

MEETING

LICENSING COMMITTEE

DATE AND TIME

MONDAY 12TH JULY, 2021

AT 7.00 PM

VENUE

HENDON TOWN HALL

TO: MEMBERS OF LICENSING COMMITTEE (Quorum 3)

Chairman: Councillor John Marshall MA (Hons)
Vice Chairman: Councillor John Hart BA (Hons) MA

Linda Freedman
Val Duschinsky
Lachhya Gurung
Wendy Prentice

Claire Farrier
Zakia Zubairi
Barry Rawlings
Danny Rich

Gabriel Rozenberg
Nick Mearing-Smith

In line with the Constitution's Public Participation and Engagement Rules, requests to submit public questions or comments must be submitted by 10AM on the third working day before the date of the committee meeting. Therefore, the deadline for this meeting is 7 July 2021 at 10AM. Requests must be submitted to jan.natynczyk@barnet.gov.uk 020 8359 5129

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

Andrew Charlwood – Head of Governance

Governance Service contact: jan.natynczyk@barnet.gov.uk 020 8359 5129

Media Relations Contact: Tristan Garrick 020 8359 2454

ASSURANCE GROUP

ORDER OF BUSINESS

Item No	Title of Report	Pages
1.	Minutes	5 - 8
2.	Absence of Members	
3.	Disclosable Pecuniary interests and Non Pecuniary interests	
4.	Report of the Monitoring Officer (if any)	
5.	Public Questions and Comments (if any)	
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13.	Any item(s) that the Chairman decides is urgent	

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Decisions of the Licensing Committee

10 February 2021

Members Present:-

AGENDA ITEM 1

Councillor John Marshall (Chairman)

Councillor John Hart (Vice-Chairman) – present from agenda item 9

Councillor Linda Freedman
Councillor Alison Cornelius
Councillor Lachhya Gurung
Councillor Wendy Prentice

Councillor Claire Farrier
Councillor Barry Rawlings
Councillor Danny Rich

Apologies for Absence

Councillor Val Duschinsky

Councillor Zakia Zubairi

1. MINUTES

RESOLVED that the minutes of the meeting held on 11 November 2019 be agreed as a correct record.

2. ABSENCE OF MEMBERS

Councillors Duschinsky and Zubairi sent apologies.

3. DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS

None.

4. REPORT OF THE MONITORING OFFICER (IF ANY)

None.

5. PUBLIC QUESTION AND COMMENT (IF ANY)

None.

6. MEMBERS ITEM (IF ANY)

None.

7. REPORT ON THE RSPCAS CAMPAIGN IN RELATION TO FIREWORK CONTROLS

This report had been produced at the request of the Chairman of the Licensing Committee to highlight the concerns raised by the RSPCA in relation to the sale of fireworks in the Borough.

Members suggested that wedding venues be included, under the public firework display recommendation, as detailed below.

RESOLVED that

- 1. The report be noted;**
- 2. the Licensing Committee support the proposed RSPCA recommendations:**
 - **To require all public firework displays within the local authority boundaries to be advertised in advance of the event, allowing residents to take precautions for their animals and vulnerable people**
 - **To actively promote a public awareness campaign about the impact of fireworks on animal welfare and vulnerable people – including the precautions that can be taken to mitigate risks**
 - **To write to the UK Government urging them to introduce legislation to limit the maximum noise level of fireworks to 90dB for those sold to the public for private displays**
 - **To encourage local suppliers of fireworks to stock ‘quieter’ fireworks for public display.**

8. LICENSING AUTHORITY - ANNUAL REPORT ON LICENSING APPLICATIONS

This report provided Members with a summary of the volume of work that the London Borough of Barnet, as a Licensing Authority had dealt with in 2020 (Calendar year).

Members asked about the impact of Covid on annual renewals of Licences.

Officers reported that some licences were ‘lifetime’ licences and others were renewed after 3 or 5 years for example, so it was difficult to measure this impact in this way. However, it would be possible to get some indication of this via traders paying their annual fee.

RESOLVED that the report be noted.

9. REVIEW OF STREET TRADING LICENCE POLICY

Councillor Hart joined the meeting at this point.

This report sought approval from Members to consult on the policy in relation to street trading licences. The policy was a review and update of the current policy.

There was some discussion around temporary licences and end dates and it was noted that this would be driven by Central Government.

There was also some discussion around street traders having their licences on display at all times.

RESOLVED that the Committee authorise the Licensing team to commence a 6-week consultation on the draft policy for street trading licence.

10. ANIMAL WELFARE LICENSING POLICY

This report sought approval from Members to consult on the policy in relation to Animal Welfare Licences.

Members discussed issues surrounding dog carers having to hold licences and awareness around this issue. Officers reported that some media work had been done on this pre-covid and it was hoped to pick up on this again in the future.

Members also discussed some of the issues and actions taken around dog walkers, particularly relating to the number of dogs people were allowed to walk at one time and it was requested that an update report be submitted to the next meeting of this Committee.

RESOLVED that

- 1. The Committee authorise the Licensing team to commence a 6-week consultation on the draft policy for Animal Welfare Licences;**
- 2. an update report be submitted to the next meeting of this Committee, on dog walkers.**

11. REVIEW OF SCRAP METAL DEALERS POLICY

This report sought approval from Members to consult on a draft policy in relation to licences issued under the Scrap Metal Dealers Act 2013. The current policy was approved in 2015 and the new policy was a review and refresh of the 2015 policy.

RESOLVED that the Committee approve the carrying out of a consultation on the Draft Scrap Metal Dealers Policy at Appendix 1.

12. ANY ITEM(S) THAT THE CHAIRMAN DECIDES IS URGENT

None.

The meeting finished at 7.38pm

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AGENDA ITEM 7



**Licensing Committee
12th July 2021**

Title	Proposed adoption of Scrap Metal Dealers Policy
Report of	Director for Assurance
Wards	All
Urgent	No
Key	Yes
Status	Public
Enclosures	Appendix 1 – Proposed Draft Scrap Metal Dealers Policy Appendix 2 – Summary of responses to the consultation
Officer Contact Details	Nicholas Stabeler Group Manager nicholas.stabeler@barnet.gov.uk

Summary

This report relates to the outcome of the recent consultation in relation to a revised policy to take effect on 1st August 2021.

Recommendations

1. For the proposed policy in Appendix 1 to be approved by the Committee

1. WHY THIS REPORT IS NEEDED

- 1.1 The Scrap Metal Dealers Act 2013 is the legislation which sets out the licensing regime for the scrap metal recycling and vehicle dismantling industries.
- 1.2 The Act provides for two types of Scrap Metal Dealer licences, a 'Site Licence' and a 'Collector's Licence', both of which last for three years.

1.2.1 Site Licence

A site licence is applicable where the licence holder has a physical site(s) that they use to carry on their business as a scrap metal dealer. This licence allows the licence holder to accept scrap metal from any of the sites listed on the licence; and to transport scrap metal to and from the sites listed in the licence.

1.2.2 Collector's Licence

A collector's licence is applicable where the licence holder's business consists of collecting scrap metal, for example by going from door to door asking for scrap. This licence allows the licence holder to collect scrap metal from within the boundaries of the local authority issuing the licence. A separate licence is required from each local authority within whose boundary a person wishes to operate

- 1.3 The current policy for scrap metal licences was adopted by the Council in 2015 therefore a review and refresh of the policy is needed.
- 1.4 The policy has been simplified and refreshed to bring it more in line with the Council's other licensing policies. There have been no significant changes made to the contents.
- 1.5 A consultation was undertaken on whether to adopt the Council's draft Scrap Metal licensing policy from 7th May 2021 until 18th June 2021. Information on this consultation can be found in paragraph 5.9. One response was received and can be found in Appendix 2. Amendments have been made to the draft policy as a result of the responses received. This is outlined in Appendix 2.
- 1.6 Following consideration of the responses in Appendix 2 it is recommended that the Licensing Committee adopt that proposed licensing policy.

2. REASONS FOR RECOMMENDATIONS

- 2.1 It is best practice to prepare, consult on and publish a policy which the Council proposes to apply when implementing regulatory regimes. This ensures clarity for traders and other interested parties in the application and enforcement processes.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The Council could choose not to refresh the policy on Scrap Metal Dealers, however to do so would be contrary to best practice.

4. POST DECISION IMPLEMENTATION

- 4.1 The Committee are being asked to adopt the Policy.
- 4.2 If approved, this policy will come into effect on 1st August 2021

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 London suburb” by ensuring that only legal, well regulated scrap metal dealing takes place within the borough.

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

- 5.2.1 Administration and enforcement of the Scrap Metal Act will be carried out by the Licensing team within Re, together with support from HB Public Law and from Governance Services.
- 5.2.2 Fees are kept under constant review to ensure that they accurately reflect recovery of costs incurred in administration of the licence process and compliance checks.

5.3 Legal and Constitutional References

- 5.3.1 A good policy ensures that fair and equitable decisions are taken by the London Borough of Barnet.
- 5.3.2 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.”

5.4 Insight

- 5.4.1 Not relevant to this report.

5.5 Social Value

- 5.5.1 Not relevant to this report

5.6 Risk Management

5.6.1 It is important that the London Borough of Barnet adopts a robust and accountable regulatory regime in relation to scrap metal in order to ensure fair trading, prevent crime and to protect consumers.

5.7 Equalities and Diversity

5.7.1 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.

5.7.2 When considering scrap metal applications, only issues provided for in the Scrap Metal Act and the Council'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.

5.7.3 An initial equalities impact assessment 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.

5.8 Corporate Parenting

5.8.1 Not relevant to this report

5.9 Consultation and Engagement

5.9.1 The consultation document was to the Police, Environment Agency, councillors and scrap metal businesses known to be operating in London Borough of Barnet. The consultation was also placed on the London Borough of Barnet's website.

6. BACKGROUND PAPERS

6.1 None

Appendix 1 Proposed Licensing Policy

Appendix 2 Consultation responses

The consultation process started on 7th May 2021 and will conclude on 18th June 2021. The below responses were those that were received during the consultation period.

Consultee	Comments	Response
Cllr Zinkin	I don't understand the disclaimer at the end it does not seem appropriate to a Barnet policy.	Policies do not form a statement of law. They inform the manner and circumstances in which we will apply the law based on our interpretation. If a matter was referred to a court a Judge's decision, if different to our interpretation, would have a binding effect. Therefore, all Policies should carry this caveat.
Cllr Zinkin	Why disclosure Scotland in 4.3	Disclosure has for many years been the best service available for providing Basic Disclosures for individuals in the UK. More recently the Basic Disclosure and Barring Service (DBS) checks were introduced and made available for people working in England and Wales. Amendments will be made to the policy to signpost the new DBS service available to applicants.
Cllr Zinkin	What is the point of 7.3 who is going to police this?	

		The Licensing Authority will be responsible for enforcing this
Cllr Zinkin	I don't understand 'might' in 3.5	In some circumstances it is possible for an individual to hold both a collectors and a site licence and this is explained within the legislation. Due to its complexity it is not practicable or necessary to explain this within the policy.
Cllr Zinkin	As with Trading Standards don't we want to encourage web applications?"	Banet to not have webforms for Scrap Metal Applications at present. We are currently reviewing our online systems and will be looking to modernise the online application systems in due course.

London Borough of
Barnet

SCRAP METAL POLICY

2021 - 2026

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1 DEFINITIONS

1	THE ACT	Scrap Metal Dealers Act 2013
2	SCRAP METAL DEALER	<p>A person carries on business as a scrap metal dealer if:</p> <ul style="list-style-type: none"> a) they wholly or partly buy or sell scrap metal (whether or not sold in the form it was bought in) or; b) they carry on business as a motor salvage operator <p>A person selling scrap metal as surplus materials or as a by-product of manufacturing articles is NOT regarded as a scrap metal dealer.</p>
3	MOTOR SALVAGE OPERATION	<p>A business that consists wholly or mainly of:</p> <ul style="list-style-type: none"> a) recovering salvageable parts from motor vehicles for re-use or sale and selling the remainder of the vehicle for scrap; b) buying written-off vehicles, repairing and reselling them; c) buying or selling motor vehicles which are to be the subject of any of the activities mentioned in (a) or (b); d) wholly or mainly in activities falling within paragraphs (b) and (c).

4	SCRAP METAL	<p>1.1.1 includes:</p> <ul style="list-style-type: none"> a) any old, waste or discarded metal or metallic material, and b) any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last holder as having reached the end of its useful life. <p>1.1.2 Scrap Metal does not include:</p> <ul style="list-style-type: none"> a) Gold; b) Silver; or c) Any alloy of which 2% or more by weight is attributable to gold or silver.
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2 INTRODUCTION

- 2.1 This document sets out the London Borough of Barnet's Policy on the regulation of Scrap Metal Dealers.
- 2.2 The Scrap Metal Dealers Act 2013 received Royal Assent on 28 February 2013 and came into force on 1 October 2013.
- 2.3 The Act gives local authorities powers to regulate the scrap metal industry by allowing them to refuse to grant a licence to 'unsuitable' applicants and a power to revoke licences if the dealer becomes 'unsuitable'.
- 2.4 The London Borough of Barnet (hereinafter called 'the Council') is a Licensing Authority under the Scrap Metal Dealers Act 2013 and is responsible for granting site licence and collector's licences in the London Borough of Barnet in respect of businesses that deal in scrap metal and vehicle dismantling.
- 2.5 When assessing applications, the Council must be satisfied that the applicant is a 'suitable' person to hold a licence. Unsuitability will be based on a number of factors including any relevant criminal convictions.
- 2.6 The Scrap Metal Dealers Act 2013 makes it a requirement for a scrap metal dealer to have a licence in order to carry on in business as a dealer. It is an offence to carry on a business without first obtaining a licence.

3 TYPES OF LICENCES

3.2 Anyone wishing to operate a business dealing in scrap metal will require a site licence or a collector's licence.

3.3 A licence is valid for three years and permits the holder of the licence to operate within the boundaries of the issuing authority.

3.4 The types of licence are as follows:

- Site Licence – A licence will be issued by the Council in whose area a scrap metal site is situated. A site licence will require each of the sites at which the licensee carries on the business as a scrap metal dealer, within the local authority area, to be identified and a site manager to be named for each site. This type of licence will permit the holder to operate from those sites and will allow the transporting of scrap metal to and from those sites to any other licensed site within any local authority area.
- Collector's Licence – A collector's licence authorises a licence holder to operate as a 'mobile collector' in the area of the issuing local authority. This licence will permit them to collect any scrap metal as defined within the legislation, including commercial and domestic scrap metal. It does not permit the collector to collect from any other local authority area. Separate licences should be obtained from each individual local authority that the collectors are collecting scrap metal from. A collector's licence issued by this authority does not permit the licensee to carry on a business as a site within this local authority. If a collector wishes to use a fixed site, they will need to obtain a site licence from the relevant local authority. There is no restriction as to the location where the collector can transport and sell their material.

3.5 A person may hold more than one licence issued by different authorities, but might **NOT** hold more than one licence issued by the same local authority.

4. THE APPLICATION

4.1 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 by using the standard application form addressed to:

Licensing Team, London Borough of Barnet,

8th Floor, 2 Bristol Avenue, Colindale, NW9 4EW

Or such other address as the Council may otherwise notify to applicants.

4.2 The application must be:

- Made in writing (or submitted electronically)
- Made on the correct application form as prescribed by the Council

- Accompanied by the full fee
- Accompanied by the relevant documents

- 4.3 When applying for either a collector's or a site licence the applicant is required to provide a basic disclosure of criminal convictions with their application. This can be obtained direct from <https://www.gov.uk/request-copy-criminal-record> or by telephoning on 03000 200 190. Please note that the disclosure is valid for one month from the date it was issued.
- 4.4 An incomplete or incorrectly completed application will be rejected and the fee refunded.

5. SUITABILITY OF APPLICANTS

- 5.1 A local authority must determine whether the applicant is a suitable person to carry on a business as a Scrap Metal Dealer.
- 5.2 In determining this, the Council may have regard to any information it considers to be relevant, including whether any relevant enforcement action has been taken against the applicant or whether the applicant has been convicted of a relevant offence. A list of relevant offences is set out in **Appendix 1**.
- 5.3 Each application will be dealt with on its own merit and regard will be given to any information provided by the police or other agencies that are contacted by the local authority in relation to suitability of an applicant(s).
- 5.4 The Council must also have regard to any guidance issued by the Home Office in relation to determining an applicant's suitability.
[Scrap Metal Dealers Act 2013: supplementary guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/274443/Scrap_Metal_Dealers_Act_2013_supplementary_guidance.pdf)

6. CONSULTATION

- 6.1 The Council may consult other agencies regarding the suitability of an applicant, including:
- Any other local authority;
 - The Environment Agency;
 - The Natural Resources Body for Wales; and
 - An officer of a police force.

7. DETERMINATION OF APPLICATION/ISSUE OF LICENCE

- 7.1 The decision to grant a licence shall be determined by an authorised officer under delegated powers.

- 7.2 Where the Council is satisfied that an applicant is a 'suitable person' to hold a Scrap Metal Dealers Licence, it must issue a licence.
- 7.3 Where there are relevant convictions for either the applicant or site manager, the Council may include, in the licence, one or both of the following conditions:
- To limit the dealer to receiving any metal within the hours of 9.00am to 5.00pm; and
 - That any scrap metal must be kept in the form in which it is received for a specified period of time, not exceeding 72 hours.
- 7.4 Where the Council is not satisfied that an applicant is a 'suitable person' to hold a Scrap Metal Dealers Licence the Council must consider refusing the application. In the case of an existing licence holder should the Council believe that a licence holder is no longer considered 'suitable' to continue to hold a licence the Council must consider revocation.

8 GRANTING THE APPLICATION

- 8.1 Upon approving an application the London Borough of Barnet may issue a licence as appropriate.
- 8.2 A licence shall be granted for a period not exceeding 3 years.

9. VARIATION OF LICENCE

- 9.1 An applicant can, on application, apply to the Council to vary a licence a licence by changing it from one type to another. The variation application must be made to reflect changes to:
- Site licence – name of licensee, the sites, site manager
 - Collector's licence – name of licensee

The variation can amend the name of the licensee but not transfer the licence to another person.

- 9.2 Application is to be made to the issuing authority and contain particulars of the changes to be made to the licence.

10 REFUSAL OF AN APPLICATION

- 10.1 If the Council proposes to refuse a new application or vary an existing application a notice must be issued to the applicant/licensee setting out what the authority proposes to do and the reasons for doing it. The notice must also state that within the period specified on the notice that the applicant/licensee can either:

- a) make representations about the proposal; or
- b) inform the authority that the applicant/licensee wishes to do so.

- 10.2 The period specified in the notice must be not less than 14 days beginning with the date on which the notice is given to the applicant/licensee. Within this time the applicant/licensee must notify the Council that they do not wish to make representations. Should this period expire and the applicant/licensee has not made representations, or informed the authority of their wish to do so the authority may refuse the application, or revoke or vary the licence.
- 10.3 If, within the 14 day period the applicant/licensee informs the authority that they wish to make a representation, the Council will allow a further period of 14 days for the applicant/licensee to make such representations. The Council may refuse the application or revoke or vary the licence if they fail to make representations within this period.
- 10.4 If the applicant/licensee notifies the authority that they wish to make oral representations, the authority must give them the opportunity of appearing before, and being heard by, a person appointed by the authority. This will be heard by the licensing sub-committee.
- 10.5 If the application is refused, the Council will give a notice to the applicant/licensee setting out the decision and the reasons for it.
- 10.6 The notice will state that the applicant/licensee may appeal to the magistrates' court against the decision within 21 days from date of notice of decision is given.

11 REVOCATION OF LICENCE AND IMPOSING CONDITIONS

- 11.2 The Licensing Authority may revoke a scrap metal licence if is satisfied that the licensee does not carry on the business of scrap metal dealing at any of the sites identified within the licence.
- 11.3 The Licensing Authority may revoke a licence if it is satisfied that a site manager named on the licence does not act as the site manager at any of the sites identified in the licence.
- 11.4 The Licensing Authority may revoke a licence if it is no longer satisfied that the licensee is a suitable person to carry on a business as a scrap metal dealer.
- 11.5 If the licensee or any site manager named in a licence is convicted of a relevant offence (as shown in **Appendix 1**) the authority may vary the licence by adding one or both of the following conditions:
 - That the dealer must not receive scrap metal except between 9 a.m. and 5 p.m. on any day

- That all scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72 hours, beginning with the time when it was received.
- 11.6 If the authority considers that the licence should not continue in force without conditions, it may by notice provide:
- a) that, until a revocation under this section comes into effect, the licence is subject to one or both of the conditions set out in section 6.2 of this policy; or
 - b) that a variation under this section comes into effect immediately.
- 11.7 If the Council proposes to revoke or vary a licence a notice must be issued to the licensee setting out what the authority proposes to do and the reasons for doing it. The notice must also state that within the period specified on the notice that the licensee can either:
- a) make representations about the proposal; or
 - b) inform the authority that the applicant/licensee wishes to do so.
- 11.8 The period specified in the notice must be not less than 14 days beginning with the date on which the notice is given to the licensee. Within this time the licensee must notify the Council that they do not wish to make representations. Should this period expire the applicant/licensee has not made representations, or informed the authority of their wish to do so the authority may revoke or vary the licence.
- 11.9 If, within the 14-day period the licensee informs the authority that they wish to make a representation, the Council will allow a further period of 14 days for the licensee to make such representations. The Council may revoke or vary the licence if they fail to make representations within this period.
- 11.10 If the licensee notifies the authority that they wish to make oral representations, the authority must give them the opportunity of appearing before, and being heard by, a person appointed by the authority. This will be heard by the licensing sub-committee.
- 11.11 If the decision is made to revoke or vary, the Council will give a notice to the licensee setting out the decision and the reasons for it.
- 11.12 The notice will state that the licensee may appeal against the decision within 21 days from date of notice of decision is given.

12. FEES

- 12.1 The London Borough of Barnet will set the fees for scrap metal licences to recover its reasonable administrative and compliance costs.
- 12.2 The fees will be reviewed annually and published on the London Borough of Barnet's website.

13 APPEALS

- 13.1 Any appeal against the decision of the London Borough of Barnet in respect of the grant, variation, revocation or refusal to grant a licence may be made using the process in Schedule 1 Section 9 of the Scrap Metal Act 2013.

14 ENFORCEMENT

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

15 UNLICENSED SCRAP METAL TRADING

- 15.1 Unlicensed scrap metal trading can have a negative impact on legitimate traders and the community as a whole and will not be tolerated by the London Borough of Barnet.
- 15.2 If an authorised officer suspects that a person has committed an offence of unlawful trading he may take appropriate action in line with the current enforcement policy.
- 15.3 Before taking any formal action the authorised officer will identify him/herself by showing their identification and authorisation.

16 REGISTER OF LICENCES

- 16.1 The Environment Agency will maintain a register of scrap metal licences issued by authorities in England.
 - a. Each entry will record:
 - a) the name of the authority which issued the licence;
 - b) the name of the licensee;
 - c) any trading name of the licensee;
 - d) the address of the site identified in the licence;

- e) the type of licence; and
 - f) the date on which the licence is due to expire.
- b. The registers will to be open for inspection to the public a www.environment-agency.gov.uk

17 NOTIFICATION REQUIREMENTS

- 17.1 An applicant for a scrap metal licence, or for the renewal or variation of a licence, must notify the authority to which the application was made of any changes which materially affect the accuracy of the information which the applicant has provided in connection with the application.
- 17.2 A licensee who is no longer carrying on business as a scrap metal dealer in the area of the authority which issued the licence must notify the authority within 28 days of ceasing to trade.

18 DISPLAY OF LICENCE

- 18.1 A copy of a site licence must be displayed at each site identified in the licence. The copy must be displayed in a prominent place in an area accessible to the public.
- 18.2 A site licence holder may wish to carry a copy of the relevant site licence in their vehicle so they are not mistaken for an unlicensed mobile collector. However, there is no legal requirement to do this.
- 18.3 A copy of a collector's licence must be displayed on any vehicle that is being used in the course of the dealer's business. This must be displayed in a manner which enables it easily to be read by a person outside the vehicle.

19 DATA PROTECTION, FREEDOM OF INFORMATION AND DATA MATCHING

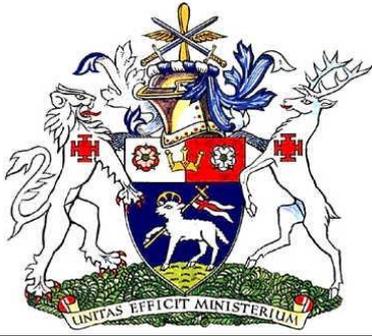
- 19.1 The London Borough of Barnet London Borough of Barnet is the Data Controller of all personal information held by the Licensing Authority. The London Borough of Barnet will process and hold that information in accordance with principles of the Data Protection Act 2018.
- 19.2 The information supplied and held as part of the street trading application and enforcement processes may be disclosable in accordance with the Freedom of Information Act 2000 or Environmental Information Regulations 2004.
- 19.3 The information supplied in all applications will be given to the Audit Commission to participate in the National Fraud Initiative (NFI) data matching exercise and will be used for cross-system and cross authority comparison with other relevant organisations' data for the prevention and detection of fraud.

APPENDIX 1 – RELEVANT OFFENCES

When considering the suitability of an applicant, London Borough of Barnet will take into consideration relevant offences, these can be found in The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013 include:

- An offence under section 1, 5, or 7 of the Control of Pollution (Amendment) Act 1989
- An offence under section 170 or 170B of the Customs and Excise Management Act 1979(5), where the specific offence concerned relates to scrap metal
- An offence under section 110 of the Environment Act 1995
- An offence under sections 33, 34 or 34B of the Environmental Protection Act 1990
- An offence under section 9 of the Food and Environment Protection Act 1985
- An offence under section 1 of the Fraud Act 2006, where the specific offence concerned relates to scrap metal, or is an environment-related offence
- An offence under section 146 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012
- An offence under sections 327, 328 or 330 to 332 of the Proceeds of Crime Act 2002
- Any offence under the Scrap Metal Dealers Act 1964
- Any offence under the Scrap Metal Dealers Act 2013
- An offence under sections 1, 8,9,10, 11, 17, 18, 22 or 25 of the Theft Act 1968, where the specific offence concerned relates to scrap metal, or is an environment-related offence
- Any offence under Part 1 of the Vehicles (Crime) Act 2001
- An offence under sections 85, 202, or 206 of the Water Resources Act 1991
- An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2007
- An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2010
- Any offence under the Hazardous Waste (England and Wales) Regulations 2005
- Any offence under the Hazardous Waste (Wales) Regulations 2005
- An offence under regulation 17(1) of the Landfill (England and Wales) Regulations 2002
- Any offence under the Pollution Prevention and Control (England and Wales) Regulations 2000
- Any offence under the Producer Responsibility (Packaging Waste) Regulations 2007
- Any offence under the Transfrontier Shipment of Waste Regulations 1994
- Any offence under the Transfrontier Shipment of Waste Regulations 2007
- Any offence under the Waste (Electrical and Electronic Equipment) Regulations 2006
- An offence under regulation 42 of the Waste (England and Wales) Regulations 2011

This document should not be relied upon as an accurate statement of the law, only indicative of the general offences and penalties. You should seek independent legal advice if you are unsure of any information in this document.



Licensing Committee

12th July 2021

Title	Animal Welfare Licensing Policy
Report of	Director of Assurance
Wards	All
Status	Public
Urgent	No
Key	Yes
Enclosures	Appendix 1 – Draft Policy
Officer Contact Details	Nicholas Stabeler Group Manager, Regulatory Service Interim Group Manager, Commercial Premises nicholas.stabeler@barnet.gov.uk

Summary

This report relates to the outcome of the recent consultation in relation to a new policy for Animal Welfare Licences which is proposed will take effect on 13th July 2021, if approved.

Officers Recommendations

1. For the proposed policy in Appendix 1 to be approved by the Committee

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. The Regulations came into force on 1 October 2018.
- 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 Dangerous Wild Animals Act 1976 deal with the licensing of individuals to keep certain species of animals. Its purpose is to ensure that when private individuals kept dangerous wild animals, they do so in circumstances which do not create a risk to the public, and which safeguard the welfare of the animals.
- 1.4 The Act's schedule designates the species covered, such as any primates, carnivores, larger or venomous reptiles, scorpions and dangerous spiders.
- 1.5 Keeping such animals without a licence is unlawful. The Act also requires keepers to have their animals covered by a satisfactory liability insurance policy.
- 1.6 Licences are required for any animal listed on a schedule. These licences will only be granted when the local authority is satisfied that it would not be contrary to public interest, where there are no safety or nuisance concerns and that the animal's accommodation is adequate and secure.
- 1.7 Where the local authority grant a licence it shall impose conditions on the licence covering issues such as: -
- a requirement that the animal be kept only by a person or persons named on the licence;
 - restrictions on the movement of the animal from the premises as specified on the licence; and
 - a requirement that the licence holder has a current insurance policy which ensures both licence holders and others against any liability caused by the animal.
- 1.8 The Zoo Licensing Act 1981 requires the inspection and licensing of all zoos in Great Britain. The Act aims to ensure that, where animals are kept in enclosures, they are provided with a suitable environment to provide an opportunity to express the most normal behaviour possible.

- 1.9 The London Borough of Barnet does not currently have a policy in relation to dealing with applications for these licences. The Licensing Authority only took on the responsibility for these applications when The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 was introduced. It was felt at that stage that it would be best practice to have a policy in relation to all animal welfare licence application processes and decisions.
- 1.10 A consultation was undertaken on whether to adopt the Council's Animal Welfare licensing policy from 7th May 2021 until 18th June 2021. Information on this consultation can be found in paragraph 5.9. One response was received and can be found in Appendix 2.
- 1.11 Following consideration of the responses in Appendix 2 it is recommended that the Licensing Committee adopt that proposed Animal Welfare licensing policy.
- 1.12 This policy must be kept under review by the licensing authority and may be changed at any time after adoption (after further consultation).
- 1.13 The Policy must be renewed at intervals of not less than five years.

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, susceptible to legal challenge.

4 POST DECISION IMPLEMENTATION

- 4.1 If the Committee approve the policy it will come into effect from 13 July 2021.

5 IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The approach taken by the Licensing Authority in relation to applications fully supports objectives contained within the corporate plan. In particular it promotes

delivering “quality services and striving to continually improve the standard of services”

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.

5.3 Legal and Constitutional References

5.3.1 The Local Authority has been provided powers under Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 in order to be able to licence persons in relation to animal activities.

5.3.2 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.*”

5.4 Insight

5.4.1 Not relevant to this report.

5.5 Social Value

5.5.1 Not relevant to this report

5.6 Risk Management

5.6.1 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.

5.7 Equalities and Diversity

5.7.1 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.

5.7.2 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.

5.8 Corporate Parenting

5.8.1 Not relevant to this report.

5.9 Consultation and Engagement

5.9.1 The consultation document was sent to all relevant parties and all ward Councillors. The consultation was also published on the Council's online website.

5.9.2 A selection of licence holders were contacted in writing in relation to the proposed policy.

5.9.3 All replies received have been taken into account

6 BACKGROUND PAPERS

6.1 None

Appendix 1 - Proposed Licensing Policy

Appendix 2 - Consultation responses

The consultation process started on 7th May 2021 and will conclude on 18th June 2021. The below response was received during the consultation period.

Consultee	Comments	Response
Cllr Zinkin	We are very quick to say in many places that incorrect or incomplete applications will be refused. No where do we say where the resident of business can seek help or advice if needed to fill in the application.	The Councils website provides contact details for the licensing service. In addition, any application which has been deemed invalid will receive a letter from the validating officer identifying what needs to be amended with their submission for it be made valid.
Cllr Zinkin	I did not see any consultation or information to ward members nor the right for licensing committee members to ask for a license to be considered by the committee and not decided under delegated powers.	The delegation of powers is not covered by this policy however further information on how powers are delegated can be sought through legal services.

London Borough of Barnet

**Animal
Licensing
Policy
2021-2026**

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1. DEFINITION OF TERMS

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

TERM	DEFINITION
Authorised Officer	any Officer of the Council authorised under the Council's Scheme of Delegation as contained within the Constitution
Council	London Borough of Barnet
Delegated Group Manager (within Regulatory Services)	The current post holder, (or their equivalent following any subsequent restructure), or any nominated person authorised by the Council's Scheme of Delegation
2018 Regulations	The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018
Policy	London Borough of Barnet's Animal Licensing Policy
Defra	Department for Environment, Food and Rural Affairs
LACORS	Local Authorities Co-ordinators of Regulatory Services
PTIA	Pet Trade Industry Association (now known as the Pet Care Trust)
CIEH	Chartered Institute Of Environmental Health
AWF	Animal Welfare Foundation
RSPCA	Royal Society for the Prevention of Cruelty to Animals

2. INTRODUCTION

2.1 This document sets out the London Borough of Barnet's policy in respect of its licensing functions for:

- Animal Welfare licence
- Dangerous Wild Animal licence
- Zoo licence

2.2 Animal Welfare licences can authorise any or all the following activities on one premises:

- Providing or arranging for the provision of boarding for cats and dogs
- Providing boarding for cats
- Providing boarding in kennels for dogs
- Providing home boarding for dogs
- Providing day care for dogs
- Selling animals as pets
- Hiring out horses for riding or instruction
- Breeding of dogs
- Keeping or training animals for exhibition

2.3 Various pieces of legislation exist that give the Council the power to regulate animal establishment licensing. They are:

- The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018
- Dangerous Wild Animals Act 1976
- Zoo Licensing Act 1981
- Animal Welfare Act 2006

2.4 Each piece of legislation provides its own application process, including veterinary inspections where necessary, rights of appeal and offences. This Policy sits beneath the various pieces of controlling legislation, and seeks to provide a framework for implementing the requirements of the controlling legislation.

2.5 For Zoo licences applicants should read the DEFRA Guide to the Zoo Licensing Act 1981 for more details on the application process.

[Zoo Licensing Act 1981 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/91222/zoo-licensing-act-1981.pdf)

2.6 This policy will take effect from 13th July 2021

2.7 This policy will be kept under review and before making any amendments the London Borough of Barnet will consult with licence holders and their representatives and will give consideration to all representations received within the 28-day consultation period.

2.8 The policy will be formally reviewed at least every 5 years.

3. THE ANIMAL WELFARE ACT 2006

- 3.1 The Animal Welfare Act 2006 (the '2006 Act') came into force on 6th April 2007, consolidating much of the existing animal health and welfare legislation. It introduced a 'duty of care' on people to ensure the needs of any animal for which they are responsible are met. A person does not have to be the owner of the animal for the 'duty of care' to apply.
- 3.2 It also creates a new offence of failing to provide for the needs of animals in a person's care, increases the penalties for animal abuse, and allows the courts to disqualify a person from being in charge of animals.
- 3.3 The 2006 Act also placed a responsibility on numerous enforcement agencies to ensure it is observed. The Council is one of these enforcement agencies.
- 3.4 The 2006 Act also made it unlawful to sell or transfer ownership of an animal to a person under the age of 16 unless they are accompanied by a person over 16 years of age, or they have consent of a parent or guardian.
- 3.5 The 2006 Act enabled "Codes of Practice" to be created. These codes of practice apply to anyone who owns or is responsible for the type of animal covered by the specific code and not just those holding licences. Failing to comply with any code of practice is not an offence, but failing to comply with them may be relied upon to establish liability, and compliance with them may be relied upon to negate liability. For these reasons, it is essential that applicants and licence holders observe them.
- 3.6 The 2006 Act allowed the Department for the Environment, Food and Rural Affairs (Defra) to pass regulations that may repeal or amend any of the primary licensing Acts or create new forms of licences. In April 2018 Defra exercised this power and the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 were passed by the Government. These new regulations took effect on 1 October 2018.

4. THE APPLICATION

- 4.1 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 using the correct application form and addressed to:

**Licensing Team,
London Borough of Barnet,
8th Floor,
2 Bristol Avenue,
Colindale,
NW9 4EW**

- 4.2 The application must be:
- Made in writing
 - Made on the correct application form as prescribed by the London Borough of Barnet
 - Accompanied by the full fee
 - Accompanied by the relevant documents
- 4.3 Applicants can be an individual, a company or a partnership.

4.4 An incomplete or incorrectly completed application will be rejected.

5. RENEWALS

5.1 A correctly completed application for the renewal of a licence should be submitted 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 process and determination.

6. DETERMINING OF THE APPLICATION

6.1 The decision to grant a licence shall be determined by authorised officer under delegated powers. However, if the officer is unable to make a decision due to exceptional or other circumstances, the application may be determined by a Licensing Sub-Committee.

6.2 When carrying out its functions in accordance with the legislation listed above the Council will seek to promote the following objectives:

- Animal welfare ('the five needs')
- Public safety
- Prevention of nuisance (where legally permitted)

Animal Welfare

6.3 Section 9 of the 2006 Act introduced five overarching principles of animal welfare, known as the 'five needs'. It is the duty of any person responsible for an animal to ensure that each of these five needs are met.

6.4 The 'five needs' are:

- 1) the need for a suitable environment - *by providing an appropriate environment, including shelter and a comfortable resting area;*
- 2) the need for a suitable diet - *by ready access, where appropriate, to fresh water and a diet to maintain full health;*
- 3) the need to be able to exhibit normal behaviour patterns - *by providing sufficient space, proper facilities and the company of an animal of its own kind, where appropriate*
- 4) any need to be housed with, or apart from, other animals - *by providing the company of an animal of its own kind, where appropriate; and*
- 5) the need to be protected from pain, suffering, injury and disease - *(by prevention or rapid diagnosis and treatment, and ensuring conditions and treatment which avoid mental suffering)*

Public Safety

6.5 In addition to the danger to the welfare of animals by unlicensed or irresponsible animal owners there is also a danger that may arise to members of the public. For instance, the effect of diseases affecting animals, or harmful bacteria stemming from poor hygiene

could spread and affect other members of the public, and their animals, as well as the establishment's staff and owner.

- 6.6 Additionally, licence holders that permit members of the public onto their premises have a duty to ensure that they do not put them at risk of illness or injury. Public safety will therefore be a paramount consideration by the Council at all times.
- 6.7 Legally, only hiring out horses for riding and instruction and keeping or training animals for exhibition are required to hold public liability insurance to avoid formal action being taken against them, but to protect both the licence holder and members of the public who visit licensed premises, all licence holders are advised to have in place appropriate public liability insurance for the type of business they run.

Prevention of Nuisance

- 6.8 Nuisance can arise from noise and odours, and applicants will need to demonstrate how they will control these two factors when applying for a licence.
- 6.9 Where legally permitted by the 2006 Act mentioned in section 1.2.1 of this policy, the Council will:
 - refuse to grant a licence where the granting of the application appears not to be in the public interest on the grounds of nuisance.
 - impose suitable conditions to ensure that no unacceptable nuisance is created from the activities of the licence holder.
 - use the powers contained in the Environmental Protection Act 1990, as part of any enforcement action, where considered necessary.

7. GRANTING THE APPLICATION

- 7.1 With the exception of the 2018 Regulations (which prescribe the general and specific conditions that a Licensing Authority must attach to a licence) each of the enabling Acts permits the Council to devise and attach conditions to a licence (in addition to any mandatory conditions that must be observed) that the Council feels are necessary or expedient to ensure the requirements of the individual Acts are upheld. The common principle with all conditions is the promotion of animal welfare.
- 7.2 Each of the Acts states clearly the criteria which the Council must be satisfied of before any licence is granted. Where the relevant Licensing Officer is not satisfied that the relevant legal requirements are met, or where an Authorised Officer or Veterinary Surgeon has raised concerns that the legal requirements or standards are not met or they are unlikely to be met, the applicant for the licence will be notified. The applicant will have the opportunity to address these matters in the hope of satisfying the relevant criteria.

8. CONDITIONS

- 8.1 Licences issued under the Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018 will be subject only to the statutory conditions contained within the legislation.

- 8.2 Dangerous Wild Animal and Zoo licensing will be subject to any such mandatory conditions contained in any relevant legislation, in addition to any conditions considered necessary following an inspection by a suitably qualified inspector. Where a licensing authority places conditions on a licence they will be based wherever practicable on existing codes of best practice, and industry standards produced by organisations such as, but not limited to;
- a) Department for Food, Environment and Rural Affairs;
 - b) British Veterinary Association;
 - c) National Trade Associations.
- 8.3 In promoting the Council's three licensing objectives, complying with these conditions will be considered to be a minimum standard. Where a licensed establishment falls below the standard expected during the currency of the licence, the Licensing Authority may commence formal action in order to ensure animal welfare is not compromised. This could lead to the variation, suspension, revocation or refusal to renew a licence, and/or a formal prosecution being commenced.

9. STAR RATING SCHEME – ANIMAL WELFARE LICENCE ONLY

- 9.1 The 2018 Regulations introduced a star rating scheme that all licence holders are subject to, and once awarded must be displayed on the licence, and any advertising that the establishment conducts. The star rating is calculated using two criteria, risk and quality (standards). Each activity has normal and higher standards contained in the specific guidance for that activity. Compliance with the normal standards is sufficient to obtain a licence but would not be sufficient to obtain a longer period of licence or a higher star rating.
- 9.2 It is possible to appeal the star rating awarded, and it is possible to request a re-assessment inspection if improvement works are undertaken, should applicants or licence holders wish to request a review of the star rating.
- 9.3 Star ratings and therefore licence duration can be lowered or reduced during the term of a licence if failings are evidenced.

10. REFUSAL OF AN APPLICATION

- 10.1 Each of the Acts states clearly the criteria which the Council must be satisfied of before any licence is granted. Where the relevant Licensing Officer is not satisfied that the relevant legal requirements are met, or where an Authorised Officer or Veterinary Surgeon has raised concerns that the legal requirements or standards are not met or they are unlikely to be met, the applicant for the licence will be notified. The applicant will have the opportunity to address these matters in the hope of satisfying the relevant criteria.
- 10.2 If the Council proposes to refuse an application, a notice must be issued to the applicant/licensee setting out what the authority proposes to do and the reasons for doing it. The licence holder may make written representations which must be received by the local authority within seven working days beginning with the date of issue of notice of the decision

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 Licensing Department of the London Borough of Barnet at which time it will cease to be valid and will expire.

12. REVOCATION OR VARIATION

- 12.1 Under the 2018 Regulations, the London Borough of Barnet may suspend, vary or revoke a licence at any time on being satisfied that—
- the licence conditions are not being complied with,
 - there has been a breach of these Regulations,
 - information supplied by the licence holder is false or misleading, or
 - it is necessary to protect the welfare of an animal
- 12.2 If the Council proposes to refuse, suspend, vary or revoke a licence then a notice must be issued to the applicant/licensee setting out what the authority proposes to do and the reasons for doing it. The licence holder may make written representations which must be received by the local authority within seven working days beginning with the date of issue of notice of the decision.

13. FEES

- 13.1 The Council will set the fees for all animal welfare licences to recover its reasonable administrative and compliance costs
- 13.2 The current fees applicable are laid out in the Council's Fees and Charges Schedule.

14. DECISIONS

- 14.1 Decisions will be taken having regard to this Policy and the relevant legislation

15. APPEALS

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

- 15.1 Any operator who is aggrieved by a decision by a local authority to refuse to grant/renew a licence, or to revoke/vary a licence, may appeal to the First-tier Tribunal.
- 15.2 An operator has 28 days beginning with the day following the date of the decision to make this appeal

Zoo Licensing Act 1981

- 15.3 Any operator who is aggrieved by a decision by a local authority to refuse to grant/transfer a licence, or to add conditions or make a direction, may appeal to the Magistrates Court.

- 15.4 An operator has 28 days beginning with the day following the date of the decision to make this appeal

Dangerous Wild Animals Act 1976

15.5 Any person who is aggrieved by a decision by a local authority to refuse to grant their licence, or to who is aggrieved that their licence has been granted with conditions or that their licence has been variation in relation to the conditions may appeal to a Magistrates Court..

16. ENFORCEMENT

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

17. UNLICENSED TRADING

17.1 Unlicensed trading can have a negative impact on legitimate traders and the community as a whole and will not be tolerated by the London Borough of Barnet.

18. DATA PROTECTION, FREEDOM OF INFORMATION AND DATA MATCHING

18.1 The London Borough of Barnet London Borough of Barnet is the Data Controller of all personal information held by the Licensing Authority. The London Borough of Barnet will process and hold that information in accordance with principles of the Data Protection Act 2018.

18.2 The information supplied and held as part of the street trading application and enforcement processes may be disclosable in accordance with the Freedom of Information Act 2000 or Environmental Information Regulations 2004.

18.3 The information supplied in all applications will be given to the Audit Commission to participate in the National Fraud Initiative (NFI) data matching exercise and will be used for cross-system and cross authority comparison with other relevant organisations' data for the prevention and detection of fraud

APPENDIX A

GENERAL CONDITIONS APPLICABLE TO ALL 2018 REGULATIONS ANIMAL WELFARE LICENCES

A1. Licence display

- i A copy of the licence must be clearly and prominently displayed on any premises on which the licensable activity is carried on.
- ii The name of the licence holder followed by the number of the licence holder's licence must be clearly and prominently displayed on any website used in respect of the licensable activity.

A2. Records

- i The licence holder must ensure that at any time all the records that the licence holder is required to keep as a condition of the licence are available for inspection by an inspector in a visible and legible form or, where any such records are stored in electronic form, in a form from which they can readily be produced in a visible and legible form.
- ii The licence holder must keep all such records for at least three years beginning with the date on which the record was created.

A3. Use, number and type of animal

- i No animals or types of animal other than those animals and types of animal specified in the licence may be used in relation to the relevant licensable activity.
- ii The number of animals kept for the activity at any time must not exceed the maximum that is reasonable taking into account the facilities and staffing on any premises on which the licensable activity is carried on.

A4. Staffing

- i Sufficient numbers of people who are competent for the purpose must be available to provide a level of care that ensures that the welfare needs of all the animals are met.
- ii The licence holder or a designated manager and any staff employed to care for the animals must have competence to identify the normal behaviour of the species for which they are caring and to recognise signs of, and take appropriate measures to mitigate or prevent, pain, suffering, injury, disease or abnormal behaviour.
- iii The licence holder must provide and ensure the implementation of a written training policy for all staff.

A5. Suitable environment

- i All areas, equipment and appliances to which the animals have access must present minimal risks of injury, illness and escape and must be constructed in materials that are robust, safe and durable, in a good state of repair and well maintained.
- ii Animals must be kept at all times in an environment suitable to their species and condition (including health status and age) with respect to:
 - (a) their behavioural needs,
 - (b) its situation, space, air quality, cleanliness and temperature,
 - (c) the water quality (where relevant),
 - (d) noise levels,
 - (e) light levels,
 - (f) ventilation.

A6.

- i Staff must ensure that the animals are kept clean and comfortable.
- ii Where appropriate for the species, a toileting area and opportunities for toileting must be provided.
- iii Procedures must be in place to ensure accommodation and any equipment within it is cleaned as often as necessary and good hygiene standards are maintained and the accommodation must be capable of being thoroughly cleaned and disinfected.
- iv The animals must be transported and handled in a manner (including for example in relation to housing, temperature, ventilation and frequency) that protects them from pain, suffering, injury and disease.
- v All the animals must be easily accessible to staff and for inspection and there must be sufficient light for the staff to work effectively and observe the animals.
- vi All resources must be provided in a way (for example as regards frequency, location and access points) that minimises competitive behaviour or the dominance of individual animals.
- vii The animals must not be left unattended in any situation or for any period likely to cause them distress.

A7. Suitable diet

- i The animals must be provided with a suitable diet in terms of quality, quantity and frequency and any new feeds must be introduced gradually to allow the animals to adjust to them.
- ii Feed and (where appropriate) water intake must be monitored, and any problems recorded and addressed.
- iii Feed and drinking water provided to the animals must be unspoilt and free from contamination.
- iv Feed and drinking receptacles must be capable of being cleaned and disinfected, or disposable.
- v Constant access to fresh, clean drinking water must be provided in a suitable receptacle for the species that requires it.
- vi Where feed is prepared on the premises on which the licensable activity is carried on, there must be hygienic facilities for its preparation, including a working surface, hot and cold running water and storage.

A8. Monitoring of behaviour and training of animals

- i Active and effective environmental enrichment must be provided to the animals in inside and any outside environments.
- ii For species whose welfare depends partly on exercise, opportunities to exercise which benefit the animals' physical and mental health must be provided, unless advice from a veterinarian suggests otherwise.
- iii The animals' behaviour and any changes of behaviour must be monitored and advice must be sought, as appropriate and without delay, from a veterinarian or, in the case of fish, any person competent to give such advice if adverse or abnormal behaviour is detected.
- iv Where used, training methods or equipment must not cause pain, suffering or injury.
- v All immature animals must be given suitable and adequate opportunities to—
 - i) learn how to interact with people, their own species and other animals where such interaction benefits their welfare, and
 - ii) become habituated to noises, objects and activities in their environment.

A9. Animal handling and interactions

- i All people responsible for the care of the animals must be competent in the appropriate handling of each animal to protect it from pain, suffering, injury or disease.
 - ii The animals must be kept separately or in suitable compatible social groups appropriate to the species and individual animals and no animals from a social species may be isolated or separated from others of their species for any longer than is necessary.
 - iii The animals must have at least daily opportunities to interact with people where such interaction benefits their welfare.
- A10. Protection from pain, suffering, injury and disease
- i Written procedures must—
 - i) be in place and implemented covering:
 - (i) feeding regimes,
 - (ii) cleaning regimes,
 - (iii) transportation,
 - (iv) the prevention of, and control of the spread of, disease,
 - (v) monitoring and ensuring the health and welfare of all the animals,
 - (vi) the death or escape of an animal (including the storage of carcasses);
 - ii) be in place covering the care of the animals following the suspension, or revocation of the licence or during and following an emergency.
 - ii All people responsible for the care of the animals must be made fully aware of these procedures.
 - iii Appropriate isolation, in separate self-contained facilities, must be available for the care of sick, injured or potentially infectious animals.
 - iv All reasonable precautions must be taken to prevent and control the spread among the animals and people of infectious diseases, pathogens and parasites.
 - v All excreta and soiled bedding for disposal must be stored and disposed of in a hygienic manner and in accordance with any relevant legislation.
 - vi Sick or injured animals must receive prompt attention from a veterinarian or, in the case of fish, an appropriately competent person and the advice of that veterinarian or, in the case of fish, that competent person must be followed.
 - vii Where necessary, animals must receive preventative treatment by an appropriately competent person.
 - viii The licence holder must register with a veterinarian with an appropriate level of experience in the health and welfare requirements of any animals specified in the licence and the contact details of that veterinarian must be readily available to all staff on the premises on which the licensable activity is carried on.
 - ix Prescribed medicines must be stored safely and securely to safeguard against unauthorised access, at the correct temperature, and used in accordance with the instructions of the veterinarian.
 - x Medicines other than prescribed medicines must be stored, used and disposed of in accordance with the instructions of the manufacturer or veterinarian.
 - xi Cleaning products must be suitable, safe and effective against pathogens that pose a risk to the animals and must be used, stored and disposed of in accordance with the manufacturer's instructions and used in a way which prevents distress or suffering of the animals.
 - xii No person may euthanise an animal except a veterinarian or a person who has been authorised by a veterinarian as competent for such purpose or
 - i) the case of fish, a person who is competent for such purpose;
 - ii) in the case of horses, a person who is competent, and who holds a licence or certificate, for such purpose.

- iii) All animals must be checked at least once daily and more regularly as necessary to check for any signs of pain, suffering, injury, disease or abnormal behaviour and vulnerable animals must be checked more frequently.
- iv) Any signs of pain, suffering, injury, disease or abnormal behaviour must be recorded and the advice and further advice (if necessary) of a veterinarian (or in the case of fish, of an appropriately competent person) must be sought and followed.

A11. Emergencies

- i A written emergency plan, acceptable to the local authority, must be in place, known and available to all the staff on the premises on which the licensable activity is carried on, and followed where necessary to ensure appropriate steps are taken to protect all the people and animals on the premises in case of fire or in case of breakdowns of essential heating, ventilation and aeration or filtration systems or other emergencies.
- ii The plan must include details of the emergency measures to be taken for the extraction of the animals should the premises become uninhabitable and an emergency telephone list that includes the fire service and police.
- iii External doors and gates must be lockable.
- iv A designated key holder with access to all animal areas must at all times be within reasonable travel distance of the premises and available to attend in an emergency.

APPENDIX B

SPECIFIC CONDITIONS APPLICABLE TO BOARDING CATS AND DOGS

PART 1 - PROVIDING BOARDING FOR CATS

B.2.1. Interpretation

- i In this Part:
 - “cat unit” means the physical structure and area that comprises a sleeping area and an exercise run;
 - “exercise run” means an enclosed area forming part of the cat unit attached to and with direct and permanent access to the sleeping area;
 - “premises” means the premises on which the licensable activity of providing boarding for cats is carried on.

B.2.2. Suitable environment

- i Cats within the premises must be prevented from coming into direct contact with other animals from outside the premises.
- ii There must be a safe, secure, waterproof roof over the entire cat unit.
- iii A cat unit may only be shared by cats from the same household.
- iv Communal exercise areas are not permitted.
- v Each cat unit must be clearly numbered and there must be a system in place which ensures that information about the cat or cats in each cat unit is available to all staff and any inspector.
- vi Each cat unit must provide the cat with sufficient space to—
 - (a) walk,
 - (b) turn around,
 - (c) stand on its hind legs,
 - (d) hold its tail erect,
 - (e) climb,
 - (f) rest on the elevated area, and
 - (g) lie down fully stretched out, without touching another cat or the walls.
- vii Each cat unit must have sufficient space for each cat to sit, rest, eat and drink away from the area where it urinates and defecates.
- viii Cats must have constant access to their sleeping area.
- ix A litter tray and safe and absorbent litter material must be provided at all times in each cat unit and litter trays must be regularly cleaned and disinfected.
- x Each cat unit must include an elevated area.
- xi Adjoining cat units must have solid barriers covering the full height and full width of the adjoining wall.
- xii Any gaps between cat units must be a minimum of 0.6 metres wide.
- xiii Any cat taken out of a cat unit must be secured in a suitable carrier.
- xiv The sleeping area must form part of the cat unit and be free from draughts. Monitoring of behaviour and training of cats
- xv There must be an area within each cat unit in which the cat can avoid seeing other cats and people outside the cat unit if it so chooses.
- xvi Each cat unit must include a facility for scratching and any surface within a cat unit available for scratching must either be disinfected between uses by different cats or disposed of.
- xvii All cats must be provided with toys or feeding enrichment (or both) unless advice from a veterinarian suggests otherwise.
- xviii All toys and other enrichment items must be checked daily to ensure they remain safe and must be cleaned and disinfected at least weekly.

B.2.3. Records

- i A register must be kept of all the cats on the premises which must include:
 - (i) the dates of each cat's arrival and departure,
 - (ii) each cat's name, age, sex, neuter status and a description of it or its breed,
 - (iii) each cat's microchip number, where applicable,
 - (iv) the number of any cats from the same household,
 - (v) a record of which cats (if any) are from the same household,
 - (vi) the name, postal address, telephone number (if any) and email address (if any) of the owner of each cat and emergency contact details,
 - (vii) in relation to each cat, the name, postal address, telephone number and email address of a local contact in an emergency,
 - (viii) the name and contact details of each cat's normal veterinarian and details of any insurance relating to the cat,
 - (ix) details of each cat's relevant medical and behavioural history, including details of any treatment administered against parasites and restrictions on exercise,
 - (x) details of each cat's diet and related requirements,
 - (xi) any required consent forms,
 - (xii) a record of the date or dates of each cat's most recent vaccination, worming and flea treatments, and
 - (xiii) details of any medical treatment each cat is receiving.

B.2.4. Protection from Pain Suffering and Disease

- i A cat must remain in its assigned cat unit, except when it is moved to an isolation cat unit or to a holding cat unit.
- ii Where any other activity involving animals is undertaken on the premises, it must be kept entirely separate from the area where the activity of providing boarding for cats takes place.
- iii All equipment must be cleaned and disinfected before a cat is first introduced into a cat unit.
- iv A preventative healthcare plan agreed with the veterinarian with whom the licence holder has registered under paragraph 9(8) of Schedule 2 must be implemented.
- v A holding cat unit must only be used in an emergency and must not be used for longer than is necessary and in any event for no longer than a total of 12 hours in any 24-hour period.
- vi In this paragraph, "holding cat unit" means a cat unit, separate from any other cat unit, in which a cat may be housed temporarily.

PART 2 - PROVIDING BOARDING IN KENNELS FOR DOGS

B.2.1. Interpretation

i In this Part:

“exercise run” means an enclosed area forming part of a kennel unit attached to and with direct access to the sleeping area;

“kennel unit” means the physical structure and area that consists of a sleeping area and an exercise run;

“premises” means the premises on which the licensable activity of providing boarding in kennels for dogs is carried on.

B.2.2 Suitable environment

ii Dogs within the premises must be prevented from coming into contact with other animals from outside the premises.

iii In each kennel unit, the sleeping area must:

(a) be free from draughts;

(b) provide the dog with sufficient space to:

- (i) sit and stand at full height,
- (ii) lie down fully stretched-out,
- (iii) wag its tail,
- (iv) walk, and
- (v) turn around,

without touching another dog or the walls;

(c) have a floor area which is at least twice the area required for the dog in it to lie flat; and

(d) if built after the date on which these Regulations come into force, have a floor area of at least 1.9 square metres.

iv Each kennel unit must be clearly numbered and there must be a system in place which ensures that information about the dog or dogs in each kennel unit is available to all staff and any inspector.

v Each dog must have constant access to its sleeping area.

vi Each dog must have a clean, comfortable and warm area within its sleeping area where it can rest and sleep.

vii Each exercise run must have a single, safe, secure, waterproof roof over a minimum of half its total area.

viii Where a dog poses a health or welfare risk to other dogs, it must be kept on its own in a kennel unit and, if that kennel unit adjoins another kennel unit, any adjoining wall must be of full height and width so as to prevent the dog from coming into physical contact with any other dog.

ix Only dogs from the same household may share a kennel unit.

B.2.3 Monitoring of behaviour and training

i Any equipment that a dog is likely to be in contact with and any toy provided must not pose a risk of pain, suffering, disease or distress to the dog and must be correctly used.

ii All dogs must be provided with toys or feeding enrichment (or both) unless advice from a veterinarian suggests otherwise.

iii All toys and other enrichment items must be checked daily to ensure they remain safe and must be cleaned and disinfected at least weekly.

iv Each dog must be exercised at least once daily away from its kennel unit as appropriate for its age and health.

- v Any dog which, on the advice of a veterinarian, cannot be exercised must be provided with alternative forms of mental stimulation.
- vi There must be an area within each kennel unit in which a dog can avoid seeing people and other dogs outside the kennel unit if it so chooses.

B.2.4 Records

- i A register must be kept of all the dogs on the premises which must include—
 - (a) the dates of each dog's arrival and departure;
 - (b) each dog's name, age, sex, neuter status, microchip number and a description of it or its breed;
 - (c) the number of any dogs from the same household;
 - (d) a record of which dogs (if any) are from the same household;
 - (e) the name, postal address, telephone number (if any) and email address (if any) of the owner of each dog and emergency contact details;
 - (f) in relation to each dog, the name, postal address, telephone number and email address of a local contact in an emergency;
 - (g) the name and contact details of the dog's normal veterinarian and details of any insurance relating to the dog;
 - (h) details of each dog's relevant medical and behavioural history, including details of any treatment administered against parasites and restrictions on exercise;
 - (i) details of the dog's diet and related requirements;
 - (j) any required consent forms;
 - (k) a record of the date or dates of each dog's most recent vaccination, worming and flea treatments;
 - (l) details of any medical treatment each dog is receiving.
- ii When outside the premises, each dog must wear an identity tag which includes the licence holder's name and contact details.

B.2.5 Protection from pain, suffering, injury and disease

- iii Where any other activity involving animals is undertaken on the premises, it must be kept entirely separate from the area where the activity of providing boarding for dogs in kennels takes place.
- iv A preventative healthcare plan agreed with the veterinarian with whom the licence holder has registered under paragraph 9(8) of Schedule 2 must be implemented.
- v A holding kennel unit must only be used in an emergency and must not be used for longer than is necessary and in any event for no longer than a total of 12 hours in any 24-hour period.
- vi A "holding kennel unit" means a kennel unit, separate from any other kennel unit, in which a dog may be housed temporarily.

PART 3 - PROVIDING HOME BOARDING FOR DOGS

B.3.1. Interpretation

- i In this Part:
 - “designated room” means a room within the home allocated to a dog;
 - “home” means a domestic dwelling on which the licensable activity of providing home boarding for dogs is carried on.

B.3.2 Home

- i Dogs must be accommodated within the home.
- ii The home must include—
 - (a) direct access to a private, non-communal, secure and hazard-free external area, and
 - (b) at least two secure physical barriers between any dog and any entrance to or exit from it.

B.3.3 Suitable environment

- i Dogs from different households may only be boarded at the same time with the written consent of every owner.
- ii Each dog must be provided with its own designated room where it can, if necessary, be kept separate from other dogs.
- iii Each dog must have a clean, comfortable and warm area within its designated room where it can rest and sleep.
- iv Each designated room must have a secure window to the outside that can be opened and closed as necessary.
- v A dog must not be confined in a crate for longer than three hours in any 24-hour period.
- vi A dog must not be kept in a crate unless—
 - (a) it is already habituated to it,
 - (b) a crate forms part of the normal routine for the dog, and
 - (c) the dog’s owner has consented to the use of a crate.
- vii Any crate in which a dog is kept must be in good condition and sufficiently large for the dog to sit and stand in it at full height, lie flat and turn around.

B.3.4 Suitable diet

- i Each dog must be fed separately in its designated room unless its owner has given written consent to the contrary.

B.3.5 Monitoring of behaviour and training

- i Any equipment that a dog is likely to be in contact with and any toy provided must not pose a risk of pain, suffering, disease or distress to the dog and must be correctly used.
- ii Each dog must be exercised at least once daily as appropriate for its age and health.
- iii Dogs which on the advice of a veterinarian cannot be exercised must be provided with alternative forms of mental stimulation.

B.3.6 Housing with or apart from other dogs

- i Written consent must be obtained from the owner or owners (as the case may be) to keep dogs together in a designated room.
- ii Unneutered bitches must be prevented from mating.

- iii If any person aged under 16 years resides at the home, there must be procedures in place to regulate the interactions between the dogs and that person.

B.3.7 Records

- i A register must be kept of all the dogs accommodated in the home which must include:
 - (a) the dates of each dog's arrival and departure;
 - (b) each dog's name, age, sex, neuter status, microchip number and a description of it or its breed;
 - (c) the number of any dogs from the same household;
 - (d) a record of which dogs (if any) are from the same household;
 - (e) the name, postal address, telephone number (if any) and email address (if any) of the owner of each dog and emergency contact details;
 - (f) in relation to each dog, the name, postal address, telephone number and email address of a local contact in an emergency;
 - (g) the name and contact details of each dog's normal veterinarian and details of any insurance relating to the dog;
 - (h) details of each dog's relevant medical and behavioural history, including details of any treatment administered against parasites and restrictions on exercise;
 - (i) details of each dog's diet and related requirements;
 - (j) any required consent forms; a record of the date or dates of each dog's most recent vaccination, worming and flea treatments;
 - (k) details of any medical treatment each dog is receiving.
- ii When outside the premises, each dog must wear an identity tag which includes the licence holder's name and contact details.

B.3.8 Protection from pain, suffering, injury and disease

- i Before a dog is admitted for boarding, all equipment to be used by or in relation to that dog must be cleaned and disinfected.
- ii A preventative healthcare plan agreed with the veterinarian with whom the licence holder has registered under paragraph 9(8) of Schedule 2 must be implemented.

PART 4 - PROVIDING DAY CARE FOR DOGS

B.4.1 Interpretation

- i In this Part, “premises” means the premises on which the licensable activity of providing day care for dogs is carried on.

B.4.2 No overnight stay

- i No dog may be kept on the premises overnight.

B.4.3 Suitable environment

- i Each dog must be provided with:
 - (a) a clean, comfortable and warm area where it can rest and sleep, and
 - (b) another secure area in which water is provided and in which there is shelter.
- ii Each dog must have access to areas where it can—
 - (a) interact safely with other dogs, toys and people, and
 - (b) urinate and defecate.
- iii There must be an area where any dog can avoid seeing other dogs and people if it so chooses.

B.4.3 Suitable diet

- i Any dog that requires specific feed due to a medical condition must be fed in isolation.

B.4.4 Monitoring of behaviour and training

- i All dogs must be screened before being admitted to the premises to ensure that they are not afraid, anxious or stressed in the presence of other dogs or people and do not pose a danger to other dogs or staff.
- ii Any equipment used that is likely to be in contact with the dogs and any toys provided must not pose a risk of pain, suffering, disease or distress to the dog and must be correctly used.

B.4.5 Housing apart from other dogs

- i Unneutered bitches must be prevented from mating.
- ii Dogs which need to be isolated from other dogs must be provided with alternative forms of mental stimulation.

B.4.6 Records

- i A register must be kept of all the dogs on the premises which must include—
 - (a) the date of the dog’s attendance;
 - (b) the dog’s name, age, sex, neuter status, microchip number and a description of it or its breed;
 - (c) the name, postal address, telephone number (if any) and email address (if any) of the owner and emergency contact details;
 - (d) the name and contact details of the dog’s normal veterinarian and details of any insurance relating to the dog;
 - (e) details of the dog’s relevant medical and behavioural history, including details of any treatment administered against parasites and any restrictions on exercise;
 - (f) details of the dog’s diet and relevant requirements;

- (g) any required consent forms;
 - (h) a record of the date or dates of the dog's most recent vaccination, worming and flea treatments;
 - (i) details of any medical treatment the dog is receiving.
- ii When outside the premises, each dog must wear an identity tag which includes the licence holder's name and contact details.

B.4.7 Protection from pain, suffering, injury and disease

- i The dogs must be supervised at all times.
- ii A preventative healthcare plan agreed with the veterinarian with whom the licence holder has registered under paragraph 9(8) of Schedule 2 must be implemented.
- iii Any journeys in a vehicle must be planned to minimise the time dogs spend in the vehicle.

APPENDIX C – HORSE RIDING ESTABLISHMENTS

C.1 Interpretation

- i In this Schedule, “client” means a person for whose use a horse is hired out.

C.2 Eligibility

- ii The licence holder must:
 - (a) hold an appropriate formal qualification, or have sufficient demonstrable experience and competence, in the management of horses, and
 - (b) hold a valid certificate of public liability insurance which:
 - (i) insures the licence holder against liability for any injury sustained by, and the death of, any client, and
 - (ii) insures any client against liability for any injury sustained by, and the death of, any other person, caused by or arising out of the hire of the horse.
- iii The certificate mentioned above must be clearly and prominently displayed on the premises.

C.3 Supervision

- i The activity must not at any time be left in the charge of a person aged under 18 years.
- ii No horse may be hired out except under the supervision of a person aged 16 years or more unless the licence holder is satisfied that the person hiring the horse is competent to ride without supervision.
- iii The following must be clearly and prominently displayed on the premises:
 - (a) the full name, postal address (including postcode) and telephone number of the licence holder or other person with management responsibilities in respect of the activity;
 - (b) instructions as to the action to be taken in the event of a fire or other emergency.

C.4 Suitable environment

- i It must be practicable to bring all the horses on the premises under cover.
- ii Suitable storage must be provided and used for feed, bedding, stable equipment and saddlery.
- iii All arena surfaces must be suitable for purpose, well drained, free of standing water and maintained regularly to keep them level.

C.5 Suitable diet

- i At all times when any horses are kept at grass, adequate pasture, shelter and clean water must be available for them.
- ii Supplementary feed and nutrients must be provided to any horse when appropriate.
- iii Each horse must be fed a balanced diet of a quantity and at a frequency suitable for its age, health and workload to enable it to maintain an appropriate physical condition.

C.6 Protection from pain, suffering, injury and disease

- i The horses must be maintained in good health and must be in all respects physically fit.
- ii A preventative healthcare plan agreed with the veterinarian with whom the licence holder has registered under paragraph 9(8) of Schedule 2 must be implemented
- iii A daily record of the workload of each horse must be maintained and available for inspection at any reasonable time.
- iv Each horse must be suitable for the purpose for which it is kept and must not be hired out if, due to its condition, its use would be likely to cause it to suffer.
- v Any horse found on inspection to be in need of veterinary attention must not be returned to work until the licence holder has, at the licence holder's expense, obtained from and lodged with the local authority a veterinary certificate which confirms that the horse is fit for work.
- vi Each horse's hooves should be trimmed as often as is necessary to maintain the health, good shape and soundness of its feet and any shoes should be properly fitted and in good condition.
- vii An area suitable for the inspection of horses by a veterinarian must be provided.
- viii The following must not be hired out:
 - (a) a horse aged under 3 years;
 - (b) a mare heavy with foal;
 - (c) a mare whose foal has not yet been weaned.
- ix The licence holder must keep a register of all horses kept for the licensable activity on the premises, each such horse's valid passport showing its unique equine life number and a record of its microchip number (if any).

C.7 Equipment

- i All equipment provided to clients must be in good and safe condition and available for inspection at any reasonable time.

APPENDIX D – SELLING ANIMALS AS PETS

D.1 Interpretation

- i In this Schedule:
 - “prospective owner” means a person purchasing an animal to keep or to be kept as a pet;
 - “premises” means the premises on which the licensable activity of selling animals as pets (or with a view to their being later resold as pets) is carried on;
 - “purchaser” means a person purchasing an animal to keep as a pet or with a view to it later being resold as a pet.

D.2 Records and advertisements

- i A register must be maintained for all the animals or, in the case of fish, all the groups of fish, on the premises which must include:
 - (a) the full name of the supplier of the animal,
 - (b) the animal’s sex (where known),
 - (c) (except in the case of fish) the animal’s age (where known),
 - (d) details of any veterinary treatment (where known),
 - (e) the date of birth of the animal or, if the animal was acquired by the licence holder, the date of its acquisition,
 - (f) the date of the sale of the animal by the licence holder, and
 - (g) the date of the animal’s death (if applicable).
- ii Where an animal is undergoing any medical treatment:
 - (a) this fact must be clearly indicated:
 - (i) in writing next to it, or
 - (ii) (where appropriate) by labelling it accordingly, and
 - (b) it must not be sold.
- iii Any advertisement for the sale of an animal must:
 - include the number of the licence holder’s licence,
 - specify the local authority that issued the licence,
 - include a recognisable photograph of the animal being advertised,
 - (except in the case of fish) display the age of the animal being advertised,
 - state the country of residence of the animal from which it is being sold, and
 - state the country of origin of the animal.

D.3 Prospective sales: pet care and advice

- i The licence holder and all staff must ensure that any equipment and accessories being sold with an animal are suitable for the animal.
- ii The licence holder and all staff must ensure that the prospective owner is provided with information on the appropriate care of the animal including in relation to—
 - (a) feeding,
 - (b) housing,
 - (c) handling,
 - (d) husbandry,

- (e) the life expectancy of its species,
 - (f) the provision of suitable accessories, and
 - (g) veterinary care.
- iii Appropriate reference materials on the care of all animals for sale must be on display and provided to the prospective owner.
 - iv The licence holder and all staff must have been suitably trained to advise prospective owners about the animals being sold.
 - v The licence holder and all staff must ensure that the purchaser is informed of the country of origin of the animal and the species, and where known, the age, sex and veterinary record of the animal being sold.

D.4 Suitable accommodation

- i Animals must be kept in housing which minimises stress including from other animals and the public.
- ii Where members of the public can view or come into contact with the animals, signage must be in place to deter disturbance of the animals.
- iii Dangerous wild animals (if any) must be kept in cages that are secure and lockable and appropriate for the species.
- iv “Dangerous wild animal” means an animal of a kind specified in the first column of the Schedule to the Dangerous Wild Animals Act 1976(1).

D.5 Purchase and sale of animals

- i The purchase, or sale, by or on behalf of the licence holder of any of the following is prohibited:
 - (a) unweaned mammals;
 - (b) mammals weaned at an age at which they should not have been weaned;
 - (c) non-mammals that are incapable of feeding themselves;
 - (d) puppies, cats, ferrets or rabbits, aged under 8 weeks.
- ii The sale of a dog must be completed in the presence of the purchaser on the premises.

D.6 Protection from pain, suffering, injury and disease

- i All animals for sale must be in good health.
- ii Any animal with a condition which is likely to affect its quality of life must not be moved, transferred or offered for sale but may be moved to an isolation facility or veterinary care facility if required until the animal has recovered.
- iii Then arranging for the receipt of animals, the licence holder must make reasonable efforts to ensure that they will be transported in a suitable manner.
- iv Animals must be transported or handed to purchasers in suitable containers for the species and expected duration of the journey.

APPENDIX E – BREEDING OF DOGS

E.1 Advertisements and sales

- i The licence holder must not advertise or offer for sale a dog—
 - (a) which was not bred by the licence holder;
 - (b) except from the premises where it was born and reared under the licence;
 - (c) otherwise than to:
 - (i) a person who holds a licence for the activity described in paragraph 2 of Schedule 1; or
 - (ii) a keeper of a pet shop in Wales who is licensed under the Pet Animals Act 1951(1) to keep the shop, knowing or believing that the person who buys it intends to sell it or intends it to be sold by any other person.
- ii Any advertisement for the sale of a dog must—
 - (a) include the number of the licence holder's licence,
 - (b) specify the local authority that issued the licence,
 - (c) include a recognisable photograph of the dog being advertised, and
 - (d) display the age of the dog being advertised.
- iii The licence holder and all staff must ensure that any equipment and accessories being sold with a dog are suitable for it.
- iv The licence holder and all staff must ensure that the purchaser is informed of the age, sex and veterinary record of the dog being sold.
- v No puppy aged under 8 weeks may be sold or permanently separated from its biological mother.
- vi A puppy may only be shown to a prospective purchaser if it is together with its biological mother.
- vii The above 2 paragraphs do not apply if separation of the puppy from its biological mother is necessary for the health or welfare of the puppy, other puppies from the same litter or its biological mother.

E.2 Suitable environment

- i Each dog must have access to a sleeping area which is free from draughts and an exercise area.
- ii Each dog must be provided with sufficient space to:
 - (a) stand on its hind legs,
 - (b) lie down fully stretched out,
 - (c) wag its tail,
 - (d) walk, and
 - (e) turn around, without touching another dog or the walls of the sleeping area.
- iv The exercise area must not be used as a sleeping area.
- v Part or all of the exercise area must be outdoors.
- vi There must be a separate whelping area for each breeding bitch to whelp in which contains a suitable bed for whelping.
- vii Each whelping area must be maintained at an appropriate temperature (between and including 26 and 28 degrees centigrade) and include an area which allows the breeding bitch to move away from heat spots.
- viii Each dog must be provided with constant access to a sleeping area.
- ix A separate bed must be provided for each adult dog.

- x No puppy aged under 8 weeks may be transported without its biological mother except—
 - (a) if a veterinarian agrees for health or welfare reasons that it may be so transported, or
 - (b) in an emergency.
- xi No breeding bitch may be transported later than 54 days after the date of successful mating except to a veterinarian.
- xii No breeding bitch may be transported earlier than 48 hours after whelping except to a veterinarian where it is not otherwise practicable or appropriate for that person to attend to the bitch.
- xiii Each dog's sleeping area must be clean, comfortable, warm and free from draughts.
- xiv In this paragraph, "exercise area" means a secure area where dogs may exercise and play.

E.3 Suitable diet

- i Staff must:
 - ensure that each puppy starts weaning as soon as it is capable of ingesting feed on its own,
 - provide each breeding bitch with feed appropriate to its needs,
 - provide each puppy with feed appropriate for its stage of development, and
 - ensure that each puppy ingests the correct share of the feed provided.

E.4 Monitoring of behaviour and training

- i The licence holder must implement and be able to demonstrate use of a documented socialisation and habituation programme for the puppies.
- ii Each dog must be provided with toys or feeding enrichment (or both) unless advice from a veterinarian suggests otherwise.
- iii Except in the circumstances mentioned in sub-paragraph (4), all adult dogs must be exercised at least twice daily away from their sleeping area.
- iv Where a veterinarian has advised against exercising a dog, the dog must be provided with alternative forms of mental stimulation.
- v Any equipment that a dog is likely to be in contact with and any toy provided must not pose a risk of pain, suffering, disease or distress to the dog and must be correctly used.

E.5 Housing with or apart from other dogs

- i Each adult dog must be provided with opportunities for social contact with other dogs where such contact benefits the dogs' welfare.
- ii Each adult dog must be given suitable and adequate opportunities to become habituated to handling by people.
- iii Procedures must be in place for dealing with dogs that show abnormal behaviour.
- iv There must be an area within each sleeping area in which dogs can avoid seeing people and other dogs outside the sleeping area if they so choose.

E.6 Protection from pain, suffering, injury and disease

- i All dogs for sale must be in good health.
- ii Any dog with a condition which is likely to affect materially its quality of life must not be moved, transferred or offered for sale but may be moved to an isolation facility or veterinary care facility if required until it has recovered.
- iii The licence holder must ensure that no bitch:
 - is mated if aged less than 12 months;

- gives birth to more than one litter of puppies in a 12-month period;
 - gives birth to more than six litters of puppies in total;
 - is mated if she has had two litters delivered by caesarean section.
- iv The licence holder must ensure that each puppy is microchipped and registered to the licence holder before it is sold.
- v No dog may be kept for breeding if it can reasonably be expected, on the basis of its genotype, phenotype or state of health that breeding from it could have a detrimental effect on its health or welfare or the health or welfare of its offspring.
- vi The health, safety and welfare of each dog must be checked at the start and end of every day and at least every four hours during the daytime.
- vii Breeding bitches must be adequately supervised during whelping and the licence holder must keep a record of—
- the date and time of birth of each puppy,
 - each puppy's sex, colour and weight,
 - placentae passed,
 - the number of puppies in the litter, and
 - any other significant events.
- viii The licence holder must keep a record of each puppy sale including:
- the microchip number of the puppy,
 - the date of the sale, and
 - the age of the puppy on that date.
- ix The licence holder must keep a record of the following in relation to each breeding dog:
- its name,
 - its sex,
 - its microchip and database details,
 - its date of birth,
 - the postal address where it normally resides,
 - its breed or type,
 - its description,
 - the date or dates of any matings, whether or not successful,
 - details of its biological mother and biological father,
 - details of any veterinary treatment it has received, and
 - the date and cause of its death (where applicable).
- x In addition, the licence holder must keep a record of the following in relation to each breeding bitch:
- the number of matings,
 - its age at the time of each mating,
 - the number of its litters,
 - the date or dates on which it has given birth, and
 - the number of caesarean sections it has had, if any.
- xi Unless the licence holder keeps the dog as a pet, the licence holder must make arrangements for any dog no longer required for breeding to be appropriately rehomed.

- xii A preventative healthcare plan agreed with the veterinarian with whom the licence holder has registered under paragraph 9(8) of Schedule 2 must be implemented.
- xiii The licence holder must keep a record of any preventative or curative healthcare (or both) given to each dog.
- xiv Where any other activity involving animals is undertaken on the premises on which the licensable activity of breeding dogs is carried on, it must be kept entirely separate from the area where that licensable activity is carried on.

APPENDIX F – KEEPING OR TRAINING ANIMALS FOR EXHIBITION

F.1 Insurance

- i The licence holder must hold valid public liability insurance in respect of the licensable activity of keeping or training animals for exhibition.

F.2 Emergencies

- i A written policy detailing contingency measures in the event of the breakdown of a vehicle used to transport the animals or any other emergency must be available to all staff.

F.3 Suitable environment

- i Suitable temporary accommodation must be provided for all the animals at any venue where they are exhibited.

F.4 Monitoring of behaviour and training

- i The animals must be trained by competent staff and given suitable and adequate opportunities to become habituated to being exhibited, using positive reinforcement.
- ii Housing with or apart from other animals
- iii Social animals must not be exhibited if their removal from and reintroduction to the group with which they are usually housed causes them or any other animal within that group stress, anxiety or fear.
- iv Animals must be prevented from coming into contact with each other during any exhibition where such contact would be likely to cause any of them to show signs of aggression, fear or distress.
- v All persons likely to come into contact with the animals during an exhibition must be briefed about how to behave around the animals so as to minimise anxiety, fear and stress in the animals.
- vi No female animal with unweaned offspring may be removed from its home environment and newborn, unweaned or dependent offspring must not be removed from their mothers.

F.5 Records

- i The licence holder must keep a list of each animal kept, or trained, for exhibition with all the information necessary to identify that animal individually (including its common and scientific names) and must provide the local after the change.

F.6 Protection from pain, suffering, injury and disease

- i A register must be kept of each animal exhibited or to be exhibited which must include:
 - (i) the full name of its supplier,
 - (ii) its date of birth,
 - (iii) the date of its arrival,
 - (iv) its name (if any), age, sex, neuter status, description and microchip or ring number (if applicable),
 - (v) the name and contact details of the animal's normal veterinarian and details of any insurance relating to it,
 - (vi) details of the animal's relevant medical and behavioural history including details of any treatment administered against parasites and any restrictions on exercise or diet,

- (vii) a record of the date or dates of the animal's most recent vaccination, worming and flea treatments, and
- (viii) the distance to and times taken for it to travel to and from each exhibition event.

ii A record of when the animals are exhibited must be kept and an animal rotation policy must be put in place to ensure that the animals have enough rest between and during exhibition events.

iii All the animals used in exhibition events must be in good physical and mental health.

iv The exhibited animals must be suitable for the specific conditions, type of enclosure and actions involved in the exhibition.

v Any equipment, chemicals and other materials used in the exhibition must not cause the animals pain, discomfort, fatigue or stress.

vi The animals must be transported in suitable, secure and appropriately labelled carriers.

vii The licence holder or the licence holder's staff must undertake a risk assessment before each exhibition event.

viii The animals must not be handled by persons whose behaviour appears at the time to be influenced by the consumption of alcohol or by any psychoactive substance.

APPENDIX G – DANGEROUS WILD ANIMALS

G.1 General

- i These Standard Conditions will apply to all licences unless disapplied or varied by the delegated Group Manager (within Regulatory Services).
- ii The granting of a licence for a Dangerous Wild Animal shall not be deemed to convey any approval or consent which may be required under any enactment by law, order or regulation other than the Dangerous Wild Animals Act 1976 (as amended).

G.2 Standard conditions

- i While any animals are being kept under the authority of this licence;
 - (a) the animal shall be kept by no person other than the person specified in the licence,
 - (b) the animal shall normally be held at such premises as specified in the licence,
 - (c) the animal shall not be moved from those premises except for veterinary treatment or with the written consent of the Council
 - (d) the licence holder shall hold a current insurance policy which insures him/her, and any other person entitled to keep the animal under the authority of this licence, against liability for any damage which may be caused by the animal, the terms of such policy being satisfactory in the opinion of the Council,
 - (e) the public liability insurance required in (iv) above shall provide cover to a minimum of ten million pounds. This figure may be reduced according to the number and species of animals, however, a minimum cover of ten million pounds is required unless stated otherwise on the licence.
- ii The species and number of animals of each species which may be kept under the authority of this licence shall be restricted to those specified in the Schedule of Animals attached to the licence.
- iii The licence holder shall, at all reasonable times, make available the licence to any person entitled to keep any animal under the authority of the licence.
- iv Any change in species, or increase in numbers of a species, will only be permitted if written consent of the Council is first obtained and the Schedule of Animals attached to the licence is amended by the Council.

G.3 Special conditions

- i Given the unique nature of these establishments, the Council may impose specific special conditions relating to the individual premises based on the species and number of each species kept. These conditions would be imposed in consultation with a specialist veterinary surgeon, or other recognised expert, and attached to the licence as a Schedule of Special Conditions.

APPENDIX H – ZOO CONDITIONS

H.1 General

- ii These Standard Conditions will apply to all licences unless disapplied or varied by the delegated Group Manager (within Regulatory Services).
- iii The granting of a licence for a Zoo shall not be deemed to convey any approval or consent which may be required under any enactment by law, order or regulation other than the Zoo Licensing Act 1981 (as amended).
- iv The licence holder must ensure that the establishment is covered by adequate and suitable public liability insurance and, where necessary, adequate and suitable employers liability insurance. Proof of this to be deposited with the Licensing Authority.

H.2 Standard conditions

- i All licences issued by the Council will be subject to DEFRA's Standards of Modern Zoo Practice.

[Secretary of State's standards of modern zoo practice - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

- ii As DEFRA's document is a 'live document', last updated in September 2012, it is not practical to list the document in its entirety. All establishments will be inspected by an authorised person using the inspection form contained within the DEFRA document having regard to the standards set by DEFRA.
- iii As each establishment is unique, the Council may amend the standards required by DEFRA where recommended by a specialist veterinary surgeon. Unless a licence specifically states otherwise, the DEFRA Standards of Modern Zoo Practice will apply.

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Licensing Committee

12th July 2021



Title	Introduction of Special Treatment Licensing Policy
Report of	Director of Assurance
Wards	All
Status	Public
Urgent	No
Key	No
Enclosures	Appendix 1 – Draft Policy
Officer Contact Details	Nicholas Stabeler Group Manager, Regulatory Services Interim Group Manager, Commercial Premises Nicholas.stabeler@barnet.gov.uk

Summary

This report seeks approval from Members to consult on the attached policy in relation to Special Treatment Licensing under London Local Authorities Act 1991. The attached policy will be the first Policy for this form of Licensing for London Borough of Barnet.

Officers Recommendations

1. That Committee authorise the Licensing team to commence a 6-week consultation on the draft policy for special treatment licensing

WHY THIS REPORT IS NEEDED

- 1.1 Premises where special treatments establishments are provided must be licensed under the London Local Authorities Act 1991 ('The Act')
- 1.2 Barnet Council has adopted the London Local Authorities Act 1991 ('the Act') to regulate special treatment businesses that offer:
 - massage
 - manicure
 - pedicure
 - facials
 - nail extensions
 - acupuncture
 - tattooing
 - body piercing
 - cosmetic piercing
 - electric light therapy
 - other special treatments such as sun beds, vapour, laser, sauna or other baths.
- 1.3. This policy sets out how the council uses its powers under the Act to:
 - only grant licences to people who are fit and proper to hold them
 - ensure only suitably qualified people, using safe equipment, provide special treatments
 - ensure nuisance is not caused by the provision of special treatment
 - ensure licensed premises are safe, structurally suitable
 - ensure licensed premises are adequately clean, lit, heated and ventilated
- 1.4 The Act allows the Council to make regulations prescribing the terms, conditions and restrictions on or subject to which licences, or licences of a particular class, are to be granted, renewed or transferred. Where such regulations have been made all licences granted are subject to those standard conditions unless they have been expressly excluded or amended.
- 1.5 The regulations and terms and conditions have been reviewed in the form of a new Special Treatment Policy document. In making this change the Licensing Department are ensuring that all licensing processes are dealt with in the same way.

2. REASONS FOR RECOMMENDATIONS

- 2.1 It is best practice to prepare, consult on and publish a policy which the Council proposes to apply when implementing regulatory regimes. This ensures clarity for traders and other interested parties in the application and enforcement processes.
- 2.2 The existing terms, conditions and restrictions have been in place for many years and provides only basic information with regards to the processes the Authority will follow when dealing with Special Treatment Licensing. The draft policy documents fully how special treatment licences are currently being processed. It is not the intention of the Licensing team to change the way in which Licences are dealt with but more that we want to provide a clear and transparent policy that documents the process as it currently stands.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The Council could choose not introduce the policy on Special Treatments, however to do so would be contrary to best practice.

4. POST DECISION IMPLEMENTATION

- 4.1 The Licensing Team will commence a consultation on the policy and report back to the Licensing Committee at the November 2021 meeting.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The approach taken by the Licensing Authority in relation to applications fully supports objectives contained within the corporate plan. In particular it promotes delivering “quality services and striving to continually improve the standard of services”

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.

5.3 Legal and Constitutional References

- 5.3.1 A good policy ensures that fair and equitable decisions are taken by the London Borough of Barnet.
- 5.3.2 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.”

5.4 Insight

- 5.4.1 Not relevant to this report.

5.5 Social Value

- 5.5.1 Not relevant to this report

5.6 Risk Management

- 5.6.1 It is important that the London Borough of Barnet adopts a robust and accountable regulatory regime in relation to special treatments in order to ensure fair trading, prevent crime and to protect consumers.

5.7 Equalities and Diversity

- 5.7.1 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.

5.7.2 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.

5.7.3 This report is for information only and therefore unlikely to result in any equalities implications.

5.8 **Corporate Parenting**

5.8.1 Not relevant to this report.

5.9 **Consultation and Engagement**

5.9.1 The consultation document will be sent to all relevant parties including current special treatment licence holders, responsible authorities and all ward Councillors. The consultation will also be published on the Council's online website.

6. **BACKGROUND PAPERS**

6.1 None

SPECIAL TREATMENT LICENSING POLICY

LONDON BOROUGH OF BARNET

2022 - 2027

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1 Introduction

1.1. Barnet Council has adopted the London Local Authorities Act 1991 ('the Act') to regulate special treatment businesses that offer:

- massage
- manicure
- pedicure
- facials
- nail extensions
- acupuncture
- tattooing
- body piercing
- cosmetic piercing
- electric light therapy
- special treatments such as sun beds, vapour, laser, sauna or other baths.
- other special treatments of a like kind

2 Context

2.1. This policy sets out how the council uses its powers under the Act to:

- Grant licences to people who are fit and proper to hold them.
- Ensure only suitably qualified people, using safe equipment, provide special treatments.
- Ensure nuisance is not caused by the provision of special treatment.
- Ensure licensed premises are safe, structurally suitable.
- Ensure licensed premises are adequately clean, lit, heated and ventilated.

2.2. Regulators' Code - The council recognises its responsibility to comply with the Regulators' Code as follows:

- *regulators should carry out their activities in a way that supports those they regulate to comply and grow* We will seek to impose the minimum burdens necessary to achieve the public protection standards referred to above.
- *regulators should provide simple and straightforward ways to engage with those they regulate and hear their views* We will seek to establish a stakeholder consultative panel as described in paragraph 4.1.
- *regulators should base their regulatory activities on risk* Our compliance and enforcement activities are based on risk and intelligence as described in paragraphs 9.4.
- *regulators should share information about compliance and risk* Information about Special Treatment Licence (STL) applicants and licence-holders will be shared internally with other council teams and Barnet Trading Standards, as well as the police and fire service who are statutory consultees.

- *regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply*
We will provide and continue to improve the information about special treatment licensing on our website, and provide advice and information both during informal advisory visits to businesses on request and during compliance visits.
- *regulators should ensure that their approach to their regulatory activities is transparent.*
- This policy sets out how we approach our licensing of special treatments in the interests of transparency.

2.3. A copy of the Regulators Code 2014 can be found using the following link from the .GOV website:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/913510/14-705-regulators-code.pdf

3. Barnet's Corporate Plan

3.1. The council's Corporate Plan 2021 - 2025, entitled "The Barnet Plan" sets out the council's vision of "Working together to make a difference for the vulnerable, communities, families and businesses". The council's strategy (priorities) to deliver its vision, between now and 2025 is to make Barnet:

- **Clean, safe and well run:** a place where our streets are clean and antisocial behaviour is dealt with so residents feel safe. Providing good quality, customer friendly services in all that we do
- **Family Friendly:** creating a Family Friendly Barnet, enabling opportunities for our children and young people to achieve their best
- **Healthy:** a place with fantastic facilities for all ages, enabling people to live happy and healthy lives
- **Thriving:** a place fit for the future, where all residents, businesses and visitors benefit from improved sustainable infrastructure & opportunity.

The council's vision and the corporate priorities have been taken into account when developing the policy, particularly to make Barnet **clean safe and well run** whilst at the same time assisting in the development and maintenance of a thriving borough.

<https://www.barnet.gov.uk/media/12534>

4. Engagement

4.1. Partnership working is an important element of any licensing regime, we will seek to actively engage businesses and individuals applying to hold a special treatment licence. We will work with responsible authorities and other stakeholders to ensure a balanced approach and effective delivery.

5. Arrangements for administering Special Treatment Licences

5.1. Officers have delegated authority to:

- grant licences in accordance with this policy
- refuse applications in accordance with the Act or in accordance with this policy
- take appropriate enforcement action in relation to unlicensed special treatments
- special treatments in breach of licence conditions
- decide whether to defend appeals arising out of the refusal or revocation of a licence
- refer applications to a Licensing Sub-committee when:
 - I. an application is outside the scope of this policy; or
 - II. it is necessary to consider whether an applicant is a fit and suitable person to hold a licence; or
 - III. the applicant has confirmed they wish the application to be determined by a Licensing Sub-committee.

6. “Other special treatments of a like kind”

6.1. The Act gives the council a discretionary power to licence new treatments that appear on the market but are not specifically mentioned in the Act itself. Aromatherapy for example is not listed but a special treatment licence is required as it is a form of massage.

6.2. The council is a member of the London Special Treatment Group (LSTG) of councils that aims to promote co-operation and consistency in administering STL licensing. One aspect of that role is evaluating whether new and novel treatments appear to fit the definition of “other special treatments of a like kind”.

6.3. Barnet Council will licence new special treatments if they have been accepted as such by the LSTG and will seek the consensus view of the LSTG in the case of dispute whether a treatment ought to be licensed. If officers are unable to satisfactorily resolve the issue the question will be referred to the Council’s Licensing Committee.

7. “Mixed businesses”

7.1. We recognise that many licensed businesses may also provide treatments that are not licensable under the Act – for example, hairdressing or waxing. These businesses will still need to meet requirements under other legislation such as health and safety, fire safety, planning or environmental health. The council will provide advice and information about non-licensable activities where appropriate.

8. Exemptions

8.1. A licence is not needed if the treatments are given for the statutory reasons in the Act:

- without gain or reward – all treatments provided for free or donation

- without premises used – mobile service from a vehicle or in clients' own homes
- for treatments done by or under the supervision of medical practitioners, dentists and professions supplementary to medicine in a hospital or nursing home,
- for treatments done by or under the supervision of a person who is a member of a body of health practitioners approved for exemption by the council.

8.2. The council uses LSTG scheme to determine which bodies may be exempt from licensing. Any organisation that is not on the LSTG list may apply to the LSTG to be added.

9. Qualifications & Competence

9.1.1. Therapists carrying out licensable treatments must be able to demonstrate they have suitable knowledge and qualifications. The council publishes a list of qualifications in collaboration with the LSTG.

9.1.2. Barnet will only accept nationally recognised qualifications, i.e. City and Guilds, NVQ or equivalent. Training should meet National Occupational Standards and the awarded qualification should be regulated. See www.ukstandards.org.uk and <https://register.ofqual.gov.uk/> for details.

9.1.3. The following are the minimum qualifications that will be accepted:

- (a) BTeC National Award, Certificate or Diploma in Beauty Therapy
- (b) NVQ level 2 in Beauty Therapy
- (c) VTCT level 2 in Beauty Therapy
- (d) CIDESCO Diploma
- (e) CIBTAC Diploma

9.1.4. If you have obtained an international qualification which is not generally recognised within the UK, you must complete two stages before you can be placed on a special treatments licence:

- a) If the certificate of qualification is in a language other than English, you must obtain a full translation of the certificate into English. This must be carried out by an independent licensed translator and must be endorsed as a true translation of the certificate.
- b) Once the qualification certificate has been translated into English, you will need to obtain a comparability certificate. This will state what your qualification is equivalent to in terms of UK qualifications. A comparability certificate may be obtained from the National Academic Recognition Information Centre of the UK (UKNARIC). UK NARIC provides a service for individuals seeking information on comparability between international and UK academic qualifications. This service is intended to assist those with overseas qualification to progress towards further studies and employment in the UK. UK NARIC make a charge for this service.

- 9.1.5. Being licensed by the council does not guarantee the workmanship or competency of the practitioner, it merely shows that they are qualified to provide the treatments which have been approved.
- 9.1.6. Many beauty treatments are brand based and training is given by product specific manufacturers or suppliers. In this case we expect therapists to have nationally recognised qualifications in areas of beauty treatments as well as supplier/product training. Anatomy and physiology and contra-indications must be covered during the course.
- 9.1.7. A qualification is an indication that the individual possesses the necessary knowledge and skills appropriate for that special treatment. Competence refers to their ongoing ability to provide the special treatments to a reasonably accepted standard. Whether a therapist is competent is a matter for the licence-holder, providing they are able to observe any relevant licence conditions.

9.2. Trainee Therapists

- 9.2.1. Trainee therapists, who have not yet received a recognised qualification, will be provisionally registered which will allow them to work within licensed premises. It will be the responsibility of the licence holder to ensure trainees are supervised at all times and are competent to carry out treatments.
- 9.2.2. Trainees should complete the therapist registration application form and indicate their current training programme and expected finish time. Evidence of training, for example a letter from the college, and/or the Special Treatment Licence Holder should be sent in with the application.
- 9.2.3. Trainees will only be registered for a maximum period of one year in the first instance. After successful completion of training the therapist may apply for full registration.

9.3. Therapist exemption registration

- 9.3.1. Therapists that are members of some professional bodies and certain health practitioners are exempted from being required to provide their accredited qualifications. An up to date 'Exempt bodies and health practitioners' list can be found on the councils website at <https://www.barnet.gov.uk/licences-permits-and-registrations/trading-licences/special-treatments> . Please see this document to identify which approved association members are eligible for exemption for which treatments.
- 9.3.2. If you are exempt from needing to provide your qualifications as a therapist with Barnet you must complete a therapist exemption application.
- 9.3.3. A new exemption form will need to be submitted to the licensing authority every time their membership to the exempt body has expired.

10. A New Special Treatments Premises Licence

10.1. Who can apply?

10.1.1. Any person (an individual, partnership or limited company) may apply for a licence. The applicant or licence-holder must be and remain the person actually responsible for managing the special treatments. Licensed premises cannot be sub-let or placed in any form of management arrangement unless a new licence application has been made and granted.

10.2. Pre-application consultation

10.2.1. Applicants must by law send copies of their applications to the police, planning authority and fire service, and the council will take into account their comments. No new licence can be issued for at least 28 days unless the police, planning authority and fire service have made their observations earlier.

10.3. Pre-application advice

10.3.1. Officers are available to provide pre-application advice and support. They are available by appointment only either at the council offices or on site and can provide thirty minutes advice free of charge. Any advice in excess of thirty minutes is chargeable at the council's published hourly rate, payable in advance.

10.4. Pre-application checks

10.4.1. Applications must also be advertised on the premises for at least 14 days, so that the public are aware of the application.

10.4.2. Individual applicants (including all members of a partnership) must provide evidence of their identity and of their right to work in the UK as part of their application. The council will carry out checks with Companies House for corporate applications. The council will also check that appropriate planning permission is in place for the premises.

10.4.3. The council will take into account convictions or cautions that are not considered "spent" under the Rehabilitation of Offenders Act 1974, and enforcement notices or other action taken by the council against the applicant.

10.4.4. The council requires the documents below to be provided before a new licence can be granted. These should ideally be available at the time of the application. Applications will be refused and the authorisation fee returned if valid documents are not provided within two weeks of making the application (unless an extension is agreed with the case officer).

10.4.5. The following documents are required:

- (a) a scale-plan of the premises, showing the locations where licensable treatments will be provided, washbasins, toilets, treatment rooms, entrances and fire exits
- (b) evidence of consent to use the premises as a special treatment business (eg landlords' consent, lease, planning permission)

- (c) a current Basic Disclosure Certificate from the Disclosure and Barring Service issued within the last 3 months for any individual applicant, partner or person having day to day management of the premises
- (d) a current public liability/professional liability insurance certificate to cover risks to a minimum £2 million.

10.4.6. The council will normally arrange an inspection of the premises within five working days of receiving the valid application. The inspection will be to check that the premises are safe, and suitable, to be used for special treatments. Premises will be expected to be compliant with minimum workplace health and safety standards such as the Workplace (Health, Safety and Welfare) Regulations 1992 and the Electricity at Work Regulations 1989.

10.4.7. The initial inspection will also assess the applicant's compliance with the relevant licence conditions (see paragraph 11(1)). Officers will expect the applicant to have systems in place to ensure that all conditions can be met should a licence be issued.

10.4.8. Any remedial action will be confirmed in writing. Applicants will be given an agreed period of up to 8 weeks to make any changes. The application will be refused if the changes are not made within the agreed time.

10.5. [Planning permission](#)

As the council is also the local planning authority it will only issue licences to premises that have appropriate planning permission in place. Applicants are advised to ensure the correct planning permission is in place before submitting an application. Applications will be rejected and the authorisation fee returned if the correct planning permission has not been granted.

10.6. [Refusal to grant a premises licence](#)

10.6.1. A licence may be refused on the grounds set out in section 8 of the Act:

- (a) the premises are not structurally suitable for the purpose;
- (b) there is a likelihood of nuisance being caused by reason of the conduct, management or situation of the premises or the character of the relevant locality or the use to which any premises in the vicinity are put;
- (c) the persons concerned or intended to be concerned in the conduct or management of the premises used for special treatment could be reasonably regarded as not being fit and proper persons to hold such a licence;
- (d) the persons giving the special treatment are not suitably qualified;
- (e) the premises have been or are being improperly conducted;
- (f) the premises are not provided with satisfactory means of lighting, sanitation and ventilation;
- (g) the means of heating the premises are not safe;
- (h) proper precautions against fire on the premises are not being taken;

- (i) the safety of equipment used in the special treatment or as to the manner in which the treatment is to be given is not satisfactory;
 - (k) the safety of the special treatment to be given is not satisfactory;
 - (l) satisfactory means of escape in case of fire and suitable means for fighting fire are not provided on the premises;
 - (m) the applicant has, within the period of five years immediately preceding the application to the council, been convicted of an offence under Part II of the Act;
- or
- (n) the applicant has failed to comply with the requirements of section 7(4) or 7(6) of the Act concerning the correct method of making an application.

10.6.2. Under the Regulatory Reform (Fire Safety) Order 2005 (SI 2005/1541), the paragraphs relating to fire safety may no longer be enforced by the council.

10.7. [Referral to Licensing Sub-Committee](#)

10.7.1. Applications will be referred to a Licensing Sub-Committee where officers are minded to refuse a licence application or believe the applicant is not a fit and suitable person to hold a licence.

10.7.2. A Licensing sub-committee of three councillors will be convened within 20 working days of the end of the 28-day consultation period. The applicant will be given at least five working days' notice of the hearing, which may be held in public. Applicants will be entitled to present documents and bring witnesses to support their application either before the hearing or at the hearing itself.

10.8. [Fees](#)

10.8.1. The Council sets fees for special treatment licences each year. Fees are banded according to the level of risk involved, so those premises that have the potential for presenting most risk and are likely to require more involvement from officers, pay more than low-risk premises. A non-refundable application fee is payable at the time of the application. A further issuing and enforcement fee is payable once the council has decided to issue a licence. This must be paid before a licence will be physically issued to the applicant.

10.8.2. Licences may be surrendered at any time. No fees will be refunded for a surrendered licence.

11. Maintaining a licence

11.1. Licence conditions

11.1.1. Licences are subject to:

- (a) standard conditions that apply to every business or a specific type of business
- (b) special conditions that may apply to specific businesses, to control specific risks.

The standard conditions are set out at appendix 1.

11.1.2. Officers will only impose conditions relating to specific risks to further the objectives in paragraph 2.1 if they are not controlled under other legislation. Officers will advise applicants in writing when it is intended to impose a special condition, and invite any comments about the proposal. Licence holders will be given information about their right to appeal to the magistrates' court against any decision to impose conditions on a licence.

11.1.3. Licence conditions will not limit the operating hours of a business. This is a matter for the local planning authority.

11.2. Changes to special treatments

11.2.1. Only those treatments listed on the licence may be provided. There is no need to apply to remove an existing treatment from a licence, and deletions can be made free of charge when the licence is renewed.

11.2.2. Applications to add new or additional treatments may be made at any time. No new treatment may be offered or provided until the licence has been amended. Applications to vary the licence must be made on the council's form with at least 14 days' notice, accompanied with the appropriate supporting documents and fee.

11.2.3. Where necessary the council will inspect the premises.

11.2.4. Applications to add new or additional treatments made less than 28 days before the expiry date of a licence will be processed as part of the renewal of that licence.

11.3. Variations to premises and/or licences

11.3.1. The council must be notified if there is a substantial variation to the premises, such as the addition or demolition of existing rooms, spaces or walls. There is no need to notify the council about minor modifications, redecorations or refurbishments.

11.3.2. A scale plan showing the proposed variation must be submitted to the council at least 14 days before the start of the proposed works, together with the variation fee. The council may require proof that planning and building control approval has been obtained before varying the licence.

11.3.3. Applications may also be made to vary the terms, conditions or restrictions to which a licence is subject. Applications must be made on the council's form at least 14 days before the intended variation is to take effect, together with the variation fee.

11.4. Changes in ownership

11.4.1. Licences may be transferred (upon application) from one person to another, normally either:

- (a) transferring the whole business from one owner to another;
- (b) transferring the business from one owner to another but keeping the same manager in charge; or
- (c) changing the manager in charge.

11.4.2. Applications must be submitted on the council's form at least 28 days before the intended transfer is intended to take place, together with the variation fee. Officers will use this policy to consider applications in the same way as for the grant of new licences.

11.5. Changes in therapists

11.5.1. All therapists providing special treatments must be named on the licence for the business in which they are working. If a therapist is carrying out treatment and is not named on the licence (or carrying out different treatment from that listed on the licence), they will be committing an offence and both the licence-holder and the therapist may be subject to enforcement action. There are different routes to changing a therapist on a licence depending on the type of change needed and to add an additional treatment to a licence.

(a) Updating the licence with a new therapist already registered with Barnet Council:

Each therapist will also be issued with a registration card. If a therapist wishes to start working for a different premises licence-holder, they should present the registration card to the licence-holder. The licence-holder must email specialtreatments@barnet.gov.uk within 24 hours of the therapist starting work and pay the council's variation fee. A new special treatment licence will be issued within five working days, with the same expiry date as the original licence.

(b) Updating the licence with a new therapist not registered with Barnet Council

The licence-holder must submit a therapist's registration form with an application to vary the licence, together with details of their identity and qualifications and the appropriate fee. If the therapist's qualifications and identity are acceptable an amended special treatment licence will be issued within 10 working days and will expire on the same date as the original licence.

(c) Adding an additional treatment to the licence

The licence-holder must submit a variation form together with the appropriate fee. Amended licences will usually be issued within 10 working days, unless there is a need to carry out additional research into a new or unusual form of treatment. In that case the licence-

holder may also be required to supply further information to allow the council to reach a decision. Amended licences will expire on the same date as the original licence.

(d) Removing a treatment or therapist from a licence

There is no need for a therapist or treatment to be removed from a licence until that licence is renewed. Any change can then be made without any additional charge.

11.6. Length of licence

11.6.1. It is the council's policy under section 6(4) of the Act to grant licences to new applicants for a period of 12 months to ensure the licence-holder is able to properly comply with the conditions and restrictions of the licence. It is the council's policy to renew licences after that time for the maximum period of 18 months to provide more certainty for the business.

11.7. Renewing licences

11.7.1. It is the council's policy that licence-holders are responsible for renewing their licences. The council shall provide the licence holder with a reminder highlighting that the licence is about to expire.

11.7.2. Applications to renew a licence must be submitted no later than 24 hours before the current licence expires. Applications will be rejected if they are not properly completed (other than minor clerical errors), do not contain all of the required information, or are not accompanied with the correct fee. Applications received after a current licence expires will be treated as a new application, and no special treatments may be provided until a new licence has been granted. The existing licence will continue in force until the new licence is granted, unless a decision is made to refuse to renew the licence.

11.7.3. Officers will determine and arrange within five working days on a risk-assessed basis whether an inspection of the premises is needed (see paragraph 11.10 below for details of our risk-assessment process). If defects or breaches of conditions are identified during the inspection, licence-holders will be given an agreed period of up to 8 weeks in which to implement any required changes. Applications to renew a licence will be refused if the changes are not implemented within the required time.

11.8. Refusal to renew a licence

11.8.1. We may refuse to renew a licence for the reasons set out in paragraph 10.6 of this policy, and follow the procedures set out above.

11.8.2. Clear written reasons why a licence has been refused will be provided to an applicant, together with information about their right to appeal to the magistrates' court.

11.9. Compliance and enforcement

11.9.1. Risk-rated and intelligence-led enforcement

The council will proactively search for and investigate premises where it is alleged unlicensed special treatments may be carried out, within the resources available to it.

The council will proactively visit premises where it is believed special treatments may be offered, and follow up information provided to it from the public and others. The Council will use the National Intelligence Model in determining whether to investigate complaints.

11.9.2. Where unlicensed activities or therapists have been found, a graduated response will usually be used which may result in those responsible:

- (a) being given advice and information about applying for a licence. This may depend on the length of time and nature that the special treatments have been offered, and the level of knowledge on the part of those responsible for offering it;
- (b) a formal written warning where, for example the breach has been minor, occurred over a short period of time and officers are confident corrective action will be quickly taken by the licence-holder;
- (c) a formal simple caution, where the offender has admitted their guilt;
- (d) prosecution, where the criteria in the council's Public Health enforcement policy (available separately) has been met. This may for example be where the offence has occurred over a significant period of time, where previous advice or warnings have been ignored, where unqualified therapists are providing treatment, or where harm has been caused to another person due to the special treatment.

11.9.3. Enforcement action may also lead to the refusal of future licence applications and, if the licence-holder is convicted of an offence under the Act, to revocation of the licence.

11.10. Risk-rated premises inspections

11.10.1. Apart from the initial inspection on application the council will conduct inspections on a risk rated basis. This rating will take into account the following

- (a) the banding of the premises
- (b) the history of the premises including any proven complaints or non-compliance with regulatory requirements including those under the Health & Safety at Work etc Act 1974

11.10.2. Licence-holders will be provided with written records of any inspections. Copies of our inspection pro-formas are available on request.

12. Cross-regulatory compliance/information-sharing

12.1. The council will share information relating to special treatment licence applications and businesses for the purposes of preventing and detecting crime:

- (a) internally with other council departments
- (b) externally with the police, fire service, other local authorities and regulatory bodies
- (c) such as HM Revenue & Customs
- (d) other organisations when required to by law.

- 12.2. The council is also responsible for enforcing other legislation that applies to special treatment businesses, such as the Health and Safety at Work etc Act 1974, the Environmental Protection Act 1992 or the Health Act 2006. The council may use its powers where appropriate to enforce those provisions in conjunction with or separately to its powers to licence special treatments. It may, where appropriate, take account of the failure to comply with other legislation when it makes a licensing decision, for example by taking account of a failure to comply with the 1974 Act when deciding whether work equipment has been properly maintained or not.

13. Revocation of licences

- 13.1. We may decide to revoke a licence if the holder has been convicted of an offence under the Act. This decision will be taken by the Group Manager.
- 13.2. Licence-holders will be given 21 days in which to make written representations as to why their licence ought not to be revoked. If a decision is made to revoke the licence, clear written reasons will be provided together with details of the right to appeal against that decision to the magistrates' court.

14. Complaints procedure

- 14.1. Applicants and others may use the council's customer complaints procedure where we have not provided an adequate service. The complaints procedure may not be used in relation to the decision to grant, refuse or revoke a licence or to impose additional conditions on a licence. In such circumstances the appropriate route of appeal is to the magistrates' court.

15. Monitoring and review

- 15.1. We will regularly report to Members of the council's Licensing Committee on the operation of this policy, including statistical information on the number of licences applied for, granted, refused, varied, inspections and enforcement action taken.
- 15.2. The council welcomes comments and suggestions about improvements to this policy, which can be emailed to specialtreatments@barnet.gov.uk

Appendix 1 – Special treatment Conditions

PART I CONDITIONS WHICH APPLY TO ALL PREMISES

Type of Business

1. The licence is personal, is not transferable without application to the Council and is only valid in respect of the premises named thereon.

Exhibition of Licence

2. The licence or a clear copy shall be conspicuously exhibited at all times to the satisfaction of the Council in the premises, in such a position that it can be easily seen by all persons using the premises. The licence shall be adequately protected against theft, vandalism or defacement.

Responsibility of Licensee

3. (a) The licensee shall take all reasonable precautions for the safety of the public and employees using the premises.
(b) The licensee shall at once notify the council in writing of any proposed change in the name or private address of the licensee or in the treatments provided or in the nature of the business carried on at the establishment. The alteration must not be put into effect until the licence has been endorsed.
4. The licensee shall arrange for suitable Employer's Liability and Public Liability insurance covering the range of special treatments offered. The appropriate insurances must be kept on the premises and be available for inspection by visiting officers.

Persons in charge of licensed premises

5. (a) The licensee or a duty manager nominated by him in writing for the purpose shall be in charge of, and upon, the licensed premises during the whole time that they are open to the public. Such written nomination shall be continuously available for inspection by any officer authorised in writing by the Council. The duty manager shall not be engaged in any duties which will prevent him from exercising general supervision and he shall be assisted as necessary by suitable adult persons to ensure adequate supervision.

(b) The duty manager shall be familiar with all licence conditions including these rules which shall be kept on the premises.

(c) The licensee or duty manager shall at all reasonable times admit to the premises any police officer or officer of the Fire Authority, or any authorised officer of the Council (whose written authority will be provided on request).

Conduct of Premises

6. (a) The licensee/duty manager shall maintain good order and moral conduct in the premises.

(b) The licensee/duty manager shall ensure that no part of the premises is used by prostitutes, for soliciting or any other immoral purposes.

(c) The licensee/duty manager of the premises shall not seek to obtain custom by means of personal solicitation outside or in the vicinity of the premises.

(d) The licensee/duty manager shall not do, or permit in the establishment, any act of an indecent or disorderly character and shall take all necessary steps to exclude from the establishment a customer or any other person who has committed such an act in the establishment. The licensee shall not employ or permit or suffer to be in or upon the establishment any person who is of know immoral character and shall cause all persons in his employ engaged in the establishment to be decently and properly attired.

(e) The licensee/duty manager shall not permit or suffer the door of any room or place in the establishment for the time being in use for the giving of special treatment to be locked during the period that the client is therein. However, where a special treatment is being performed without a therapist in attendance (such as in the use of sunbeds or tanning booths) such booths or cubicles may be locked from the inside notwithstanding Regulation 15 (e), provided that the staff have the means of opening the booth/cubicle in the event of an emergency. Where laser or Intense Pulse Light treatments are being offered, treatment rooms should be kept locked to prevent unauthorised access with a trip system on the door to enable the door to be opened from the outside in the event of an emergency. Warning/"No Entry" signs should be placed on the front of the door and used only when the treatment is in process

(f) The licensee/duty manager shall ensure that with the exception of those persons receiving treatment in accordance with the conditions of this licence all clients present in any part of the establishment shall present in any part of the establishment shall be decently and properly attired and separate changing accommodation for males and females shall be provided.

(g) Except with the written consent of the Council, the licensee shall not employ in the conduct of the establishment any person (a) whose licence has been revoked or to whom a licence has been refused on the ground that such person is unsuitable to hold a licence to carry on an establishment for massage or special treatment; or (b) who is unsuitable to be so employed on the ground that misconduct in connection with the employment of such person in an establishment for massage or special treatment has been proved to the satisfaction of the Council; and except with such consent, the licensee shall not allow or permit any such person to be directly or indirectly interested in the business carried on at the establishment.

Persons who can give treatment

7. (a) Treatment shall only be given by persons who have been approved by the Council.

(b) Treatment may also be given by other persons provided

(i) the person giving the treatment is under the direct personal supervision of a person approved by the Council and has provided details of the treatments to be provided.

- (c) Any certification of qualification (or a true reproduction) of such approved persons together with a recent full face photograph shall be kept on the premises so that all persons who wish to receive treatment may easily examine them.

Language

8. At least one person shall be present in the premises at all times who has an acceptable level of spoken and written English in order to satisfactorily discuss client records, aftercare advice etc.

Records

9. Records shall be kept available at the premises, in a form approved by the Council, of all persons receiving special treatment. The record shall include the name, address, age and type of treatment received and the name of the person giving the treatment. Any contra-indications e.g. heart conditions, diabetes, epilepsy etc for each treatment will be discussed with the client and recorded prior to any treatment

Tariff

10. All licensable treatment provided at the premises shall be clearly listed in a priced tariff. This tariff shall also clearly show the cost of any additional services provided at the premises together with VAT thereon if applicable. A copy of the tariff shall be supplied on request to an authorised officer of the Council. 8

Display of tariff

11. There shall be prominently and legibly displayed a comprehensive tariff of charges and placed in such a position that it can easily and conveniently be read by persons before entering or immediately upon entering the premises.

Alterations

12. (a) No alterations (including temporary alterations) shall be made to the premises, without the consent of the Council. This condition shall not require notice to be given in respect of routine maintenance works.

(b) Where the works necessitate the premises being closed for a period of time, the premises shall not re-open for the purpose of the licence without the consent of the Council.

Admission of Council's Officers

13. Officers of the Council, who are furnished with authorities which they will produce on request, shall be admitted immediately at all reasonable times to all parts of the premises.

NOTES

- (i) The officers of the Council are authorised to inspect on behalf of the Council and to give written notification to licensees or their responsible representatives of matters noted during inspection which are not in

accordance with the approved arrangements for the premises, the conditions of the licence, or which may present a hazard to the public.

(ii) Officers of the Fire Authority and Police Service are authorised to inspect premises licensed for special treatment under the provisions of Section 15(1) (b) of the London Local Authorities Act 1991.

Overcrowding

14. Overcrowding shall not be allowed in any part of premises. 9

Maintenance of means of escape

15. (a) The means of escape provided for all persons on the premises shall be maintained unobstructed, immediately available and clearly identifiable in accordance with the approved arrangements.

(b) All fire-resisting and smoke stop doors shall be maintained self closing and shall not be secured open.

Maintenance of exits

16. All exit doors shall be available for egress during the whole time that the public are on the premises.

Door fastenings

17. (a) Exit doors and gates shall not be secured closed while the public are on the premises by means of any fastenings other than panic bolts.

(b) Locking bars, hasps, staples, screw eyes and other fastenings not approved by the Council shall not be fitted on exit doors.

Non-slippery surfaces

18. All gangways and exit ways and the treads of steps and stairways shall be maintained with non-slippery and even surfaces.

Edges of steps

19. The front edge of the tread of steps and stairways shall be made conspicuous, if so required by the Council.

Curtains, Hangings, Upholstery, Decorations etc

20. Only hangings, curtains, upholstery and temporary decorations, complying with the relevant British (or where appropriate European) Standard shall be used. Where necessary these shall be periodically tested for flame resistance and re-treated as necessary to the satisfaction of the Council.

(a) Curtains and hangings shall be arranged so as not to obstruct fire safety signs, fire extinguishers or other fire fighting equipment.

(b) Curtains, where permitted across doors, shall be hung in two halves on a free running rail to enable them to be parted easily. Such curtains shall have a clearance of at least 25mm between the bottoms of the curtain and the floor.

Floor covering

21. All floor covering shall be so secured and maintained that they will not be likely to ruck, or to be in any way a source of danger. Any mats shall be fitted into matwells so as to be flush with the surface of the floor. Each treatment room shall be provided with suitable floor covering which shall be maintained in a clean condition.

Fire Appliances

22. (a) Fire appliances and equipment approved by the Council shall be efficiently maintained in satisfactory working order and kept available for instant use. They shall be in the charge of a suitable person specially nominated for the purpose.

(b) Portable fire appliances shall be examined at least once a year and periodically tested in accordance with the current British Standard by a competent person and the date of such test shall be clearly marked on the appropriate extinguishers or on stout tabs securely attached to them. Extinguishers which incorporate an anti-freeze agent shall be examined and recharged in compliance with manufacturer's instructions.

(c) Where provided hydraulic hose reels shall be tested once a year to check that they are in working order and produce a satisfactory jet of water, and the test shall be recorded in a log book.

(d) All testing of fire appliances and equipment shall be at the expense of the licensee.

Fire Warning Arrangements

23. (a) Where an automatic/manual fire alarm system has been installed it shall be efficiently maintained in satisfactory working order. The system shall be maintained and services in accordance with BS 5839 and tested regularly. All checks, tests and defects shall be recorded in a log book. When a fire alarm system becomes defective the licensee shall notify the Council and take immediate steps to rectify the fault to the satisfaction of the Council.

(b) All testing of automatic/manual fire alarm system shall be at the expense of the licensee.

Outbreaks of Fire

24. The Fire Brigade shall be called to any outbreak or suspected outbreak of fire, however slight, and details thereof shall be recorded in a log book. Suitable notices shall be displayed indicating how the Brigade can be summoned.

"No Smoking" Notices

25. A "No Smoking" sign must be prominently displayed within the premises.

Sanitation

26. The licensee shall ensure that adequate sanitary accommodation is available in the premises for the free use of both staff and public and in particular shall:

(a) maintain each sanitary convenience in clean and efficient order;

(b) ensure that any room which contains a sanitary convenience is suitable and sufficiently lighted and ventilated and is kept clean;

(c) ensure that in the sanitary accommodation provided there are installed and maintained suitable and sufficient wash-hand basins and that each basin is provided with an adequate supply of hot and cold water or of hot water at a suitably controlled temperature, together with an adequate supply of soap and suitable hand drying facilities;

(d) ensure that the premises are so constructed with the adequate provision of efficient drains, suitable wall, floor and ceiling finishes, etc so that satisfactory sanitation can be maintained.

Sanitary condition of premises

27. All parts of the premises and any yard of such premises shall be kept in a clean condition to the satisfaction of the Council.

Treatment Room

28. Each treatment room shall:

(a) be maintained in a clean and structurally sound condition;

(b) be adequately lighted and ventilated;

(c) be provided with suitable wash-hand basin or basins with a suitable supply of hot and cold water (this should be located in or in the immediate vicinity of the treatment room), together with soap, a nailbrush and either a supply of disposable towels or clean towel at all times;

(d) suitable and sufficient means for heating to a reasonable room temperature, appropriate for the treatment provided, shall be maintained; and

(e) where more than one person is being treated in a room, it shall be provided with suitable screening to maintain privacy.

Cleanliness

29. Proper means to the satisfaction of the Council shall be provided for securing the cleanliness of all instruments, towels, materials and equipment used in the establishment and for their safe disposal.

Refuse Storage

30. A sufficient number of suitable receptacles with properly fitting covers shall be provided to the satisfaction of the Council for the purpose of receiving rubbish, dust and refuse from the premises. The receptacles shall be emptied whenever this becomes necessary. The receptacles shall be maintained in a clean and wholesome condition to the satisfaction of the Council and shall be kept in position approved by the Council.

Lighting

31. The owner, occupier or any other person concerned in the conduct or management of the premises licensed for special treatment shall ensure that adequate lighting is maintained to the satisfaction of the council in all parts of the premises to which public and staff have access and it is in operation continuously during the whole time the premises are open to the public.
32. The general lighting shall be maintained alight and the lighting to "EXIT" or "WAY OUT" notices shall not in any circumstances be extinguished or dimmed while clients are on the premises, provided that so long as there is sufficient daylight in any part of the premises, artificial light need not be used in that part.

Electrical installation

33. The electrical installation for the premises shall be maintained in a safe working condition, as prescribed in the current edition of the Regulation for electrical installations issued by the Institute of Electrical Engineers and the Electricity at Work Regulations 1989.

Electrical Certificates

34. Unless the Council decide otherwise an electrical installation condition report (EICR), as prescribed in the current edition of the Regulations for electrical installations issued by the Institute of Electrical Engineers, for the electrical installation associated with the premises licensed for special treatment shall be submitted to the Council at least once every five years or such other time as specified on the certificate. The certificate shall be signed by a qualified engineer. The Council normally requires that any such certificate shall be signed by a Corporate Member of the institute of Electrical Engineers, or by a contractor currently enrolled with the National inspection Council for Electrical Installation Contracting, or by a suitably qualified representative of a Supply Authority or, with the prior approval of the Council, other persons deemed competent.
35. A Portable Appliance Test must be carried out for all appliances within the treatment area. This Test must be carried out by all licensed premises on an annual basis.

Heating

36. All parts of premises regularly occupied by public or employees shall be heated to the satisfaction of the Council. The heating system and/or appliances used within the premises shall be fully maintained in good working order for use when required.

Ventilation

37. The licensee shall ensure that the premises are adequately ventilated to all areas to which the staff and clients have access. Any mechanical ventilation system shall be maintained in correct working order and shall comply with British Standards 5720: 1979. The system shall be capable of full operation during the whole of the time the public are on the premises.

NOTE: Care should be taken to ensure that neither noise nor vibration arising from the running of the equipment will cause annoyance or discomfort.

PART II CONDITIONS APPLYING ONLY WHERE THE COUNCIL SO PRESCRIBES

Escape lighting

38. (a) Two independent systems of lighting shall be provided to the satisfaction of the Council. The degree of illumination from each system shall be sufficient for illumination of the exit notices (if these are not of the self-luminous type) and to enable the public to see their way out of the premises at any time. In all portions of the premises to which the public have access, good normal lighting shall be provided during the whole time that the public are on the premises.

(b) Where permitted by the Council a non-maintained system of escape lighting may be used (i.e. a system in which the lights are energised only when the normal lighting fails). NOTE: the licensee may, with the consent of the Council, provide such additional lighting for decorative or other purposes as he may think fit.

Restriction on treatment

39. Unless otherwise expressly permitted by the Council, when treatment is given or is being received to any part of the body other than the neck and head or feet and legs below the knee or hands and arms and is not being so given by a fully qualified physiotherapist or other person entered on the register of the appropriate professional organisation whose qualifications have been approved by the Council, the treatment may be given only to persons of the same sex as the person giving the treatment, and persons of the opposite sex shall not be present.

Ultra violet radiation equipment

40. The licensee shall ensure that all ultra violet radiation equipment installed in the licensed establishment is used and opera

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Licensing Committee

12th July 2021

Title	Gambling Policy
Report of	Director of Assurance
Wards	All
Status	Public
Urgent	No
Key	No
Enclosures	Appendix 1 – Draft Policy
Officer Contact Details	Nicholas Stabeler Group Manager, Commercial Premises Nicholas.stabeler@barnet.gov.uk

Summary

The Gambling Act 2005 places a responsibility on local authorities to publish a gambling statement of principles (policy) every three years. The last policy was published in January 2019. This is a report seeking approval to consult on the proposed revised statement of principles

Officers Recommendations

1. That the draft Gambling Statement of Principles be approved for consultation and that the Officers be instructed to report to the November 2021 Licensing Committee meeting on the outcome for recommendation to Council.

WHY THIS REPORT IS NEEDED

- 1.1 The Gambling Act 2005 (the “Act”) places a duty on the Council 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 Council 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 Council must prepare, consult on and publish a Statement of Principles which it proposes to apply when exercising relevant functions. In exercising their functions, licensing authorities must have regard to the statutory guidance issued by the Gambling Commission.
- 1.4 The Act also requires that this statement of principles must be reviewed and published at least every 3 years. The policy was last reviewed in January 2019.
- 1.5 Where there are any proposed changes to the statement of principles, the Council is required under the Act to consult on any revisions.
- 1.6 The proposed policy (Which can be found in Appendix 1) is an update on the previous policy showing new demographic information and new document formatting.
- 1.7 A 12 week consultation will take place in relation to the policy; the results of this will be presented to the Licensing Committee at the meeting in November 2021. Following this meeting the Policy will then be placed before the Full Council at their next planned meeting for final approval.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The local authority is required, under the Act, to consult prior to publishing a statement of principles or any subsequent revision to the statement of principles, in relation to the exercise of its functions under the Act.

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.

4. POST DECISION IMPLEMENTATION

- 4.1 The Licensing Team will commence a consultation on the policy and report back to the Licensing Committee at the November 2021 meeting with the consultation responses.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 The approach taken by the Licensing Authority in relation to applications fully supports objectives contained within the corporate plan. In particular it promotes delivering “quality services and striving to continually improve the standard of services”

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.

5.3 **Legal and Constitutional References**

5.3.1 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 policy ensures that these objectives are promoted by the London Borough of Barnet.

5.3.2 The Act requires the Council 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.

5.3.3 Where there are any proposed changes to the statement of principles, the Council is required under the Act to consult on any revisions.

5.3.4 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.”

5.4 **Insight**

5.4.1 Not relevant to this report

5.5 **Social Value**

5.5.1 Not relevant to this report

5.6 **Risk Management**

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

5.6.2 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.

5.7 Equalities and Diversity

- 5.7.1 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.
- 5.7.2 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.

5.8 Corporate Parenting

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

5.9 Consultation and Engagement

- 5.9.1 The consultation document will be sent to the Police, trade associations for gambling businesses, and residents groups. It will also be 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 will also be published on the Council's consultation portal on the Barnet online website.
- 5.9.2 If approved by the Committee, the Statement of Principles will be submitted for consultation with all relevant stakeholders for a period of 12 weeks. All replies will be taken into account and the Statement of Principles, revised as necessary, will be submitted to this Committee for final approval at its meeting in November 2021. If approved then the Statement of Principles will be put before the Full Council at the next scheduled meeting.

6. BACKGROUND PAPERS

- 6.1 None

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London Borough of Barnet

Statement of Principles

Gambling Act 2005

2022 - 2024

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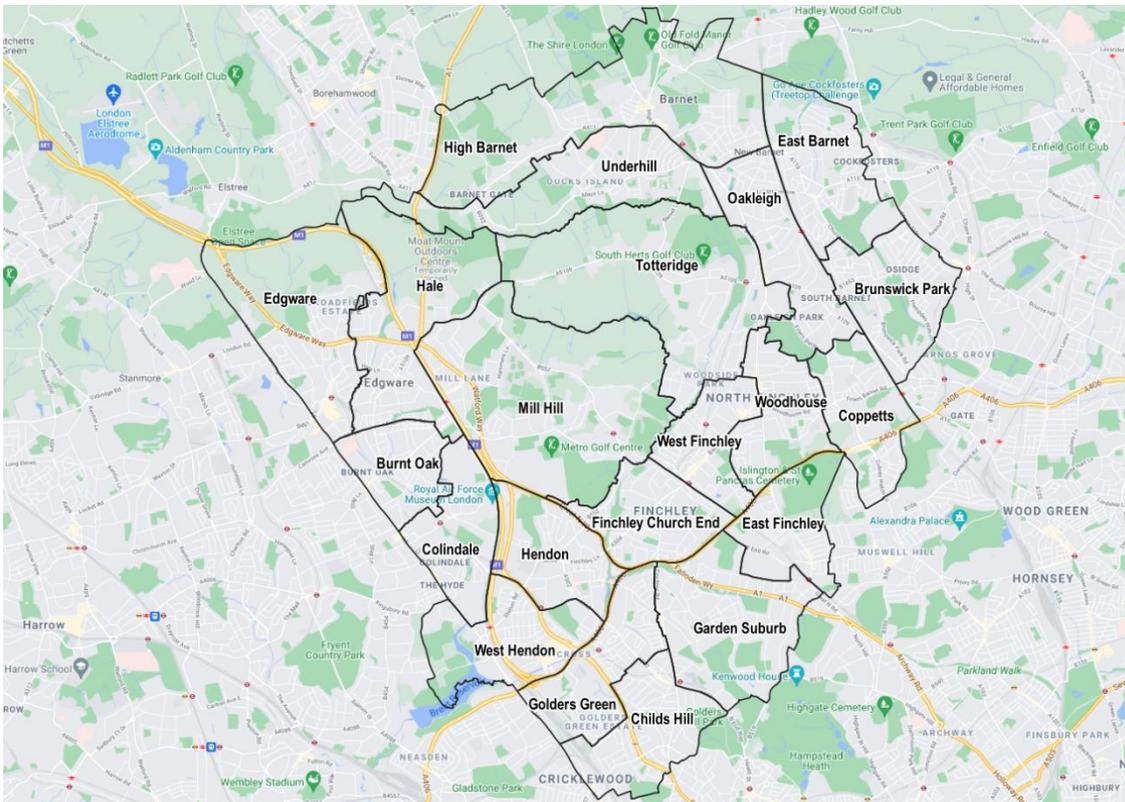
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1. INTRODUCTION

- 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. This figure has risen to 402,700 in 2020 which is an increase of 9%. Meaning that Barnet now has the largest population of any London borough.

In terms of area Barnet is the fourth largest. 36% of the borough is undeveloped, being greenbelt (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.

- 1.3 The current Borough map is shown below



- 1.4. With effect from May 2022 new ward boundaries will take effect. These new boundaries are shown in the map below:



<https://www.barnet.gov.uk/your-council/electoral-review-barnet-ward-boundaries>

1.5. 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.

1.6 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.

1.7. 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.

1.8. This Statement of Principles was approved at a meeting of the Full Council on 19th October 2021 and will come into effect on 13 January 2022.

1.9. The Gambling Commission states in the introduction to its Guidance to Licensing Authorities:

1.1 'When the [Gambling Act 2005](#) (the Act) came into force in late 2007, it brought in a new, comprehensive system for gambling regulation in Great Britain. For the first time, the vast majority of commercial gambling was brought together into a single regulatory framework. The Act established a dedicated regulator, at a national level, in the form of the Gambling Commission (the Commission). But it also recognised the potential local impact and importance of gambling. So it created many local regulators, whose job it is to manage gambling locally, in line with local circumstances. Those regulators are the 368 licensing authorities of England, Wales and Scotland. In doing so, the Act established a strong element of local decision-making and accountability in gambling regulation.

1.2 The Act gives local regulators discretion to manage local gambling provision, including discretion as to the level of fees set to cover the cost of administering the local system of regulation within limits set by The Department for Digital Culture Media and Sport (DCMS) in England and Wales. It sets out some boundaries to that discretion, consistent with the recognition of gambling as a mainstream leisure activity.

1.3 The Act also provides scope for the Commission to act to set an overall direction at national level, while leaving licensing authorities in the lead locally, with appropriate support from the Commission. This Guidance, to which licensing authorities must have regard, is an important part of those arrangements.

1.10. 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.

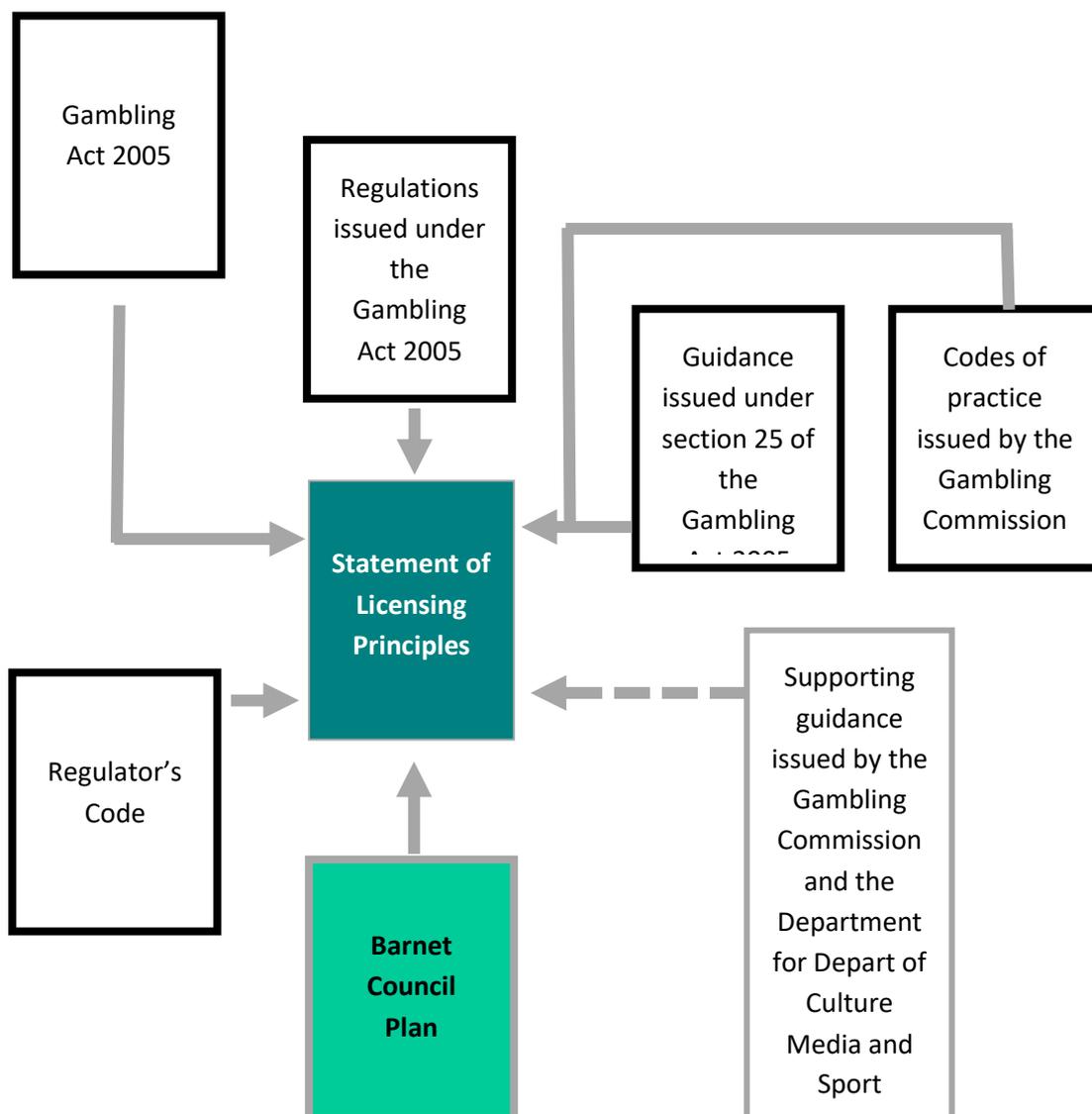
The Gambling Act 2005 is available at:

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

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

<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities/gla-part-1-general-guidance-on-the-role-and-responsibilities-of-licensing>

1.11. Statement of licensing policy hierarchy



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.
- 5.2 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.
- 5.3 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
- 5.4 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.
- 5.5 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.
- 5.6 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.
- 5.7 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.
- 5.8 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.
- 5.9 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 website 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	Access provisions
Casinos	<ul style="list-style-type: none"> • 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	

	<ul style="list-style-type: none"> no customer must be able to access the premises directly from any other licensed gambling premises.
Betting shops	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> no customer must be able to access the premises directly from a casino or AGC
Bingo premises	<ul style="list-style-type: none"> no customer must be able to access the premises directly from a casino, an AGC or a betting premises, other than a track
FECs	<ul style="list-style-type: none"> 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 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.met.police.uk/sd/stats-and-data/met/crime-data-dashboard/>

(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>

10.5 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.

10.6 Premises “ready for gambling”

10.6.1 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.

10.6.2 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.

10.6.3 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.

10.6.4 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.

10.7 Duplication with Other Regimes

10.7.1 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.

10.7.2 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.

10.7.3 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.

10.7.4 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.

10.7.5 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.

10.7.6 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

10.8. 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

10.8.1 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

10.8.2 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

10.8.3 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.

10.8.4 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.

10.8.5 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.

10.9. Adult Gaming Centres

10.9.1 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.

10.9.2 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.

10.9.3 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.

10.10. Licensed Family Entertainment Centres

10.10.1 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.

10.10.2 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.

10.10.3 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.

10.11 Tracks

10.11.1 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.

10.11.2 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.

10.12 Casinos

10.12.1 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.

10.13 Bingo

10.13.1 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.

10.13.2 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.

10.13.3 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.

10.14 Betting premises

10.14.1 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.

10.14.2 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.

10.14.3 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.

10.15 Provisional Statements

10.15.1 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.

10.15.2 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.

10.15.3 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.

10.15.4 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.

10.15.5 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.

10.16 Licence Conditions

10.16.1 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.

10.16.2 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.

10.16.3 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.

10.16.4 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.

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

10.16.6 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.

10.16.7 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.

10.16.8 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.

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

10.16.10 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.

10.16.11 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).

10.16.12 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.

10.16.13 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

10.16.14 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.

10.17 REVIEWS

10.17.1 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.

10.17.2 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.

10.17.3 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.

10.17.4 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.

10.17.5 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.

10.17.6 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.

10.17.7 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>
- Equality Act 2010
<https://www.legislation.gov.uk/ukpga/2010/15/contents>
- Guidance to Local Authorities issued by the Gambling Commission under section 25 of the Gambling Act 2005
<https://www.gamblingcommission.gov.uk/authorities>

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

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	Officers
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 no representations received/ representations have been withdrawn
Application to vary premises licence			Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for transfer of a licence			Where representations have been received from the Commission	Where no representations have been received from the Commission
Application for provisional statement			Where representations have been received and not withdrawn	Where no representations received/ representations have 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 have been withdrawn
Cancellation of club gaming/club machine permits		All cases	
Applications for other permits			All cases
Cancellation of licensed premises gaming machine permits			All cases
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		All cases	

or to revoke a lottery
registration



Licensing Committee

12th July 2020

Title	Proposed adoption of the Street Trading Licence Policy
Report of	Director of Assurance
Wards	All
Status	Public
Urgent	No
Key	Yes
Enclosures	Appendix 1 – Proposed Draft Policy Appendix 2 – Summary of responses to the Consultation
Officer Contact Details	Nicholas Stabeler Group Manager, Commercial Premises Nicholas.stabeler@barnet.gov.uk

Summary

This report relates to the outcome of the recent consultation in relation to a new policy for Street Trading Licences which will take effect on 20th October 2021.

Officer Recommendations

1. For the proposed policy in Appendix 1 to be approved by the Committee

1. WHY THIS REPORT IS NEEDED

- 1.1 The London Local Authorities Act 1990 is the main legislation for street trading.
- 1.2 The London Borough of Barnet currently issues a number of licences for street trading:
- Pavement licence (Pursuant to the Business and Planning Act 2020)
 - Temporary Street trading licences
 - Permanent street trading licence
 - Street market
 - Advertising board licence
- 1.3 The current street trading licence policy was adopted in 2015. Therefore, a refresh of the policy is needed to reflect recent changes in policy and decision making. There are no set time scales for how long a policy may last however the London Borough of Barnet aims to undertake an annual informal review and a formal review every 5 years. This should have been undertaken in 2020 but has been delayed due to Coronavirus.
- 1.4 The policy has been changed to remove casual trader licences, which are no longer required in Barnet. All street markets are run by an independent market organiser. The organiser undertakes checks as part of their operation making the issue of this type of licence by the licensing authority a duplication of work.
- 1.5 The policy has also been amended to include provision for advertising boards, pavement licences and fast track temporary licences. These were previously dealt with under different policies, which will be withdrawn if this policy is approved.
- 1.6 A consultation was undertaken on whether to adopt the Council's draft street trading licensing policy this took place between 21st May 2021 and concludes 2nd July 2021. The most up to date Information on this consultation can be found in paragraph 5.9.
- 1.7 Currently, one response has been received, however, should more be submitted an updated report will be provided.

2 REASONS FOR RECOMMENDATIONS

- 2.1 It is best practice to have policies for each different licensing regime to ensure consistency of approach. This ensures clarity for traders and other interested parties in both the application and enforcement processes.
- 2.2 It is important to regularly review and refresh policies to be in line with legislative changes and best practice.

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 law, guidance and best practice.

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

4 POST DECISION IMPLEMENTATION

- 4.1 The Committee are being asked to recommend that the Policy be adopted at the next meeting of the full Council to come into effect in 20th October 2021.

5 IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The approach taken by the Licensing Authority in relation to applications fully supports objectives contained within the corporate plan. It promotes delivering “quality services and striving to continually improve the standard of services” “

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

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

5.3 Legal and Constitutional References

- 5.3.1 A good policy ensures that fair and equitable decisions are taken by the London Borough of Barnet.

- 5.3.2 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.*”

5.4 Insight

- 5.4.1 Not relevant to this report.

5.5 Social Value

- 5.5.1 Not relevant to this report

5.6 Risk Management

5.6.1 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 burdens on both the Local authority and to the trade is minimised.

5.7 Equalities and Diversity

5.7.1 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.

5.7.2 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.

5.7.3 This report is for information only and therefore unlikely to result in any equalities implications.

5.7.4 An equalities impact assessment has been completed.

5.8 Corporate Parenting

5.8.1 Not relevant to this report.

5.9 Consultation and Engagement

5.9.1 The consultation document was sent to all relevant parties and all ward Councillors. The consultation was also published on the Council's online website.

5.9.2 The 6-week consultation process started on 21st May 2021 when the draft policy and committee papers were sent to all relevant parties including Ward Councillors and Responsible Authorities.

5.9.3 The consultation period for this policy will conclude on 2nd July 2021. This report and the corresponding policy will be published on 2nd July 2021 in advance of the Licensing Committee on 12th July 2021.

5.9.4 Two responses were received prior to this document's publication. Details of this response and its reply are shown in Appendix 2.

5.9.5 Should any further responses be received between the time of publication on the 2nd July 2021 and the conclusion of the consultation on the same day, a further update to this report and the policy will be provided in writing to all necessary parties.

5.9.6. The Licensing department do not anticipate any further comments being received between the publishing of this report and the close of the consultation period.

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6 BACKGROUND PAPERS

6.1 None

Appendix 1 Proposed Licensing Policy

Appendix 2 Consultation responses

The consultation process started on 21st May 2021 and will conclude on 2nd July 2021. As a result, the below responses were those that were received at the point that this report was written and cleared by all necessary parties. A further update to this report will be provided at the end of the consultation period confirming any further responses that were received.

Consultee	Comments	Response
<p>Cllr Zinkin</p>	<p>The policy matters included in paragraphs 2.5-2.11 do not seem to be reflected in the rest of the document. In particular the basis of consultation section 4 and how it relates to these paragraphs is unclear. 2.11 seems particularly arbitrary despite the comment on consistency which is then contradicted by the next sentence.</p>	<p>2.5 The policy was last reviewed in 2015</p> <p>2.6 The London Borough of Barnet's Growth & Corporate Services are actively promoting markets in the borough to help recovery of trade in town centres and community's.</p> <p>2.7 Conditions are in place within the Street Trading Policy to ensure that the appearance of street trading does not impact negatively on the community or its environment. Please see appendix 2 of the policy which outlines issues concerning the appearance of street trading premises.</p> <p>2.8 please refer to section 4 in relation to consultations.</p> <p>2.9 SADIQ KHAN, Mayor of London has published a report on the benefits of markets etc. In relation to the recovery of businesses after COVID-19.</p> <p>2.10 Please see our response to section 2.7 above.</p> <p>2.11 – there will be consistency in the decision-making process and apply a fair and consistent approach. However, we recognise that there may be occasions where it is in resident's best interests to consider an alternative</p>

		approach when it is reasonable and proportionate to do so.
Cllr Zinkin	Consultation with ward members is very limited and should be put back into paragraphs 4.4 and 4.7	Consultation with local ward Cllrs will take place for new designation applications. However, individual licences should only be subject to the person being fit and proper to hold such authorisation. Therefore, consultation only takes place with enforcement bodies which may hold information relevant to the determination of this test.
Cllr Zinkin	There is again no indication as to where advice can be sought	Contact information for the licensing team can be found on our website.
Cllr Zinkin	should trading hours 2.15 not also be consistent with the policy objectives. If a restaurant with longer licensing hours why a 2300 cut off?	The hours are in place to ensure that noise emanating from the patrons of the licensed premises does not cause a nuisance to the residents of Barnet. Hours between 23:00 and 07:00 are identified as being 'sleeping hours'.
Cllr Zinkin	although authorised officer is defined I have no idea who such officers are.	Contact information for the licensing team can be found on our website.
Cllr Zinkin	as we encourage electronic applications don't we mean using web forms why are they in brackets and subsidiary.	Banet do not have webforms for Street Trading Applications at present. We are currently reviewing our online systems and will be looking to modernise the online application systems in due course.
Cllr Zinkin	3.7 Why? This just seems particularly unhelpful and only for the benefit of those administering the	This is to ensure that a street trading licence maintains its renewal date and a licensee is

	system not residents. I think completely back to front.	not affected by a timely diseconomy in relation to the duration of their licence.
Cllr Zinkin	Licensing committee members should also be able to ask for items to come to committee.	All but the most complex and contentious cases are dealt with in the same manner to ensure efficiency and consistency. Cases selected to be dealt with or referred to committee could result in inconsistent outcomes and create boundaries to accessing the marketplace. Committee acts as a quasi-judicial environ for escalation and allowing non contentious cases to progress without due cause would dilute its status.
Cllr Zinkin	Should not 6.5 have regards to 2.5-2.11	These sections do have relevance to one another in the overall representation of this policy.
Cllr Zinkin	How and who makes the determination in 8.4	An authorised officer visits the site to ensure sufficient and safe passage is in place.
Cllr Zinkin	Who determines the date of the event in 9.5 and how is it notified etc	Information provided by: <ul style="list-style-type: none"> • Death certificate • Notification of retirement by the licence holder
Cllr Zinkin	How does the consultation in 11.2 work. Are these fees approved by committee if so which committee?	These fees are approved by committee.
Cllr Zinkin	How does 10.6 and 10.7 work with 13.1. Are these alternatives or sequential. It is not clear	13.1 relates to the next stage of the process.

Cllr Zinkin	no idea what 14.2 means and if it means pitches will be in some way marked out this does not happen at the moment and is not enforced. It took more than 5 years to get studs in the ground at Ashley's on Cricklewood Broadway and often still not enforced.	14.2 This refers to the highways department arranging for the instillation of the demarcation studs into the public highway.
Cllr Zinkin	14.3 The cost will be published., what does this mean?	The pricing of the studs can be found on the councils published fees and charges list.
Cllr Zinkin	17.3 and if they don't move it what happens?	The Licensing team will trace the owner, take proportionate onsite enforcement action and prosecution for unlicensed street trading where appropriate.
Cllr Zinkin	Details will be provide to all members and all responsible authorities. This different to the policy in 4.2, 4.4 and 4.7	It is unclear as to what section is being referred to
Cllr Zinkin	who is going to monitor all this Receptacles 6.1/6.5	This is dealt with by the licensing team
Cllr Zinkin	8.1 Do we know that such public liability policies to £5,000,000 are available and affordable to such traders. Do all the existing licensees have such policies.	This was an error in the original documentation and has now been amended to £2m.
Cllr Zinkin	11.2 and if they do?	This would be a breach of the licence and enforced by the licensing team.
Cllr Zinkin	14.3 why restaurants use such heaters?	Some restaurants have historically placed heaters on the public highway to enable the

		use of their outside space during colder weather.
Clair Green	Do we need to add something into the policy along the lines of covid recovery exception for time limited etc	Information in relation to this will be included within the introduction of the Policy document.

London Borough of Barnet

**Street Trading
Policy
2021-2026**

London Local Authorities Act 1990 (as amended)

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1. DEFINITION OF TERMS

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

- 1 **Authorised Officer** An officer employed and authorised by The London Borough of Barnet to act in accordance with the provisions of the London Local Authorities Act 1990 (as amended).
- 2 **Permanent Street Trading Licence** A licence given by the London Borough of Barnet to trade on a licensed street or at a licensed pitch
- 3 **Temporary Street Trading Licence** A short term/provisional licence (valid for 6 months or less), given by the London Borough of Barnet to trade on a street.
- 4 **Street Market licence** A street trading licence given by the London Borough of Barnet to an individual to allow him/her to trade on a street as a designated street market.
- 5 **Advertising board licence** A licence given by the London Borough of Barnet to place an advertisement board on the public highway
- 6 **Pavement Licence** A licence given by the London Borough of Barnet to premises who sell food and drink to allow them to trade on the street under the Business and Planning Act 2020
- 7 **Fast track licence** A licence given by the London Borough of Barnet to premises to allow them to trade on the street for a period of three months only during the coronavirus pandemic
- 8 **Licence Holder** The person or company to whom the licence to trade has been granted.
- 9 **Market** An outdoor space where three or more stalls are situated together for the purpose of allowing people to trade on the street.
- 10 **Itinerant ice cream trading** shall have the meaning ascribed in Section 21(1) of the London Local Authorities Act 1990 (as amended).
- 11 **Street Trader** A trader granted permission by The London Borough of Barnet to trade from a specified position.
- 12 **Street** Shall have the meaning ascribed in Section 21(1) of the London Local Authorities Act 1990 (as amended).

13	Street Trading:	Shall have the meaning ascribed in Section 21(1) of the London Local Authorities Act 1990 (as amended) and includes the use of tables and chairs situated on the highway for business purposes.
14	Street Trading Pitch/Location	The area in any street authorised as a place from which street trading may be carried on by a street trader, and includes any temporary alternative place approved by the London Borough of Barnet.
15	Advertisement	Any word, letter, model, sign, placard, board, notice, whether illuminated or not, in the nature, and employed wholly or partly for the purposes of advertisement, announcement or direction and includes any hoarding or similar structure or any balloon used, or adapted for use for the display of advertisements, and references to the display of advertisement shall be constructed accordingly.
16	Assistant	A person employed by and acting under the directions of a street trader to assist him/her about the business of the stall and whose name and address has been notified to the London Borough of Barnet
17	Awning	A sheet of canvas or other material, used as a protection against the weather, which projects as an extension of the roof beyond the structure of the stall.
18	Goods	Any goods, wares or merchandise displayed for sale at a stall
19	Pitch Limits	The agreed area within which street trading is permitted.
20	Refuse	Any waste material.
21	Stall	Any structure used by a trader for the display of goods, or in connection with his or her business, and which occupies a licensed street trading pitch; and includes all goods offered or to be offered for sale and any additional structure or equipment used as part of the stall or business. On “isolated pitches” this also includes all rubbish created as a result of the business.
22	Premises	Any shop, house or block of flats or other building.

2 INTRODUCTION

- 2.1 This document sets out the London Borough of Barnet's policy in respect of its licensing functions for street trading under Part III of the London Local Authorities Act 1990 (as amended) (referred to in this policy as "the Act"). It also sets out the London Borough of Barnet's licensing policy for advertisement boards.
- 2.2 This policy also covers fast track temporary Pavement licences under the Business and Planning Act 2020. Appendix 1 of this policy specifically relates to these licences
- 2.3 This policy will take effect from *****.
- 2.4 This policy will be kept under review and before making any amendments the London Borough of Barnet will consult with licence holders and their representatives and will give consideration to all representations received within the 28-day consultation period.
- 2.5 The policy will be formally reviewed at least every 5 years.
- 2.6 The London Borough of Barnet recognises that street trading can play a part in the cultural identity of the borough and also contributes to the local economy. It may attract visitors and can make for vibrant towns and communities, while at the same time providing employment.
- 2.7 The London Borough of Barnet wishes to ensure at least minimum standards in relation to facilities, appearance and choice are maintained in relation to street trading. Therefore, in granting and renewing licences it is important that stalls are well designed with a high-quality finish that enhances the area.
- 2.8 In regulating street trading activities the London Borough of Barnet acknowledges that a balance must be struck between the legitimate objectives of applicants and the desires of the population as a whole, and in particular those members of the public living, working or engaged in normal activity in the area concerned. A balance must be struck between these, often conflicting positions and all relevant views will be taken into account when making licensing decisions or determining a course of action.
- 2.9 It is also recognised that street trading and markets are hugely important to a vibrant economy, as they offer an excellent low risk step for businesses.
- 2.10 However the London Borough of Barnet will not accept poorly managed or visually untidy and unappealing stalls/pitches, or those that cause an obstruction to persons or prevent safe access and egress.
- 2.11 This policy will apply to all street-trading activities to ensure consistency in decision-making. However, each application will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration.

- 2.12 On 20th July 2015, Barnet Council made regulations prescribing standard licence conditions in accordance with Section 27(3) London Local Authorities Act 1990 (Appendix 2). These currently remain in force without further amendments. These are reviewed and when changes are needed these can only be made once a formal consultation has been undertaken.
- 2.13 The Licensing functions under the Act will be discharged by officers acting under delegated authority.
- 2.14 The licensing authority will maintain an up-to-date record of all designated street trading pitches including those which are currently vacant.
- 2.15 The Licensing Authority are mindful of the difficulties encountered by its current and prospective traders caused by the COVID-19 pandemic. Therefore, the licensing Authority retain the right to discretion in certain circumstances where it is in the interest of the London Borough of Barnet to agree the reduction of fees.

Hours

- 2.16 Trading hours for street trading covered by this policy will be set on the basis of promoting the following purposes:
- (a) Preventing crime, disorder and anti-social behaviour
 - (b) Avoiding public nuisance
 - (c) Protecting public safety
 - (d) Preventing obstruction of the highway
 - (e) Complementing the location and hours of neighbouring business activity
- 2.17 Licences will not be granted or varied beyond the hours of 07.00 to 23.00.
- 2.18 Licences may be granted or varied for shorter periods within these times where, as it appears to the licensing authority to be appropriate.
- 2.19 Hours of trading may be variable depending upon the day of the week and will generally be granted having regard to the operating hours of other retail outlets in the vicinity.
- 2.20 Other factors to be taken into account when granting or varying hours of trading pertaining to any licence include:
- (a) The ability to service the pitch (to stock and re-stock)
 - (b) Time needed to set up and take down the street trading stall

Goods Sold

- 2.21 Licence holders must apply to the licensing authority, clearly stating the nature of the proposed good(s) and proposed method of selling either at the stage of first application or for any subsequent change to the goods and services sold on the stall.

- 2.22 The London Borough of Barnet prohibits the sale of certain goods from the street. A list of prohibited goods can be found in Appendix 3.
- 2.23 The level of nuisance should be kept to a minimum and particular attention should be paid to cooking odours, smoke, noise, and litter. Goods should not be sold if they cause an unacceptable level of nuisance as determined by an authorised officer.
- 2.24 The goods applied for should not cause or contribute to crime and disorder.
- 2.25 In a limited range of circumstances it may be unsuitable for different types of stalls to be close together – for example a hot food stand next to clothing stalls.

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 by post, using the standard Barnet application form, addressed to:

**Licensing Team,
London Borough of Barnet,
8th Floor, 2 Bristol Avenue,
Colindale,
NW9 4EW**

Or such other address as the Council may otherwise notify to applicants.

- 3.2 The application must be:

- Made in writing (or submitted electronically)
- Made on the correct application form as prescribed by the London Borough of Barnet
- Accompanied by the full fee
- Accompanied by acceptable passport sized photos (if required)
- Accompanied by the relevant documents

- 3.3 An incomplete or incorrectly completed application will be rejected and the fee refunded.

Renewal Applications

- 3.4 Renewal applications will only be accepted for permanent street trading licences.
- 3.5 A correctly completed application for the renewal of a permanent street trading licence should be submitted no later than two months before the existing licence will expire but not earlier than three months before that date.
- 3.6 An incomplete or incorrectly completed application will be rejected.

- 3.7 An application received more than three months before the expiry date will be rejected.

4. CONSULTATION

Designation of Licensed Streets, Areas and Pitches

- 4.1 Before deciding whether to designate a pitch/street/area the London Borough of Barnet will carry out a consultation with interested parties. In particular, the following will be consulted:
- London Borough of Barnet (Highways Authority)
 - London Borough of Barnet (Environmental Health Service)
 - The Metropolitan Police Service
 - London Fire Brigade
 - The elected ward councillors' for the proposed street trading location
 - Any other person that the London Borough of Barnet believes may provide relevant information in respect of the application.
- 4.2 Notices may be displayed in the vicinity of the designation area outlining the application and inviting representations.
- 4.3 Consultation will last for a period of 28 days within which interested parties may submit comments.

Street Trading licence

- 4.4 Before a street trading licence is granted, the London Borough of Barnet will carry out a consultation with interested parties. In particular, the following will be consulted, as appropriate:
- London Borough of Barnet (Highways Authority)
 - London Borough of Barnet (Environmental Health Service)
 - The Metropolitan Police Service
- 4.5 Consultation will last for a period of 14 days starting the day following receipt of a valid application for renewal of a permanent street trading licence
- 4.6 All new sites will be assessed by an authorised officer of the London Borough of Barnet for its suitability for a street trading licence.

Street trading Renewal Applications

- 4.7 Prior to renewal of a permanent street trading licence the London Borough of Barnet, will carry out a consultation with interested parties. In particular the following will be, consulted as appropriate:

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

4.8 Consultation will last for a period of 7 days starting the day following receipt of a valid application for renewal of a permanent street trading licence.

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

5 REPRESENTATIONS ABOUT LICENCE APPLICATIONS

5.1 Interested parties may make a representation about a Licence application to the London Borough of Barnet during the consultation periods outlined in 4.3, 4.5 and 4.9 in relation to matters that they consider to be relevant to the decision to grant a Licence.

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

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

6 DETERMINATION OF THE APPLICATION

6.1 The decision to designate a street shall be determined by authorised officer under delegated powers. However, if the officer is unable to make a decision due to exceptional or other circumstances, the application may be determined by a Licensing Sub-Committee.

6.2 The decision to grant or renew a permanent licence will be made by an authorised officer under delegated powers. However, if the officer is unable to make a decision due to exceptional or other circumstances, the application may be determined by a Licensing Sub-Committee.

6.3 The decision to grant a temporary licence or a street market (for a period up to 6 months) shall be determined by an authorised officer under delegated powers. However, if the officer is unable to make a decision due to exceptional or other circumstances the application may be determined by a Licensing Sub-Committee.

6.4 The decision to grant an advertisement board shall be determined by an authorised officer under delegated powers. However, if the officer is unable to make a decision due to exceptional or other circumstances the application may be determined by a Licensing Sub-Committee

- 6.5 The London Borough of Barnet will have regard to any relevant representations received and will assess the impact of the application on the following when deciding whether to grant or refuse an application:
- (a) Prevention of crime, disorder and anti-social behaviour
 - (b) Avoidance of public nuisance
 - (c) Protecting public safety
 - (d) Prevention of obstruction of the highway
 - (e) Complementing the location and hours of neighbouring business activity
- 6.6 The London Borough of Barnet will have regard to any relevant factors that may affect the use of a licence if granted including, but not exclusively,
- the suitability of the premises/stall from which it is intended to trade and
 - the adequate provision of storage facilities for receptacles or perishable goods when street trading is not taking place.
- 6.7 The London Borough of Barnet will also consider whether the applicant:
- is unsuitable to hold a licence on the grounds of misconduct or other sufficient reason and may consider imposing penalty points on any existing licence
 - has previously failed to obtain a street trading licence
 - has previously held a licence that was revoked
 - has previously failed to pay fees or other charges in respect of a licence

Advertisement board applications

- 6.8 The following criteria must be met before the grant of a licence can be considered:
- The board must be of sufficient contrast to its surrounding area.
 - Any board must not be more than 0.5m wide or be more than 1.5m tall
 - The board must be sufficiently stable so as not to blow over or be easily moved
 - The board must be of a construction that will cause minimal damage if there is a collision. There must be no sharp edges or protruding parts.
 - The board must not be fixed to the highway or any furniture on the highway.
 - The board must be located in a suitable and agreed position. In most circumstances this will be adjacent to your property.
 - A minimum of 2 meters of footway remains along the line of the board between the edge of the object and either the kerb or other highway boundary.
 - The advertisement information on the board does not contain any material or information that could cause offence.
 - The board must be removed from the public highway when the premises which holds the licence is closed and between 23:00 and 07:00.

- There must be adequate storage facilities provided for the board to be placed in between these times
- The boards should not cause a nuisance or hazard to persons using the highway or any adjacent land or premises.

7 GRANTING THE APPLICATION

- 7.1 Upon approving an application the London Borough of Barnet may issue a licence as appropriate.
- 7.2 A licence will be issued subject to the London Borough of Barnet's standard conditions and shall be subject to any additional terms, plans and details contained in the application.
- 7.3 A licence may also be issued subject to specific conditions that the licensing authority deems reasonable and necessary.
- 7.4 A permanent street trading licence shall be granted for a period not exceeding 3 years.
- 7.5 A temporary street trading licence may be granted on a daily, weekly or monthly basis up to a maximum period of six months.
- 7.6 An advertisement board licence shall be granted for a period not exceeding one year.

8 REFUSAL OF AN APPLICATION

- 8.1 A licence shall not be granted unless:
- The fee has been paid in full or,
 - An agreement in writing has been obtained from the London Borough of Barnet which contains details of the payment of the fee by instalments.
- 8.2 A licence shall be refused if any of the circumstances in section 25(4) of the Act apply.
- 8.3 A licence may be refused if any of the circumstances in section 25(6) of the Act apply. However, before a final decision is taken the London Borough of Barnet will provide the licence holder or applicant a written notice of its intention to refuse the licence. The licence holder or applicant will be provided an opportunity to appear before a senior authorised officer and to make representations in respect of the matter. The senior authorised officer will determine whether the refusal to issue a licence is upheld.

- 8.4 A licence will not be granted if the proposed street trading pitch will not allow sufficient and safe passage for pedestrians using the footpath. In general, at least 2.0 metres of clear unobstructed passage must be maintained from the roadside kerb to the outermost point of the pitch. In areas of high pedestrian use or high levels of traffic a larger clearance may be required, as determined by the London Borough of Barnet.
- 8.5 A licence will not be granted if it is clear that the granting of the licence will cause significant nuisance, compromise public safety, lead to crime, disorder or anti-social behaviour, obstruct the highway, or seriously conflict with the location and hours of neighbouring business activity.

9 EXPIRY OF THE LICENCE

- 9.1 A licence will expire on the date specified on the licence unless it is renewed in accordance with section 3 above.
- 9.2 A licence holder may surrender his/her licence by sending it to the London Borough of Barnet, at which time it will cease to be valid and will expire.

Lapse

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

Succession

- 9.4 This section only applies to an individual licence holder of a permanent street trading licence.
- 9.5 If the licence holder dies or retires or is unable to continue due to ill health as described in Section 26 of the Act the London Borough of Barnet shall not grant a licence in respect of the street trading pitch until 28 days have elapsed from the date of the event.
- 9.6 During the 28-day period, the person named as the successor by the licence holder in his/her original application may apply to the London Borough of Barnet for the licence to be transferred.

10 REVOCATION OR VARIATION

- 10.1 The licensing authority may, subject to the appropriate consultation and notification procedures, de-designate streets or street trading pitches where, in the opinion of the licensing authority, they are no longer suitable for street trading. The circumstances under which a location may be considered no longer suitable include:

(a) It has not been used for trading for a period of greater than six months;

- (b) There are altered circumstances due to increased pedestrian footfall resulting from altered highway layouts, public realm improvements or construction projects;
- (c) Where new development and the siting and operation of the trading pitch would adversely affect local pedestrian flow or cause congestion, including close to transport stops and stations.

Permanent street trading licence

- 10.2 The London Borough of Barnet may revoke a permanent street trading licence at any time if any of the circumstances in Section 28 of the Act apply.
- 10.3 However, having considered all the available evidence the London Borough of Barnet may decide that it is appropriate to vary the conditions of the permanent street trading licence to ensure that compliance with the legislation and licence conditions is achieved.
- 10.4 Before a decision is taken the London Borough of Barnet will give the licence holder written notice of its intention to revoke or vary the licence.
- 10.5 The licence holder will then be given an opportunity to appear before a senior authorised officer within 21 days and to make representations in respect of the matter.
- 10.6 The senior authorised officer will consider the representations before a decision is made.
- 10.7 The senior authorised officer will also have regard to this policy before making a decision.

Temporary Street Trading Licence

- 10.8 The London Borough of Barnet may revoke or suspend the use of a temporary licence on land within 7 metres of any road or footway as described in section 21 (1)(b).
- 10.9 If the London Borough of Barnet revokes or suspends the temporary licence it will take effect as soon as this is notified to the relevant party.
- 10.10 As an alternative, or in addition to revocation or variation of a licence, the London Borough of Barnet may decide that other enforcement action is appropriate. This may include pursuing a criminal prosecution in accordance with the Enforcement Policy.

Advertisement board

- 10.11 The London Borough of Barnet reserves the right to request that the board is removed immediately in the event of:

- (a) Works in or under or over the highway
- (b) Use by emergency services.
- (c) Any other reasonable cause.

10.12 The London Borough of Barnet may revoke or suspend the use of the advertising board licence on the grounds of safety or nuisance.

10.13 If the London Borough of Barnet revokes or suspends the advertising board licence it will take effect as soon as this is notified to the licence holder.

11 FEES

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

11.2 The fees will be reviewed annually and before any changes are made the London Borough of Barnet will consult with all licence holders and publish a notice of the proposed fees in a local newspaper. This notice will also be published on London Borough of Barnet's website.

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

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

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

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

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

12 DECISIONS

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

13 APPEALS

13.1 Any appeal against the decision of the London Borough of Barnet in respect of the grant, variation, revocation or refusal to grant a permanent licence may be made to the magistrate's court.

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

14 DEMARCATION

14.1 The area of all licensed pitches on a designated street will be permanently demarcated.

14.2 Application of the demarcation will be carried out by the Highways authority or their appointed agent on their behalf.

14.3 The cost of the permanent demarcation will be borne by the applicant. The cost will be published by the London Borough of Barnet.

14.4 If an application is made to vary the licensed area then the cost of removing and replacing the demarcation must be borne by the applicant.

14.5 A licence holder must not trade outside of the demarcated area.

15 ENFORCEMENT

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

16 UNLICENSED STREET TRADING

16.1 Unlicensed street trading can have a negative impact on legitimate street traders and the community as a whole and will not be tolerated by the London Borough of Barnet.

16.2 If an authorised officer suspects that a person has committed an offence of unlawful street trading he may take appropriate action in line with the current enforcement policy which may also involve the seizure of any article or thing deemed necessary.

16.3 Before taking any formal action the authorised officer will identify him/herself by showing their identification and authorisation.

17 MOTOR VEHICLES

17.1 The sale or exposure for sale of a motor vehicle or motorcycle in a street is prohibited.

17.2 Offering a vehicle for sale on the internet by a motor trade business at the same time as keeping the same vehicle on the public highway will be deemed to be street trading and is prohibited.

- 17.3 If an authorised officer identifies a vehicle that is exposed or advertised for sale on the street he may affix a notice to the windscreen or other part of the vehicle requiring the registered owner to remove the vehicle within 24 hours.

18 DATA PROTECTION, FREEDOM OF INFORMATION AND DATA MATCHING

- 18.1 The London Borough of Barnet London Borough of Barnet is the Data Controller of all personal information held by the Licensing Authority. The London Borough of Barnet will process and hold that information in accordance with principles of the Data Protection Act 2018.
- 18.2 The information supplied and held as part of the street trading application and enforcement processes may be disclosable in accordance with the Freedom of Information Act 2000 or Environmental Information Regulations 2004.
- 18.3 The information supplied in all applications will be given to the Audit Commission to participate in the National Fraud Initiative (NFI) data matching exercise and will be used for cross-system and cross authority comparison with other relevant organisations' data for the prevention and detection of fraud.

APPENDIX 1 - TEMPORARY COVID 19 STREET TRADING STRATEGY & POLICY

1. Introduction

The Licensing Authority have adapted their Street Trading policy in order to assist local traders to bounce back for the strain caused by COVID 19 pandemic.

To enable this, the following three trading permissions have been created:

- *Street Trading Fast Track Pavement Licence*
This licence has been created to speed up the process for new applications for street trading where the premises do not sell food and drink.
This licence is only available to premises who are eligible for temporary street scene support or funding. This licence is a fast track application for a minimum of three-months.
The turnaround of this application will be less than one week.
The standard terms and conditions for street trading licences will still apply to these licences.
- *Pavement Licence*
This licence is granted under the Business and Planning Act 2020.
The standard terms and conditions for street trading licences will still apply to these licences.
- *Mobile/Itinerant Trader Permit*
This is a new permit to allow mobile trading to take place within the London Borough of Barnet. For example, a food van would be able to move around numerous highway locations within Barnet and trade from these areas.

This is different to a peddler's licence which is trading on foot and this is dealt with by the police.

This permit will have restrictions in place on areas and times that the holder can trade.

2. Eligibility criteria

Street Trading Fast Track

Any person wishing to obtain a fast track license will be eligible to apply for this. To be eligible for a free 3-month fast track license the trader must qualify for the Temporary Town Centre Streetspace Support or Funding.

Pavement Licence

As set out in the Business and Planning Act 2020.

Mobile/Itinerant Traders

Any person wishing to conduct mobile trading from a vehicle may apply for a licence.

Checks will then be made on the suitability of the person to hold a licence on a case by case basis as set out in the application form.

This will include checking on

- Adequate insurance for the business proposed
- Appropriate permissions in place for their business i.e. food registration
- Adequate provision for dealing with refuse
- A statement to address how they propose to deal with any potential nuisance caused by their business

3. Fees and Charges

Street Trading Fast Track

£180 for a three-month licence - £100 application fee and £80 grant fee

Pavement Licence

£100

Mobile/Itinerant Traders

£180 for a three-month licence - £100 application fee and £80 grant fee

4. Exclusions

The following persons are excluded from holding these street trading/market licence:

- Persons who have previously been prosecuted for street trading offences,
- Persons who have been refused a street trading licence due to the unsuitability of the site, if applying for the same site with no changes
- Persons who are currently under investigation for street trading offending.

5. Determination of applications

Street Trading Fast Track

The Licensing team will quickly assess the suitability of the area and check the applicant is eligible for this licence.

There will be a short one-week consultation prior to grant to these licences. Details of these proposed licences will be provided to all members and all responsible authorities.

Should concerns be raised in relation to any licence that has been granted the Licensing team will investigate this and if necessary, the licence will be revoked immediately. The

trader will then have the opportunity to apply under the normal process with the full consultation taking place. There would be a cost for this in line with usual fees

Pavement Licence

As per the Business and Planning Act 2020.

Mobile/Traders

Prior to grant of the permit a 14-day consultation will take place. The details of the application will be provided to:

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

The decision to grant a permit shall be determined by an authorised officer under delegated powers. However, if the officer is unable to make a decision due to exceptional or other circumstances the application may be determined by a Licensing Sub-Committee.

The London Borough of Barnet will have regard to any relevant representations received and will assess the impact of the application on the following when deciding whether to grant or refuse an application:

- (a) Prevention of crime, disorder and anti-social behaviour
- (b) Avoidance of public nuisance
- (c) Protecting public safety
- (d) Prevention of obstruction of the highway
- (e) Complementing the location and hours of neighbouring business activity

6. Granting the Application

Upon approving an application, the London Borough of Barnet may issue a temporary street trading licence (a licence) as appropriate.

A licence/permit will be issued subject to the London Borough of Barnet's standard conditions and shall be subject to any additional terms, plans and details contained in the application.

A licence/permit may also be issued subject to specific conditions that the licensing authority deems reasonable and necessary.

7. Refusal of an Application

A licence/permit shall not be granted unless:

The fee, if applicable, has been paid in full or, an agreement in writing has been obtained from the London Borough of Barnet.

A licence /permit shall be refused if any of the circumstances in section 25(4) of the London Local Authorities Act 1990 apply.

A licence /permit may be refused if any of the circumstances in section 25(6) of the London Local Authorities Act 1990 apply. However, before a final decision is taken the London Borough of Barnet will provide the licence /permit holder or applicant a written notice of its intention to refuse the licence. The licence holder or applicant will be provided an opportunity to appear before a senior authorised officer and to make representations in respect of the matter. The senior authorised officer will determine whether the refusal to issue a licence is upheld.

A licence will not be granted if the proposed street trading pitch will not allow sufficient and safe passage for pedestrians using the footpath. In general, at least 2.0 metres of clear unobstructed passage must be maintained from the outmost point (front face of customer serving side) of the pitch to either the roadside kerb or opposing property façade. In areas of high pedestrian use or high levels of traffic a larger clearance may be required, as determined by the London Borough of Barnet.

A licence will not be granted if it is clear that the granting of the licence will cause significant nuisance, compromise public safety, lead to crime, disorder or antisocial behaviour, obstruct the highway, or seriously conflict with the location and hours of neighbouring business activity.

8. Expiry of the Licence/ Permit

A licence will expire on the date specified on the licence unless it is renewed

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.

9. Revocation or Variation

The licensing authority may, subject to the appropriate consultation and notification procedures, revoke or vary a licence/permit where, in the opinion of the licensing authority, they are no longer suitable for the street trading permitted in the licence.

The circumstances under which a location may be considered no longer suitable include where there are altered circumstances due to increased pedestrian footfall resulting from altered highway layouts, public realm improvements or construction projects.

10. Appeals

There is no right of appeal in respect of these street trading permits/licences.

London Borough of Barnet

Street Trading

Licence Conditions

Updated July 2021

DEFINITIONS

In the regulations, unless the context otherwise requires, the following expressions shall have the following meanings:

1.1 **“Act”** means Part III of the London Local Authorities Act 1990 as amended by the London Local Authorities Acts 1994, 1999, 2004 & 2007”.

1.2 **“Advertisement”** means any word, letter, model, sign, placard, board, notice, whether illuminated or not, in the nature, and employed wholly or partly for the purposes of advertisement, announcement or direction and includes any hoarding or similar structure or any balloon used, or adapted for use for the display of advertisements, and references to the display of advertisement shall be constructed accordingly.

1.3 **“Assistant”** means a named person employed by and acting under the directions of a trader to assist him/her in the business of the stall and whose name and address has been notified to the London Borough of Barnet in writing by the trader.

1.4 **“Awning”** means a sheet of canvas or other material, which projects beyond the Pitch Limits.

1.5 **“Authorised Officer”** means an officer employed by The London Borough of Barnet and authorised by the London Borough of Barnet to act in accordance with the provisions of the London Local Authorities Act 1990 (as amended).

1.6 **“Child”** means a person under 16 years of age.

1.7 **“Commodities”** means any goods, wares or merchandise for sale or on display at a Licensed Street Trading Pitch.

1.8 **“Ice Cream Trading”** means the selling, exposing or offering for sale of goods consisting wholly or mainly of ice cream, frozen confectionery or other similar commodities from a vehicle.

1.9 **“Itinerant Ice Cream Trading”** means ice cream trading from a vehicle which goes from place to place, remaining in any one location in the course of trading for periods of 15 minutes or less and not returning to the same location or any other location in the same street on the same day.

1.10 **“Licensed Street Trader”** means any person who is licensed by the London Borough of Barnet for Street Trading under Part III of the Act.

1.11 **“Licensed Street Trading Pitch”** The area in any street authorised as a place at which street trading may be engaged in by a street trader, and includes any temporary alternative place approved by the London Borough of Barnet or a duly authorised officer of the London Borough of Barnet and for which a Licence has been granted.

1.12 **“Premises”** means any land, building or part of a building and includes any commercial premises adjacent to a Licensed Street Trading Pitch.

1.13 **“Receptacle”** includes a box, vessel, table, chair or stand, vehicle or thing which is used (whether or not constructed or adapted for such use) as a container for the display of any article or thing or equipment used in the provision of any service or sale or offer or display of goods for sale.

1.14 "**Refuse**" means waste which has been generated in the course of a Licensed Street Trader's business activity including, but not limited to; fruit and vegetable waste, cardboard, paper, small plastic items and other non-perishable waste.

1.15 "**Regulations**" means the contents of this document.

1.16 "**Shop Front Trading Licence**" means a licence which permits the display of shop goods or the placing of tables and chairs on the street ancillary to the existing business and in a manner permitted by the Act.

1.17 "**Special conditions**" are such conditions as it is deemed reasonable by the London Borough of Barnet to apply / not to apply to any Street Trading Licence in addition to the standard conditions.

1.18 "**Standard conditions**" means those matters set out in Section 27 (7) of the London Local Authorities Act 1990 (as amended) and as stated on a Street Trading Licence together with the conditions set out in these Regulations.

1.19 "**Street Trading**" shall have the meaning described in Section 21 (1) of the Act.

1.20 "**Street Trading Licence**" A licence given by The London Borough of Barnet to trade on a licensed street (valid for a period of not less than 6 months and no more than 3 years).

1.21 "**Temporary Street Trading Licence**" A short term/provisional licence given by The London Borough of Barnet to trade on a street (valid for a period up to 6 months).

1.22 "**Street Trading Pitch**" The area in any street authorised as a place at which street trading may be engaged in by a street trader, and includes any temporary alternative place approved by the London Borough of Barnet or a duly authorised officer of the London Borough of Barnet.

1.23 "**The London Borough of Barnet**" means the council of the London Borough of Barnet.

1.24 "**Trader**" A trader granted permission by The London Borough of Barnet Council to trade from a specified position.

General Conditions Applicable To All Street Trading Licences

GENERAL

2.1 The pavement licence holder must ensure that the management team of the business to which the pavement licence is attached; register and successfully complete the nationally recognised counter terrorism training product referred to as ACT E Learning within 10 days of the notification of the grant of the Pavement Licence OR can demonstrate that the ACT E Learning product has successfully been completed within the preceding 12 months and that all staff employed by OR at the premises complete the ACT E Learning within a reasonable period not exceeding 3 months from the notification of the grant of the Pavement Licence. (ACT E Learning certificates are provided on successful on-line completion).

2.2 The Pavement Licence holder must ensure that existing CCTV systems are correctly working, are compliant with the Data Protection Act 1998, Information Commissioners requirements and any other local CCTV Code of Conduct produced by the Police or Local Authority. Imagery must be retained for at least 28 days and images produced to a Police Officer or Local Authority Enforcement Officer upon reasonable request. Faults which render the CCTV system or parts of it inoperable should normally be rectified within 24 hours.

2.3 The grant of a Street Trading Licence shall not be deemed to give any approval or consent which may be needed under any Bye-Law, enactment or regulation other than Part III of the London Local Authorities Act 1990 (as amended).

2.4 These conditions may be dispensed with or modified by the London Borough of Barnet in any individual case by means of a Street Trading Licence variation in accordance with the statutory requirements;

2.5 Where in these conditions there is reference to the consent or agreement of the London Borough of Barnet, such consent or agreement may be given on such terms and conditions and subject to such restrictions as may be specified by the London Borough of Barnet; any variation shall not take effect until the consent of the London Borough of Barnet has been received in writing by the licensed street trader.

2.6 If a licensed street trader wishes any of the terms or conditions of a Street Trading Licence to be varied, application must be made in writing to the London Borough of Barnet in accordance with the statutory requirements. Any variation shall not take effect until the licence holder has received the consent of the London Borough of Barnet in writing.

2.7 Licensed street traders shall ensure that they comply with all relevant legislation including orders and regulations and any amendment or replacement of such legislation. Failure to comply with such legislation may result in the revocation of the Street Trading Licence.

2.8 The Trader shall engage in street trading only from the position, which is indicated on the licence, unless otherwise directed by an Authorised Officer.

2.9 The street trading pitch shall not exceed the dimensions specified on the Street Trading Licence and any licensed street trading pitch limits marked on the ground. An awning may be

permitted to extend 30cm (12inches) at the front of the licensed street trading pitch but no articles are to be suspended from the awning beyond the permitted area.

2.10 A trader shall not cause or permit any receptacle, part of a receptacle, goods or other articles whatsoever to project beyond the licensed street trading pitch.

2.11 Traders shall not cause or permit receptacles, vehicles, commodities or other articles to be placed or to stand anywhere on the street otherwise than within the limits a licensed street trading pitch. Traders shall not use feeder barrows, feeder vehicles or feeder receptacles for the display of goods.

2.12 "A" boards or other free-standing advertisements located within the pitch area will only be allowed if written approval has been given for these as part of the application process. Free-standing advertisements outside the pitch area are not permitted under any circumstances.

2.13 The licence holder shall not make any excavations or alterations of any description in the surface of the street, or land in the ownership of the London Borough of Barnet adjoining street, or place or fix equipment of any description in the said surface except with the previous consent from the London Borough of Barnet in writing.

2.14 Advertisements or other notices shall not be displayed on any street furniture or any other location without the licence holder first obtaining written consent from the highway authority or any other relevant authority.

2.15 Only those goods specified on the Street Trading Licence may be sold from the Licensed street trading pitch and traders shall be limited to the group of goods listed on the licence.

2.16 No advertisement shall be displayed on the licensed pitch, which relates to any goods, commodities or services other than the goods offered for sale or provided on that pitch.

2.17 Licensed street trading may only take place on the days and during the times specified on the Street Trading Licence.

2.18 Traders or their assistants shall remove their receptacles and commodities by the closing time stated on the Street Trading Licence.

2.19 Except where specifically authorised by an Authorised Officer, no receptacle shall be left in the street after the closing time stated on the Street Trading Licence.

2.20 Vehicles are not permitted into the street trading area when prohibited by a road traffic Order.

2.21 Nothing in this section permits or purports to permit a trader to contravene the terms of any parking restriction or order that applies to the street in question.

2.22 The dimensions of a licensed street trading pitch shall be such that a minimum of 2.0 metres clear of any obstruction shall be maintained on the public highway for the safe pass, re-pass and free flow of pedestrian and vehicular traffic.

2.23 Barriers will only be allowed on a licensed pitch where they have been specifically included and permitted within the licence application process. Barriers are only permitted to enclose the outer perimeter of the pitch or to enclose the outer perimeter of a seating area within the pitch (or, in the case of markets, any other such area as agreed with the licensing authority)

2.24 Any barrier erected on a pitch should be constructed of posts joined by textile panels. All such barriers should stand on the ground and be removable. All feet and supports should be within the defined pitch area.

2.25 No street trading will take place beyond the hours of 07:00 to 23:00

2.26 Excessive and inappropriate lighting is not allowed, as determined by an authorised officer

2.27 No hot food shall be cooked in an open and unenclosed area.

2.28 If food is sold at the street trading pitch, then the trader must ensure they comply with the Food Safety and Hygiene (England) Regulations 2013 and the Food Information Regulations 2014.

2.29 No goods should be sold if the cooking odours, smoke, or noise from them cause an inappropriate nuisance to persons and businesses in the vicinity, as determined by an authorised officer.

REFUSE

3.1 It shall be the Trader's responsibility to ensure that all litter and waste generated by their street trading activity is moved to a place from where it will be collected for transport to an authorised place of disposal. This may be by storage in suitable containers within the licensed street trading pitch until its collection by an authorised collector of waste.

3.2 The trader shall keep the pitch area (and its environs up to 5 metres in any direction from the pitch) clean and swept free of any remaining debris throughout the street trading day. In particular it shall be the duty of every trader to pick up all litter, debris, packaging and detritus that has been produced in the course of street trading or could reasonably be assumed to have been so produced or from any other source.

3.3 Where relevant, traders are required to have in place a commercial waste agreement with a registered carrier of waste. Any commercial waste agreement shall be sufficient in quantity and frequency of collection to cover all the waste produced by the trader at the street trading pitch or in the market environs as a result of street trading.

3.4 Any refuse considered by law to be an animal by-product shall be stored in an approved sealable container. For these purposes animal by product from a market stall shall include all waste water or water contaminated with material of animal origin or blood or other like fluid and no such liquid shall be allowed to drain onto the street or into the public street drainage system. All such refuse shall be stored and disposed of in accordance with the relevant legal requirements.

3.5 Traders shall keep waste 'Duty of Care' transfer notes or any such proof of proper disposal of commercial waste as may be required by law. All proof of proper disposal should be

available for inspection at the street trading licensed pitch during trading day for inspection by Authorised Officers upon request. Obtaining of any such proof shall be the absolute liability of the Trader irrespective of the body or company removing the waste.

DISPLAY OF LICENCE

4.1 A copy of the street trading licence must be kept on the premises and produced to an authorised officer or police officer immediately upon request indicating: the trader's name, names of assistants, commodity, licence number, licensed street trading pitch, Street Trading Licence issue date and expiry date. This licence shall include the trader's photograph and those of the assistants registered to trade on the street trading licence pitch with the London Borough of Barnet. This information (save for the photographs) shall also be supplied in writing immediately to any person who requests it.

SAFETY OF EQUIPMENT

5.1 Prior to using any electrical equipment on a licensed street trading pitch permission must be sought in writing from the London Borough of Barnet.

5.2 Electrical equipment must be tested annually by a suitably qualified electrician. Traders will be required to retain and produce the original safety certificate for electrical equipment approved for use on the stall to an authorised officer of the London Borough of Barnet on request. All equipment will require a safety tag to be displayed recording that the equipment has passed the necessary test and the date on which it was last tested.

5.3 All traders using an electric supply must have consent from the London Borough of Barnet before seeking installation from an electricity supplier. Where relevant, the trader and the supplier will be required to provide the London Borough of Barnet with an indemnity for the safety of the supply of electricity.

5.4 Traders will disconnect from the supply when directed to do so by an authorised officer of the London Borough of Barnet.

5.5 Where mobile electrical generators are used their use and position must be approved by the London Borough of Barnet. They shall be so positioned as to ensure that:

5.5.1 They do not present a danger to the passing public.

5.5.2 They do not present a fire or similar hazard risk to the stall or goods displayed thereon.

5.5.3 They do not cause any noise or fume nuisance.

5.5.4 Any inflammable fuel is stored away from the stall in a London Fire Authority approved location and an approved container.

5.5.5 A generator shall be turned off at the request of an authorised London Borough of Barnet officer or police officer.

5.6 A Trader must not tamper with, or use an electricity supply of the London Borough of Barnet without payment. Any trader causing damage to any London Borough of Barnet installation or equipment will be required to pay the full cost of any repair or replacement. Any trader responsible for such acts may be subject to a separate prosecution or civil proceedings.

RECEPTACLES

6.1 Receptacles shall be easily and immediately assembled and removed. The London Borough of Barnet reserves the right to inspect receptacles for health and safety compliance and to ensure that they are fit for purpose. Any receptacle deemed to present a risk or hazard shall be immediately removed at the request of an authorised officer of the London Borough of Barnet. It shall be and shall remain the responsibility and liability of the Trader to ensure that any receptacle is safe in its construction, siting, erection and use and will not cause injury to any person.

6.2 Traders or their assistants shall remove the receptacles and commodities for so long as may be necessary in the event of extreme circumstances and when required to do so by a police officer or an authorised officer of the London Borough of Barnet.

6.3 All receptacles shall be of an approved type and shall be kept in clean condition and good repair. A receptacle shall be repaired or repainted within one month of a written request from an authorised officer of the London Borough of Barnet.

6.4 A Trader shall ensure that until such time as a receptacle that is unsafe or becomes unfit for purpose or beyond repair in the opinion of an authorised officer of the London Borough of Barnet is replaced with one fit for purpose.

6.5 Only those receptacles and containers which are suitable and fit for purpose and approved by the London Borough of Barnet shall be used by the licence holder and assistants for trading. Displays shall not be formed by the use of unsuitable items such as milk crates.

6.6 A display, receptacle, table or chair shall not be used if it is likely to damage the street.

6.7 The display/stand must be of a construction that will cause minimal damage if there is a collision. There must be no sharp edges or protruding parts.

6.8 Well-designed high quality finish styled appropriately for the street they are placed on

CONDUCT

7.1 A licensed street trader and any assistants employed by them shall ensure that all members of the community are fairly treated and with courtesy and respect. Traders and their assistants shall not use any form of racist, sexist, homophobic or abusive language or display any materials that can cause offence to a person's race, religion or sexual orientation. Traders must not behave in an aggressive manner or commit any acts of aggression or harassment (whether racial, sexual or otherwise) against any person.

7.2 In order to protect the community, any trader or assistant who commits one of the offences listed below will be liable for immediate suspension of their Street Trading Licence whilst the

matter is investigated and until the London Borough of Barnet determines if their licence should be permanently revoked:

- Possession or supply of any controlled drugs,
- Supply of counterfeit goods or offensive weapons,
- Sale and supply of alcohol unless permitted by licence.
- Trading under the influence of drugs or alcohol.

7.3 All licensed street traders shall produce their Street Trading Licence when requested to do so by an Authorised Officer of the London Borough of Barnet or police officer.

7.4 Traders shall not use or permit another person to use on the licensed street trading pitch or within the immediate vicinity any equipment or apparatus to produce music or other similar sound, except in connection with the sale of their commodity and then either through ear phones or at a volume level that allows a face to face conversation at normal speech level from the traders stall. Any Trader must reduce the level of sound from any device when required to do so by an authorised officer.

7.5 There shall be no continuous playing of amplified music other than for the purposes in the paragraph above.

INSURANCE

8.1 The licensed street trader shall indemnify the London Borough of Barnet against all actions, proceedings, claims demands and liability which may at any time be taken, made or incurred in consequence of the use or presence of the trader, their assistant, their stall, receptacle or goods and any other object or thing they bring with them or produce in the course of their business and for this purpose must take out at the traders expense a policy of public liability insurance approved by the London Borough of Barnet in the minimum sum of £2,000,000 (2 million pounds) in respect of any one event and must produce to the London Borough of Barnet on request the current receipts for the premium payment and confirmation of the renewals of the policy. The London Borough of Barnet reserves the right to vary this amount from time to time and to notify traders of any increase required by letter. A copy of the certificate of insurance shall be handed to the London Borough of Barnet on request.

8.2 Satisfactory evidence of such insurance must be produced to the London Borough of Barnet before a Street Trading Licence will be granted or renewed. Failure to produce insurance certificates when requested by an Authorised Officer of the London Borough of Barnet will lead to temporary suspension from trading until the certificate is produced and the London Borough of Barnet is satisfied with the level of cover.

8.3 The London Borough of Barnet reserves the right to contact insurance companies for the purposes of verifying the authenticity of the cover. Any trader who does not have full insurance for the period specified within their licence and for the value stated by the London Borough of Barnet will be suspended from trading until suitable insurance is in place and the cover note or policy presented to the London Borough of Barnet.

8.4 Traders must inform the London Borough of Barnet in writing and provide an updated copy of the certificate of insurance where there are any changes to their insurance cover. The London Borough of Barnet may use the information provided to contact the trader's insurer to

confirm the details of any policy held or purported to be held and the applicable level of cover and indemnity provided.

STORAGE

9.1 Traders in foodstuffs shall notify the London Borough of Barnet in writing of any change of address or addresses at which the receptacle and any commodities are stored. Such notice shall be given within 7 days of the change and the London Borough of Barnet reserves the right to conduct an inspection to confirm occupancy and to ensure the storage space is compliant with relevant standards.

EMPLOYED ASSISTANTS

10.1 Traders shall notify the London Borough of Barnet in writing on the relevant forms of the name, address and national insurance number of each and every assistant who assists with sales on the licensed street trading pitch. Details of any subsequent change of assistant or any other relevant information regarding assistants shall be given in writing to the London Borough of Barnet.

10.2 The licence holder shall provide the London Borough of Barnet with details of all assistants who may work on the licensed street trading pitch whether the trader is present or not.

10.3 A licensed street trader shall not employ a child in any capacity in the course of his trade or business.

10.4 The licensed trader may employ any other person to assist in the conduct of the business but may not let, assign or part with his interest or possession under this licence, but he may surrender it at any time. The right granted by this licence cannot be sub-let transferred or shared with any other person or party.

10.5 Traders shall notify the London Borough of Barnet of any changes of assistants as soon as the changes occur.

10.6 Any contravention of these regulations by an assistant shall be deemed to be a contravention by the trader whether the trader was present at the time of the contravention or not.

ASSISTANCE TO LONDON BOROUGH OF BARNET OFFICERS

11.1 A trader shall give immediate assistance to London Borough of Barnet officers when requested so to do in the exercise of their official duties.

11.2 A trader shall not use rude or offensive language or behave in an aggressive manner when dealing with any agent, officer or elected member of the London Borough of Barnet.

PAYMENT OF CHARGES

12.1 A Trader shall pay all charges in connection with street trading to the London Borough of Barnet, on the dates and intervals advised by the London Borough of Barnet upon the issue

and/or renewal of the street trading licence and in the manner agreed as appropriate for payment by the London Borough of Barnet.

13 CHANGE OF ADDRESS AND CIRCUMSTANCES

13.1 A trader shall give notice in writing to the London Borough of Barnet of the change of any of the addresses and circumstances including the trader's health. Notice of a change of address shall be given within seven days of the said change. Proof of new address will need to be submitted to the London Borough of Barnet. The London Borough of Barnet reserves the right to conduct a home visit to confirm occupancy.

14 PITCH AREA

14.1 The trading area shall not exceed the agreed dimensions specified within the licence; except solely in connection with the setting up or taking down of the stall and other equipment.

14.2 No goods or other articles whatsoever shall project beyond or be placed alongside or around the extremities of the agreed trading area. The trader shall immediately remove items placed outside the licensed area if requested to do so by an authorised officer of the London Borough of Barnet.

14.3 No patio heaters or other CO2 emitting heaters are permitted in the licensed area.

14.4 Any awnings sheets, covers, screens, clips and ties need to be secured in a manner that they do not pose a hazard or nuisance to any person. No part of an awning may be less than 2.6 metres from the ground or project into the carriageway without prior approval. No items may be affixed to it.

14.5 Paper goods must be secured so that they do not blow away.

14.6 Ashtray units allowing for the secure disposal of butts shall be present at all premises licensed for tables and chairs.

14.7 The licence holder shall ensure that customers using the tables and chairs do not cause any nuisance whatsoever to residents, other businesses or persons using the highway.

VEHICLES

15.1 The trader shall not leave his vehicle in the street in which he trades apart from approved parking spaces upon full payment of any relevant fee. Where permitted loading and unloading of goods shall be carried out as quickly as possible with the vehicle moved immediately on completion.

15.2 A licensed trader shall not permit vehicles used in connection with his licensed pitch to be in the vicinity of the trading area for loading/unloading or other purposes during trading hours.

SHOP FRONT LICENCES

The Regulations below shall apply to Tables and Chairs and shop front display Licences only in addition to the preceding conditions:

16.1 Only those items sold in the shop premises to which the street trading area is adjacent to can be sold under the 'shop front licence'.

16.2 Only those services provided within the premises can be provided in the licensed area where a licence permits tables and chairs to be placed on the street.

16.3 Alcohol shall not be consumed in the licensed street trading pitch unless the plan attached to the premises licence issued under the Licensing Act 2003 includes the licensed street trading pitch.

APPENDIX 3 PROHIBITED ITEMS

The following are prohibited to be sold as part of a street trading licence:

- Live animals
- Second hand electrical goods
- Sex articles
- Medicines or treatments
- Alcohol (unless consumption in a shop front licence adjacent to a licensed premises and covered by the premises licence or as part of a street market with a relevant authorisation for alcohol sales)
- Cigarettes or tobacco
- Any form of gambling
- Firearms

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**London Borough of Barnet
Licensing Work Programme -
2021**

Contact: governanceservice@barnet.gov.uk

Title of Report	Overview of decision	Report Of (<i>officer</i>)	Issue Type (Non key/Key/Urgent)
Date to be confirmed			
Dog Walkers Update	It was agreed at the meeting on 10 February 2021, that an update be submitted to the next meeting, on dog walkers.	Director of Assurance	Non-key
November 21			
Proposed revised gambling policy	For approval.	Director of Assurance	Key
Proposed revised special treatment policy	For approval.	Director of Assurance	Key