consistent with the third licensing objective.

11.1.2 The London Borough of Barnet will not grant permits for any category of gaming machines where it considers that they are likely to be used or easily accessed, by children. Permits may be granted if adequate precautions are offered by the applicant. These could include, for example, steps to prevent access to the machines by children, and training for staff with respect to suspected truants and unsupervised very young children on the premises.

11.1.3 This Council is concerned about burglary targeted at gaming machines. The authority considers that this is relevant to the first licensing objective.

11.1.4 Precautions to reduce the risk of burglary or theft from the machines may include:

- good security to deter break-ins
- machines monitored by overt CCTV systems of an adequate standard to meet Police recommendations
- machines to be of substantial construction to resist damage
- emptying machines of cash nightly, and displaying a notice stating that this is done
- siting machines where they can be observed by staff or the licence holder to deter theft when the premises are open

- providing adequate secure cash storage facilities to Police recommendations.

11.1.5 The London Borough of Barnet recommends that applicants consult the Police, including the local Safer Neighbourhood Team, at an early stage, to obtain advice about crime prevention measures.

11.1.6 When considering an application for a permit, the London Borough of Barnet will take into account the applicant's suitability (including whether they have a conviction for any relevant offence).

11.2 Unlicensed Family Entertainment Centre gaming machine permits

11.2.1 Where a premise does not hold a premises licence but wishes to provide gaming machines, it may apply to The London Borough of Barnet for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

11.2.2 An application for a permit may be granted only if The London Borough of Barnet is satisfied that the premises will be used as an Unlicensed Family Entertainment Centre (UFEC) and if the chief officer of police has been consulted on the application.

11.2.3 The London Borough of Barnet will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures including training for staff as regards suspected truant school children on the premises, measures including training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises.

11.2.4 The London Borough of Barnet will expect applications to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions
- that staff are trained to have a full understanding of the maximum stakes and prizes.

11.2.5 It should be noted that The London Borough of Barnet cannot attach conditions to this type of permit.

11.3 Alcohol Licensed Premises Gaming Machine Permits

11.3.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify The London Borough of Barnet.

11.3.2 The London Borough of Barnet can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the London Borough of Barnet, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

11.3.3 The London Borough of Barnet expects licensed premises to be clear on the expectations and requirements in relation to gambling on licensed premises.

<http://www.gamblingcommission.gov.uk/for-licensing-authorities/Licensing-authority-toolkit/Pubs-and-clubs/Pubs-and-clubs-toolkit.aspx>

11.4 Alcohol Licensed Premises Gaming Machine Permits 3 or More Machines

11.4.1 If premises wish to have more than 2 machines, then it needs to apply for a permit. The London Borough of Barnet will consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and any other matters that it may think relevant.

11.4.2 The London Borough of Barnet expects licensed premises to be clear on the expectations and requirements in relation to gambling on licensed premises.

<http://www.gamblingcommission.gov.uk/for-licensing-authorities/Licensing-authority-toolkit/Pubs-and-clubs/Pubs-and-clubs-toolkit.aspx>

11.4.2 The London Borough of Barnet considers that such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient

measures to ensure that those aged under 18 years old do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18 years. Notices and signage may also help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

11.4.3 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

11.4.4 It should be noted that The London Borough of Barnet can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions other than these cannot be attached.

11.4.5 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

11.5 PRIZE GAMING PERMITS

11.5.1 Gaming is prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming.

11.5.2 The London Borough of Barnet has prepared a statement of principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- that the gaming offered is within the law
- Clear policies that outline the steps to be taken to protect children from harm.

11.5.3 In making its decision on an application for this permit The London Borough of Barnet does not need to but may have regard to the licensing objectives. However, it must have regard to any Gambling Commission guidance.

11.5.4 It should be noted that there are conditions in the Gambling Act 2005 with which the permit holder must comply, but that the London Borough of Barnet cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations if a money prize, or the prescribed value if non-monetary prize;
- participation in the gaming must not entitle the player to take part in any other gambling.

11.4.5 The London Borough of Barnet may not impose any further conditions

11.6 CLUB GAMING AND CLUB MACHINE PERMITS

11.6.1 Members clubs and miners' welfare institutes but not commercial clubs may apply for a club gaming permit. The club gaming permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set out in regulations.

11.6.2 Members clubs, miner's welfare institutes and commercial clubs may apply for a club machine permit. A club machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). It should be noted that commercial clubs may not site category B3A gaming machines offering lottery games in their club.

11.6.3 Members clubs must have at least 25 members and be established and conducted wholly or mainly for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs, which replicates the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

11.6.4 Licensing authorities may refuse an application on the grounds that:

- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young persons;

- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years;
- (e) an objection has been lodged by the Gambling Commission or the Police.

11.6.5 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police and the grounds on which an application under the process may be refused are:

- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

11.6.6 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

11.7 TEMPORARY USE NOTICES

11.7.1 Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice would include hotels, conference centres and sporting venues.

11.7.2 The London Borough of Barnet can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

11.7.3 The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming,

where the gaming is intended to produce a single winner, which in practice means poker tournaments.

- 11.7.4 There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", the London Borough of Barnet needs to look at, amongst other things, the ownership/occupation and control of the premises.
- 11.7.5 The London Borough of Barnet expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

11.8 OCCASIONAL USE NOTICES

- 11.8.1 The London Borough of Barnet has very little discretion as regards occasional use notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This Council will consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

12. TRAVELLING FAIRS

- 12.1 The London Borough of Barnet is responsible for deciding whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 12.2 The London Borough of Barnet will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 12.3 It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land.
- 12.4 The London Borough of Barnet will work with its neighbouring authorities to ensure that land that crosses our boundaries is monitored so that the statutory limits are not exceeded.

13. SMALL SOCIETY LOTTERIES

- 13.1 Registration of non-commercial society lotteries may be refused if it appears that the applicant is a commercial society, and The London Borough of Barnet will therefore expect full details to be provided of the purpose for which the society is established. The London Borough of Barnet may make enquiries to satisfy itself on this point.
- 13.2 If The London Borough of Barnet is minded to refuse to register a lottery, or to revoke a registration, it will inform the applicant, stating the reasons, and the applicant will have the right to make representations. Any such representations will be heard by a sub-committee of the Licensing Committee.
- 13.3 The London Borough of Barnet does not currently possess an operating licence in its own name for the purposes of promoting a lottery for the benefit of the community.

14. INTEGRATION OF LICENSING WITH OTHER STRATEGIES

- 14.1 The London Borough of Barnet will ensure, so far as is consistent with the Act and Guidance, that action taken under this policy supports and does not conflict with strategies for local crime prevention and community safety, planning, equality, tourism and cultural issues, including in particular:
- The Cultural Strategy for London
https://www.london.gov.uk/sites/default/files/2017_draft_strategies_culture_2.0.pdf
 - The objectives of the Security Industry Authority
<http://www.sia.homeoffice.gov.uk/Pages/home.aspx>
 - The Safer Communities Strategy
<https://www.barnet.gov.uk/citizen-home/housing-and-community/community-safety.html>
 - The Sustainable Communities Strategy
<https://www.barnet.gov.uk/citizen-home/council-and-democracy/policy-and-performance/major-policy-proposals/sustainable-community-strategy.html>
 - Barnet's Equalities policy
<https://www.barnet.gov.uk/citizen-home/council-and-democracy/policy-and-performance/equality-and-diversity.html>

15. TOURISM AND EMPLOYMENT

- 15.1 The London Borough of Barnet recognises the relevance of licensed premises to tourism and employment in the borough. The Licensing Committee will receive

reports from any body that it considers appropriate on the needs of the local cultural strategy, and tourist economy, including the employment situation in the area and the need for new investment and employment. These issues will be taken into account so far as the Gambling Act permits when making licensing decisions.

16. PROMOTION OF EQUALITY

- 16.1 The London Borough of Barnet encourages the provision of proper facilities for disabled people at licensed premises, and will offer advice and information where necessary to assist applicants.
- 16.2 The London Borough of Barnet is obliged to have due regard to the need to eliminate unlawful discrimination, for example on the grounds of race, gender, disability, sexual orientation or religion, and to promote equality of opportunity and good relations between persons of different groups. When considering applications and representations, the London Borough of Barnet will treat all parties equally. However, it can take into account only the issues provided for in the Gambling Act.

17 LICENSING REGISTER

- 17.1 The London Borough of Barnet will establish and maintain a Licensing Register containing the information required by statute, and keep it available for inspection. It can be seen on request to the Licensing Team, telephone 0208 359 7443.

18. RELEVANT DOCUMENTS

- The Enforcement Concordat
<http://webarchive.nationalarchives.gov.uk/+/http://www.berr.gov.uk/files/file10150.pdf>

- The Regulators' Compliance Code
<https://www.gov.uk/government/publications/regulators-code>

- The Human Rights Act 1998
<http://www.legislation.gov.uk/ukpga/1998/42/contents>

- Crime and Disorder Act 1998
<http://www.legislation.gov.uk/ukpga/1998/37/contents>

- Disability Discrimination Act 1995
www.hmso.gov.uk/acts/acts1995/Ukpga_19950050_en_1.htm

- Guidance issued by the Gambling Commission under section 25 of the Gambling Act 2005
<http://www.gamblingcommission.gov.uk/PDF/GLA5-updated-September-2016.pdf>

19. COMPLAINTS ABOUT THE LICENSING SERVICE

19.1 The London Borough of Barnet will investigate any complaint about the way it deals with a licensing issue and will inform the complainant of the outcome. If the complaint is justified, it will put the problem right if possible. London Borough of Barnet has a formal complaints procedure. For information see www.barnet.gov.uk/contact-us.htm

20. FURTHER INFORMATION

20.1.1 Information about applications, fees, how to make a representation, details of the responsible authorities and the licensing register, see www.gamblingcommission.gov.uk or contact the Licensing Team on 020 8359 7443, licensingadmin@barnet.gov.uk or see The London Borough of Barnet's website, www.barnet.gov.uk

21. COMMENCEMENT AND REVIEW

21.1 This policy will come into effect on 13th January 2019 It will be kept under review and The London Borough of Barnet may make changes after consultation. It will be renewed every three years. The London Borough of Barnet will be pleased to receive the views of responsible authorities, individuals or organisations at any time.

| Matter to be dealt with | Full Council | Licensing Committee | Licensing sub committee | ff |
|---|--------------|---------------------|--|--|
| Final approval of the Licensing Authority Statement of Policy | X | | | |
| Policy not to permit casinos | X | | | |
| Application for premises licence | | | Where representations have been received and not withdrawn | Where representations received and not withdrawn Where representations been withdrawn |
| Application to vary premises licence | | | Where representations have been received and not withdrawn | Where representations received and not withdrawn Where representations been withdrawn |
| Application for transfer of a licence | | | Where representations have been received from the Commission | Where representations been received from Commission |
| Application for provisional statement | | | Where representations have been received and not withdrawn | Where representations received and not withdrawn Where representations been withdrawn |
| Review of a premises licence | | | All cases | |
| Application for club gaming/club machine permits | | | Where objections have been made (and not withdrawn) | Where no objections have been made/objections been withdrawn |
| Cancellation of club gaming/club machine permits | | | All cases | |
| Applications for other permits | | | | All cases |
| Cancellation of licensed premises gaming machine | | | | All cases |

| | | |
|--|------------------------------------|-----------|
| permits | | |
| Consideration of temporary use notice | | All cases |
| Decision to give a counter notice to a temporary use notice | All cases | |
| Decision to reject a representation on the grounds that it is not from an interested party | | All cases |
| Initiation of review of a premises licence by London Borough of Barnet in its capacity as licensing authority | | All cases |
| Fee setting (when appropriate) | Normal budget-setting arrangements | |
| Consideration of representations when London Borough of Barnet is minded to refuse to register a lottery or to revoke a lottery registration | All cases | |

Appendix 2 – Summary of responses

| Response received from | Summary of Comments | Licensing team Comments |
|------------------------|---|--|
| London Fire Brigade | Confirmed that they have no comments to make on this consultation. | |
| William Hill | <p>1 The LRA must also be submitted when changes in the local environment or the premises warrant a risk assessment to be conducted again.</p> <p>As we will regularly update our Local Risk Assessments, the latest version will always be available in the shop, for inspection by your Authority as required. We would not expect to submit these forms to you every time they are updated, as some of the updates may be quite minor. We would therefore suggest the following wording would be more suitable – “The LRA must also be updated when changes in the local environment or the premises warrant a risk assessment to be conducted again”. Your suggested paragraph 10.5.3 already confirms a requirement for the document to be kept on the premises and available for inspection. This amendment would just remove what is considered to be an unnecessary requirement for sending you details of every change, however small.</p> <p>2 Larger operators (William Hill, Coral, Ladbrokes, Betfred and Paddy Power) are responsible for conducting/taking part in underage testing, results of</p> | <p>Amended to change this to notified if a minor change</p> <p>Amended to remove from LRA to a general notification should a problem with a premises in the area be discovered</p> |

| | | |
|--|--|--|
| | <p>which are shared with the Gambling Commission. However, operators are urged to also make the results available to the London Borough of Barnet as part of the LRA.</p> <p>As you note, we do conduct our own age verification testing, and as well as sharing this with the Gambling Commission, this is also shared with our Primary Authority. The purpose of this approach is that these two groups can monitor our results, and take appropriate action if they consider there is a problem. It is meant to replace the need to notify each and every Local Authority, which could stretch to over 300 for the larger bookmakers.</p> <p>Because the results are also dealt with internally, there is the possibility of disciplinary procedures as a result of any failings, and therefore this information cannot be retained in shops, where all members of staff would be able to view it. The Local Risk Assessment is a document that all team members should be aware of, so it is not an appropriate place to maintain age verification results. We are happy to share results with you as required, rather than as a regular update, but this should be discussed with a central point of contact, rather than the shop teams.</p> | |
|--|--|--|

| | |
|---|---|
|  | <p>Licensing Committee 12th November 2018</p> |
| <p style="text-align: center;">Title</p> | <p style="text-align: center;">Street Trading Fees and Charges</p> |
| <p style="text-align: center;">Report of</p> | <p>Commissioning Director for Environment</p> |
| <p style="text-align: center;">Wards</p> | <p>All</p> |
| <p style="text-align: center;">Status</p> | <p>Public</p> |
| <p style="text-align: center;">Urgent</p> | <p>No</p> |
| <p style="text-align: center;">Key</p> | <p>No</p> |
| <p style="text-align: center;">Enclosures</p> | <p>Appendix 1 – Proposed Charges</p> |
| <p style="text-align: center;">Officer Contact Details</p> | <p>Emma Phasey Group Manager Commercial Premises Emma.phasey@barnet.gov.uk</p> |

Summary

This report seeks approval from Members to adopt the attached fees and charges in relation to street trading applications.

Officers Recommendations

1. That the draft fees be approved by the Committee for adoption.
2. To recommend that these fees be sent to the Policy and Resources Committee for noting.

1. WHY THIS REPORT IS NEEDED

- 1.1 The London Local Authorities Act 1990 (as amended) allows for street trading to be licensed. The London Borough of Barnet currently has both temporary and permanent street trading licences.
- 1.2 The London Borough of Barnet does not currently have a fee set in relation to the transfer, variation or change of detail for existing street trading licences.
- 1.3 The Licensing team have received a number of requests for these amendments recently and have been faced with either providing this service without a fee, or to charge the full application fee. Neither option results in the provision of a service that is cost neutral.
- 1.4 Proposed fees for the applications set out in paragraph 1.2 above can be found in Annex 1. These fees have been set on a cost recovery basis.
- 1.5 A consultation on the proposed fees is ongoing and commenced on 1st September 2018. It will continue until 3rd November 2018. Details of the consultation can be found in paragraph 5.3 below. The responses received to date (26th October) can be found in Appendix 3.
- 1.6 A supplementary report will be created on 5th November 2018 with the final responses.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The London Borough of Barnet does not currently have a fee for dealing with these types of minor application. This service can only be provided free of charge as charging the full application fee would result in a surplus being made. The London Borough of Barnet is therefore currently funding these applications from within its budget. A fee should be charged on a cost recovery basis.
- 2.2 The fees proposed have been set on a cost recovery basis.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 **Do nothing** – the Council could continue not to set a fee and would therefore remain unable to charge for dealing with minor applications such as these, recovering none of the costs of administering them. The costs of processing these applications would have to be met from within the Council's budget.
- 3.2 **Charge the full application fee** – the Council could charge the full application fee for minor applications. However, that fee is greater than the cost of processing these applications and charging the full fee would cause a surplus.

to be made. Making a surplus is not permitted and one being made would be susceptible to legal challenge.

4. POST DECISION IMPLEMENTATION

- 4.1 The Committee are being asked to recommend that the fees be adopted and send to the Policy and Resources Committee for noting.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 Street Trading licensing supports the corporate objectives of “Responsible Growth, Regeneration and Investment”.

5.1.2 Fees and charges need to be reviewed to ensure value for money and cost recovery. This complies with the 2015-2020 Corporate Plan priority for Barnet to be in the lowest 25% of all Councils (Boroughs and County Councils) for expenditure per head of population. The Fees and Charges review is a means of ensuring that net costs are kept under control.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 With public and Member expectations increasing, the review of fees and charges ensures that sufficient resources are made available to manage and prioritise those expectations.
- 5.2.2 All fees and charges will ensure effective cost recovery for delivering the service; prices listed do not include VAT, which will only be charged where indicated. The charges are discretionary to cover the cost of delivery.
- 5.2.3 The Constitution requires that all new charges, and charges that are proposed to be increased by more than CPI inflation plus 2%, are agreed by the relevant Theme Committee and reported to Policy and Resources Committee for noting.
- 5.2.4 Administration and enforcement of the legislation will be carried out by the Licensing team within Re, together with support from HB Public Law and from Governance Services.
- 5.2.5 The recommendations within this report have no further financial implications as this will be delivered within existing resources.

5.3 Social Value

- 5.3.1 Not relevant to this report.

5.4 Legal and Constitutional References

5.4.1 The Local Authority has been provided powers under the London Local Authorities Act 1990 (as amended) in order to be able to licence premises to trade from the public highway within the London Borough of Barnet. .

5.4.2 The London Local Authorities Act 1990 (as amended) also sets out how fees can be set and how these should be consulted on, at section 32. The legislation has been followed in relation to this consultation.

5.5 Risk Management

5.5.1 It is important that the London Borough of Barnet processes licences in relation to street trading in an efficient and cost neutral way.

5.6 Equalities and Diversity

5.6.1 The Council has a legal obligation under section 149 of the Equality Act 2010 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.

5.6.2 A consistent approach will be adopted when considering applications. All applications will be considered in line with the relevant legislation and policy.

5.6.3 An initial equalities impact screening has been completed and there is no identified impact on any of the groups with protected characteristics. Therefore a full impact assessment is not required.

5.7 Corporate Parenting

5.7.1 There will be no impact on looked after children and care leavers.

5.8 Consultation and Engagement

5.8.1 The consultation document was sent to the Metropolitan Police, Planning, Environmental Health, all relevant licence holders and all ward Councillors. The consultation was also published on the Council's website.

5.8.2 At the time of writing this report, no response to the consultation have been received.

5.9 Insight

5.9.1 Not relevant to this report

6 BACKGROUND PAPERS

None

Appendix 1 – Proposed Fees and Charges

| Description of charge | Unit | Subject to VAT | Current charge excluding VAT | Proposed Charge excluding VAT | Change % |
|---|-----------------|--------------------|------------------------------|-------------------------------|----------|
| Street Trading – Permanent & Temporary licences Transfer | Per application | VAT not applicable | new | £25 | n/a |
| Street Trading – A Boards - Transfer of Licence | Per application | VAT not applicable | new | £25 | n/a |
| Street Trading – Permanent and Temporary Licences Variation of Licence | Per application | VAT not applicable | new | £95 | n/a |
| Street Trading – All Licences Change of details | Per application | VAT not applicable | new | £25 | n/a |
| Street Trading – All Licences Duplicate Licence | Per Application | VAT not applicable | new | £20 | n/a |

This page is intentionally left blank