

MEETING

LICENSING COMMITTEE

DATE AND TIME

WEDNESDAY 10TH NOVEMBER, 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 5 November 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 Question and Comment (if any)	
6.	Members Item (if any)	
7.	Revised Gambling Statement of Principles (Policy)	9 - 58
8.	Special Treatment Licensing Policy	59 - 88
9.	Licensing Committee report on walker of multiple dogs To follow.	
10.	Forward Work Programme	89 - 90
11.	Any item(s) that the Chairman decides is urgent	

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Decisions of the Licensing Committee

12 July 2021

Members Present:-

AGENDA ITEM 1

Councillor John Marshall (Chairman)

Councillor John Hart (Vice-Chairman)

Councillor Linda Freedman
Councillor Val Duschinsky
Councillor Lachhya Gurung
Councillor Wendy Prentice
Councillor Claire Farrier

Councillor Zakia Zubairi
Councillor Barry Rawlings
Councillor Danny Rich
Councillor Gabriel Rozenberg
Councillor Nick Mearing-Smith

1. CHAIRMAN'S INTRODUCTION

The Chairman welcomed everyone to the meeting and explained why the report previously requested of Dog Walkers was not on the agenda.

The Chairman explained that he would give Members the opportunity to discuss this matter, under the Work Programme.

2. MINUTES

RESOLVED that the minutes of the meeting held on 10 February 2021 be agreed as a correct record.

3. ABSENCE OF MEMBERS

None.

4. DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS

None.

5. REPORT OF THE MONITORING OFFICER (IF ANY)

None.

6. PUBLIC QUESTION AND COMMENT (IF ANY)

None.

7. MEMBERS ITEM (IF ANY)

None.

8. PROPOSED ADOPTION OF SCRAP METAL DEALERS POLICY

The Committee received the report.

RESOLVED unanimously that the policy detailed in Appendix 1 of the report be approved.

9. ANIMAL WELFARE LICENSING POLICY

The Committee received the report.

Members discussed issues relating to duty of care and the importance of emphasising this when the policy is advertised.

RESOLVED unanimously that the policy, as detailed in Appendix 1 of the report, be approved.

10. INTRODUCTION OF SPECIAL TREATMENT LICENSING POLICY

The Committee received the report.

Members expressed concern about some of the treatments, such as waxing, that appeared to be missing from the policy. Officers confirmed that such treatments would fall in the 'other' category and asked Members to contact them with any specific concerns.

RESOLVED unanimously that the Licensing Team be authorised to commence a 6 week consultation on the draft policy for special treatment Licensing.

11. GAMBLING POLICY

The Committee received the report.

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

12. PROPOSED ADOPTION OF THE STREET TRADING LICENCE POLICY

The Committee received the report.

RESOLVED unanimously that the policy, as detailed in Appendix 1 of the report, be approved.

13. FORWARD WORK PROGRAMME

The Committee received the report.

With regard to Dog Walkers, the Chairman gave Members the opportunity to convey their concerns, in order for a report to be submitted by Officers to the next meeting of this Committee, having looked at legislation and Barnet specific issues, with a view to making appropriate recommendations.

RESOLVED that

1. The Work Programme be noted;
2. A report back on Dog Walkers be submitted to the next meeting of the Committee.

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

None.

The meeting finished at 7.38pm

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Licensing Committee

10th November 2021

Title	Revised Gambling Statement of Principles (Policy)
Report of	Director of Assurance
Wards	All
Status	Public
Urgent	No
Key	No
Enclosures	Appendix 1 – 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 revised Gambling Act Statement of Principles (Policy) which, if approved by the committee, will come into effect on Friday 28th January 2022

Officer Recommendations

The Committee is requested to:

1. Approve the proposed policy in Appendix 1; and
2. Recommend that this policy be adopted at the next full meeting of the Council.

1 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 consultation was undertaken on whether to adopt the Council’s draft Gambling Statement of Principles. This took place between 12th August 2021 and concludes 24th September 2021. Information on this consultation can be found in paragraph 5.9.
- 1.8 One response has been received.

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.
- 2.2 This report confirms the outcome of the public consultation on the Council’s Gambling Act 2005 Statement of Principles policy (as amended 2021).

3 ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 There are no alternative options. 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 Committee are being asked to recommend that the Policy be adopted at the next meeting of the full Council to come into effect in Friday 28th January 2022.

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 Regional Enterprise, 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 by the Licensing Authority there is always a risk of an appeal. However, making consistent decisions in line with agreed policies, guidance and procedures minimises this risk.

- 5.2.3 There are no financial implications of the proposed action.

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 Section 349 of the Gambling Act 2005 requires a licensing authority to prepare and publish a statement of the principles that it proposes to apply in exercising its functions under the Act, and the licensing authority is expected to review this from time to time (and amend it if necessary), ensuring that it is reviewed and published at least before the end of each successive three-year period.

- 5.3.3 Where there are any proposed changes to the statement of principles, section 349 of the Act also sets out who the Council should consult with:

- the chief officer of police for the authority's area, or
- one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area, and

- 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 Act.

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." As such, the approval of this policy is a non-executive function reserved to full Council as set out in the Council's Constitution.

5.3.5 There are no direct Human Rights Act or other implications anticipated.

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.

5.7.3 In consideration of the section 149 duty, an equalities impact assessment has been completed and the conclusions are that there are no adverse or negative impacts on any of the protected groups.

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

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 The Statement of Principles was consulted upon with all relevant stakeholders for a period of 6 weeks. All replies have been taken into account and the Statement of Principles, revised as necessary, is put before the Committee for final approval at this meeting (10th 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.

Appendix 1 Proposed Licensing Policy

Appendix 2 Consultation responses

The consultation process started on 12th August 2021 and concluded on Friday 24th September 2021. The below responses were those that were received by all necessary parties.

Consultee	Comments	Response
Betting and Gaming Council (BGC) - representatives	Paragraph 10.3.3 should be redrafted to remove the sentence which suggests that a policy may be adopted regarding areas where gambling should not be located. Any such policy is likely to be unlawful and is certainly contrary to the s153 “aim to permit” principle detailed in paragraph 10.1.4.	This authority does not currently intend to impose a policy which will restrict gambling establishments, however, given that the Gambling Act is currently under review this gambling statement remains open to the possibility of change. Therefore, the reference has been changed to state “should a policy be lawfully decided upon” then this gambling statement is able to be amended.
Betting and Gaming Council (BGC) - representatives	Paragraph 10.4.2 should be redrafted so that it is clear that it is not the application that requires an explanation of how the proposals will not exacerbate any problems to individuals or ASB in the vicinity. This is a matter for the local area risk assessment in which an applicant will identify risks posed by the provision of the gambling facilities proposed and detail policies, procedures and control measures in place to mitigate the risk as, indeed, is recognised in the following paragraph.	This paragraph has been amended to: “Where paragraph 10.4.1 applies this Authority will expect applicants to fully explain in their local area risk assessment, which is attached to their application, how their proposal will not exacerbate any problems to individuals living in the vicinity, or exacerbate any ASB problems within the vicinity generally”
Betting and Gaming Council (BGC) - representatives	The list of bullet points contained within paragraph 10.5.6 should also be redrafted to delete matters that are not relevant to any assessment of risk to the licensing objectives. SR Code Provisions 10.1.1 and 10.2.2 provide for “relevant matters identified in the licensing authority’s statement of licensing policy” to be taken into account. The list of bullet points	This authority upholds that the matters referred to in this paragraph are relevant to the licensing objectives. If on an individual basis an operator believes that in their case a particular matter is not relevant, they should indicate

	<p>detailing examples of matters that the licensing authority expects to be considered needs therefore only to reflect matters that are relevant to the licensing objectives. For example, issues relating to youths participating in anti-social behaviour, drug dealing, graffiti/tagging or underage drinking have no bearing whatsoever on any assessment of risk to the licensing objectives posed by the provision of gambling facilities. Similarly, “gaming trends that may mirror days for financial payments such as pay days or benefit payments” can only be relevant to an assessment of risk to the licensing objectives if the authority’s view is that anyone in receipt of benefits or indeed paid employment is deemed vulnerable or likely to commit crime as a result of gambling. This cannot be correct and references to any issue that is not relevant to the licensing objectives should be removed</p>	<p>this in their Local Risk Assessment.</p> <p>Also, these are provided as examples for applicants rather than an authoritative list. Each application should be completed based on its own local assessment.</p>
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London Borough of Barnet

Statement of Principles

Gambling Act 2005

2022 - 2024

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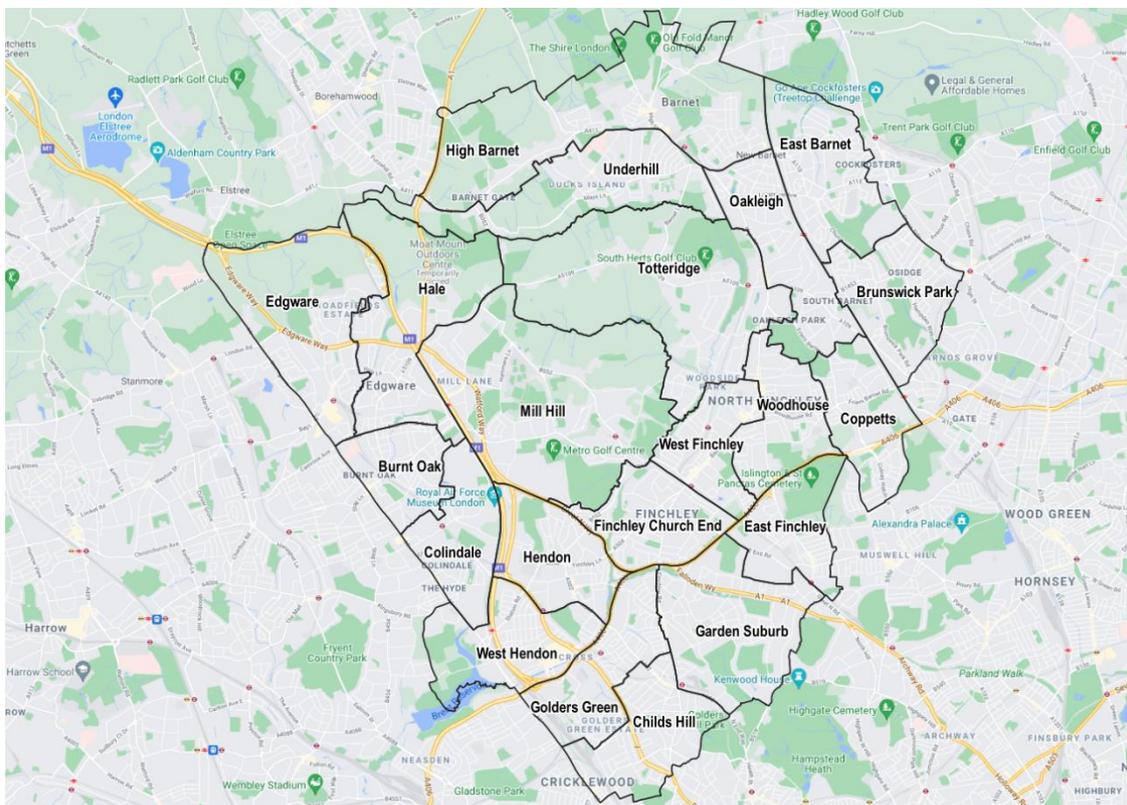
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1. INTRODUCTION

- 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 25th January 2022 and will come into effect on Friday 28th 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.

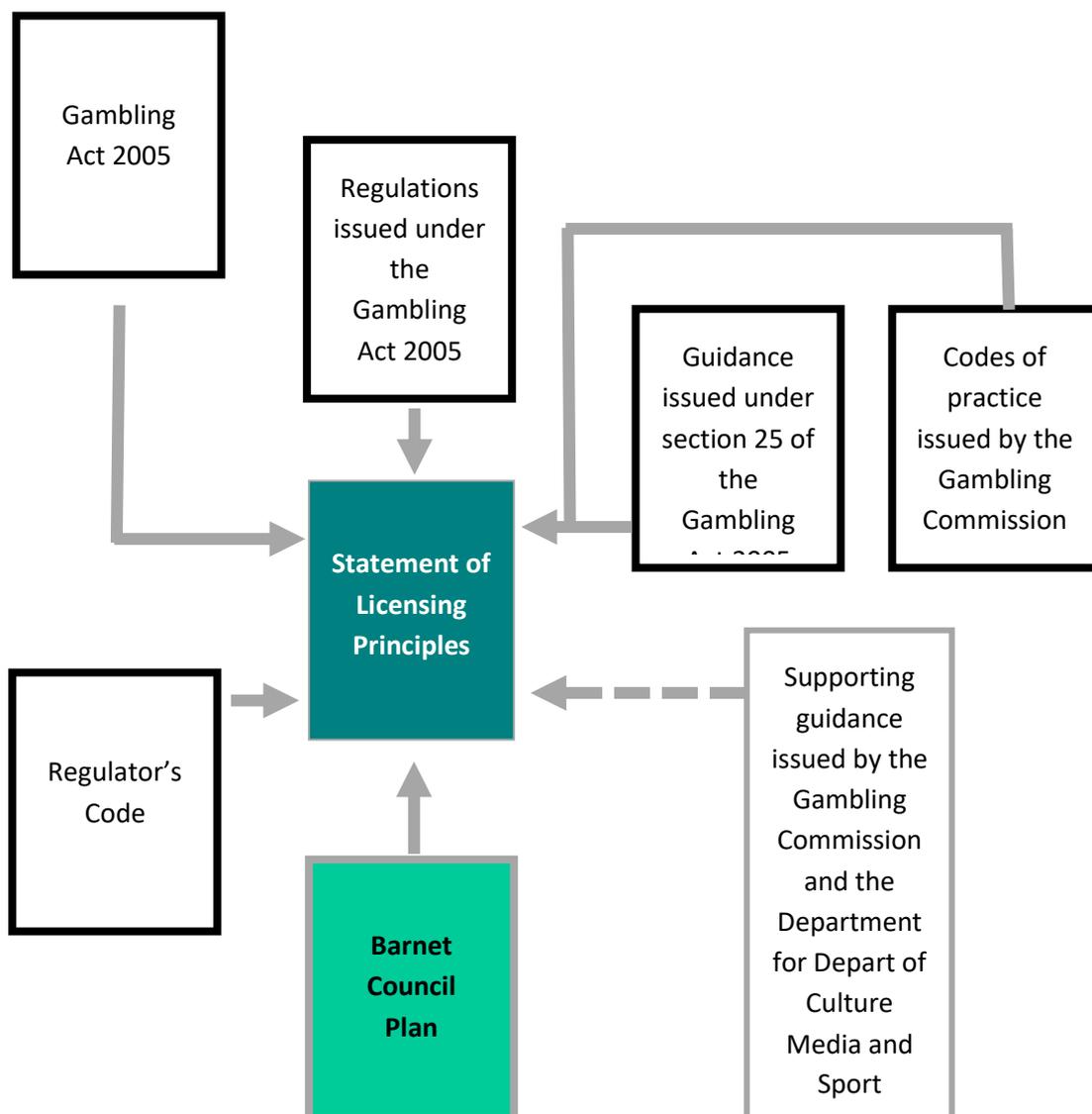
The Gambling Act 2005 is available at:

<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 lawfully 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 within their local area risk assessment, which is attached to their application, 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 any particular 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 any particular 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 nor 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 anybody 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

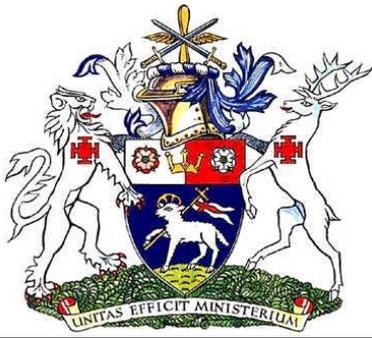
21. COMMENCEMENT AND REVIEW

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

10th November 2021

Title	Special Treatment Licensing Policy
Report of	Executive 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 Special Treatments Licences which, if approved by the committee will take effect on 1st January 2022.

Officer Recommendations

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

1. 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.
 - Etc.
- 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.
- 1.6 A consultation was undertaken on whether to adopt the council's draft Special treatment licensing policy this took place between 12th August 2021 and concludes 24th September 2021.
- 1.7 No consultation responses were received therefore there were no amendments made to the Special Treatments Policy that was before the committee on 12th July 2021.

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.

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 Committee are being asked to adopt the Policy
- 4.2 If approved, this Policy will come into effect on 1st January 2022.

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 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 No replies have been received.

6 BACKGROUND PAPERS

6.1 None

Appendix 1 Proposed Licensing Policy

Appendix 2 Consultation responses

The consultation process started on 12th August 2021 and will conclude on 24th September 2021. No responses were received.

Consultee	Comments	Response

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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
- take appropriate enforcement when special treatment licence holders are 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. An applicant who has obtained an international qualification, which is not generally recognised in the UK, must complete two stages before obtaining a special treatments licence

- a) If the certificate of qualification is in a language other than English there must be a full translation into English. This must be undertaken by an independent licensed translator and must be endorsed as a true translation of the certificate.
- b) Once the qualification has been translated into English the applicant must obtain a comparability certificate. This will state what qualification it 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. Those applicants, who are exempt from providing their qualifications as a therapist with Barnet, 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 may set 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 such as HM Revenue & Customs
- (c) 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 operated

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**London Borough of Barnet
Licensing Work Programme -
2021/22**

Contact: governanceservice@barnet.gov.uk

Title of Report	Overview of decision	Report Of (<i>officer</i>)	Issue Type (Non key/Key/Urgent)
16 February 2022			
Commercial Dog Walking Licensing Regime	Commercial Dog Walking Licensing' regime – to be prepared for the Licensing Committee scheduled for 16 February 2022 (subject to agreement of 10 November 2021 meeting)	Director of Assurance	key