

**MEETING**

**LICENSING COMMITTEE**

**DATE AND TIME**

**MONDAY 26 NOVEMBER, 2012**

**AT 7.00 PM**

**VENUE**

**HENDON TOWN HALL, THE BURROUGHS, NW4 4BG**

**TO: MEMBERS OF LICENSING COMMITTEE (Quorum 3)**

Chairman: Councillor Andreas Tambourides  
Vice Chairman: Councillor Lisa Rutter

**Councillors**

Maureen Braun	John Hart	Agnes Slocombe
Alison Cornelius	Andreas Ioannidis	Ansuya Sodha
Claire Farrier	Wendy Prentice	

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

**Aysen Giritli – Head of Governance**

Governance Services contact: Maria Lugangira 020 8359 2761

Media Relations contact: Sue Cocker 020 8359 7039

**CORPORATE GOVERNANCE DIRECTORATE**

## ORDER OF BUSINESS

Item No	Title of Report	Pages
1.	Minutes	
2.	Absence of Members	
3.	Declaration of Members' Personal and Prejudicial Interests	
4.	Public Questions Time (if any)	
5.	Members' Items (if any)	
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<b>Meeting</b>	Licensing Committee
<b>Date</b>	26 November 2012
<b>Subject</b>	<b>Film Classification Policy</b>
<b>Report of</b>	Interim Director of Environment, Planning and Regeneration
<b>Summary</b>	Responsibility for film classification has recently been moved to the licensing committee. This is a report on the proposed new film classification policy

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Officer Contributors	Emma Phasey – Trading Standards & Licensing Manager
Status (public or exempt)	Public
Wards Affected	All
Key Decision	No
Reason for urgency / exemption from call-in	Not Applicable
Function of	Council
Enclosures	Appendix 1 – Draft film classification policy Appendix 2 – Consultation document
Contact for Further Information:	Emma Phasey Trading Standards and Licensing Manager <a href="mailto:Emma.phasey@barnet.gov.uk">Emma.phasey@barnet.gov.uk</a>

## **1. RECOMMENDATIONS**

- 1.1 That the draft film classification policy be approved for consultation and that the Officers be instructed to report to the next licensing committee meeting on the outcome for recommendation to Council.**

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 Decision by Council on 17<sup>th</sup> April 2012 to move responsibility for this area to the licensing committee

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 The classification of films will support objectives contained within the corporate plan. In particular in relation to a “successful London suburb” as being able to classify films for performance at local small film festivals can contribute to the economic, cultural, environmental and social well being of the borough.

## **4. RISK MANAGEMENT ISSUES**

- 4.1 Currently the council has no formal detailed policy in relation to film classification.
- 4.2 The lack of a sound policy or the adoption of an unsound policy may result in poor decisions being taken and could cause difficulty to businesses and residents. This would leave the authority open to challenge by way of Judicial Review in relation to the policy and/or appeal of a Licensing Committee decision to the Magistrates’ Court. This would adversely affect the Councils reputation.

## **5. EQUALITIES AND DIVERSITY ISSUES**

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

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

- 6.1 Administration will be carried out by the Licensing team, together with support from Legal Services and from Governance Services, when arranging and co-ordinating arrangements for hearings
- 6.2 There are currently no fees set for this area. These will be established and set in the next few months.
- 6.3 Any expenditure will be contained within the Environment, Planning and Regeneration budgets.

## **7. LEGAL ISSUES**

- 7.1 To ensure consistency in decision making an agreed sound policy is needed.

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

- 8.1 Constitution Part 3, Section 2, details the functions of the Licensing Committee including film classification

## **9. BACKGROUND INFORMATION**

- 9.1 The public exhibition of all films on licensed premises must either be classified by the British Board Film Classification (BBFC) or authorised by the Licensing Authority under the powers of the Licensing Act 2003.
- 9.2 It is usual for most films to be released across the country and therefore be classified by the BBFC.
- 9.3 However where a local film festival is taking place showing films that are not on general release in the United Kingdom, they can apply to the local authority for that area to authorise/classify the film. This is usually a cheaper and quicker option than the BBFC and therefore allows small scale film festivals to take place which otherwise it would be cost prohibitive to do so.
- 9.4 Furthermore if a film distributor believes a film has been classified incorrectly they can apply to the local authority for the area they wish to show the film in for a reclassification
- 9.5 The London Borough of Barnet is a culturally diverse borough and therefore being able to classify films and encourage small scale film festivals is beneficial to the whole borough.
- 9.6 The responsibility for film classification moved to the Licensing Committee earlier in the year. However there is currently no policy in place in relation to this.

- 9.7 The proposed policy for agreement prior to formal consultation can be found in Appendix 1.
- 9.8 If approved by the Committee, the policy will be submitted for consultation with all relevant stakeholders during the next 12 weeks, in accordance with best practice. All replies will be taken into account and the policy, revised as necessary, will be submitted to this Committee for final approval at its next meeting. The Committee will then be asked to recommend that the Statement of Principles be adopted at the meeting of the full Council in January 2013.
- 9.9 The policy may be changed at any time after adoption (after further consultation), and will be regularly reviewed.
- 9.10 The consultation document must be sent to the Police, any local trade associations, and residents groups. It will also be sent to all members.
- 9.11 In so far as possible, the consultation document will be emailed to the relevant consultees, or a hard copy sent, where this is not appropriate. All of the consultation documents will also be published on the Council's website.
- 9.11 A specific consultation response document has also been produced. This can be found in Appendix 2 and this will be sent out with the consultation.

## **10. LIST OF BACKGROUND PAPERS**

<b>Cleared by Finance (Officer's initials)</b>	<b>JH</b>
<b>Cleared by Legal (Officer's initials)</b>	<b>BH</b>

# **APPENDIX 1**

## **POLICY FOR DETERMINING FILM CLASSIFICATIONS**

### **1. Introduction**

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

### **2. Definitions**

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

### **3. Circumstances the Licensing authority may classify a film**

- 3.1 The Licensing Authority may be requested to authorise the showing of an unclassified film(s) within the London Borough of Barnet. Usually this will be for:
  - A film festival covering a specific period of time
  - A one off screening of a film
  - A trailer for a film
- 3.2 The Licensing Authority may also be requested to authorise a film that has already been classified by the British Board of Film Classification (BBFC) when:
  - (a) a distributor of a film wishes to appeal against the decision of the BBFC and request that the Licensing Authority reclassifies/authorises the film for local screening (with recommendations on age restrictions); or
  - (b) An independent party may request that the Licensing Authority reclassifies/ authorises the film for local screening (with recommendations on age restrictions)

#### **4. Submission of film**

- 4.1 Applications for authorisation of films shall be referred to and determined by the Licensing Sub Committee on behalf of the Licensing Authority.
- 4.2 Applications should be submitted to the Licensing Authority with a minimum of **28 days** before the proposed screening.
- 4.3 An application for authorisation should include the following information:
1. the name of the film maker;
  2. A brief synopsis of the film
  3. any recommendation as may have been made by the film maker upon age limit for the intended audience for exhibition of the film;
  4. any existing classification issued by an existing classification body, whether within or outside the UK;
  5. information identifying the material within the film considered by the exhibitor to be likely to have a bearing on the age limit for the audience for exhibition of the film.
  6. the language spoken in the film and whether there are subtitles in English.
  7. details of how any age restrictions will be enforced.
- 4.4 All requests shall be accompanied by the film(s) where possible in DVD format to avoid delays, the cost to be borne by the applicant. If DVD format is not possible then arrangements will be made for a suitable venue to view the film.
- 4.5 If the film contains dialogue in a language other than English an interpreter will be required for the classification. The London Borough of Barnet will arrange for a suitable interpreter and the applicant will be responsible for the cost of this.
- 4.6 All requests must be accompanied by detailed reasons for the request.
- 4.7 Applicants must ensure that all material that is the subject of the application complies with the current interpretation of the Obscene Publications Act 1959, the Copyright Design and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence.

#### **5. Process**

- 5.1 Requests will be dealt with as expeditiously as possible as it is appreciated that films are generally only shown in cinemas for a relatively short period.
- 5.2 The Sub Committee will view the entire film and assess it against the BBFC guidelines and National Guidance.
- 5.3 The Chairman of the sub committee will have the final decision on the classification to be applied to the film.
- 5.4 The Sub Committee shall issue a Notice of Determination of the authorisation within 5 working days from the date of viewing.



5.5 The Licensing Authority will formally advise the applicant and the licence holder of any recommendation(s) restricting the admission of children to the film(s).

5.6 Where the Licensing Authority has determined to refuse authorisation of a film clear and concise reasons shall be given

## **6. Classification**

6.1 The BBFC classifies films in accordance with published Guidelines, which are based on extensive research into public opinion and professional advice.

6.2 The National Guidance under Section 182 of the LA03 recommends that:  
*Licensing Authorities should not duplicate the BBFC's work by choosing to classify films themselves. The classifications recommended by the BBFC should be those normally applied unless there are very good local reasons for a Licensing Authority to adopt this role. Licensing Authorities should note that the provisions of the 2003 Act enable them to specify the Board in the licence or certificate and, in relation to individual films, to notify the holder or club that it will make a recommendation for that particular film*

6.3 The Licensing Authority considers the classification system used by the BBFC to be nationally understood and accepted. It will therefore use this system and any amendments thereto, as a reference point for determining its recommendation(s) on the restriction of access of children to the film(s). It should be noted however that the Licensing Authority is not obliged to follow these guidelines.

6.4 Where a licensed premises seeks to exhibit a film that has not been classified by the BBFC then it will be the responsibility of the Licensing Authority to authorise that film.

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

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

## **7. Protecting children from harm**

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

7.2 Paragraph 2.41 of the National Guidance states:  
*The protection of children from harm includes the protection of children from moral, psychological and physical harm and this would include the*

*protection of children from too early an exposure to strong language and sexual expletives, for example, in the context of film exhibitions or where adult entertainment is provided.*

- 7.3 In line with the National Guidance, where a film is recommended by the Licensing Authority as falling into an age restrictive category, no person under the age specified shall be admitted.
- 7.4 Where a film(s) is recommended by the Licensing Authority as falling into a category requiring any persons under a specified age to be accompanied by an adult, no person under the age specified shall be admitted unless accompanied by an adult.
- 7.5 In these circumstances, the licence holder will be required to display in a conspicuous position a notice clearly stating the relevant age restrictions and requirements. With regard to the wording of such Notices, the Licensing Authority shall have regard to National Guidance, e.g.:
- *Persons Under the Age Of [insert appropriate age] Cannot Be Admitted To Any Part of The Programme*
  - *Persons Under the Age Of [insert appropriate age] Can Only Be Admitted To The Programme If Accompanied By An Adult.*

## **8. Authorisation**

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

- 8.5 The Licensing Authority shall also not be liable for any material that has been created through the commission of a criminal offence. It is the responsibility of the applicant to ensure that no film or trailer contravenes the law

## **9. Exemptions**

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

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

**or:**

Its sole or main purpose is to:

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

**APPENDIX 2**

**London Borough of Barnet  
Film Classification Policy**

**FORMAL CONSULTATION: COMMENTS ON OUR DRAFT POLICY**

When you have completed this form please return to [licensingadmin@barnet.gov.uk](mailto:licensingadmin@barnet.gov.uk)  
or by letter, addressed to  
Emma Phasey, Trading Standards and Licensing Manager,  
London Borough of Barnet, Building 4,  
North London Business Park,  
Oakleigh Road South,  
London,  
N11 1NP

**Name:**

**Organisation or capacity (if applicable):**

**Address:**

**E-mail:**

**Telephone Number:**

**Paragraph No.  
COMMENTS**

**Paragraph No.  
COMMENTS**

Please add further rows if you wish

**In addition I wish to make the following general comments:**

***Declaration:***

***I am happy for this Response to be made public OR  
I do not wish this Response to be made public***

***Failure to complete the above Declaration will result in your Response being  
made public.***

Signature: ..... Date: .....

Name: ..... *(Please print)*

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Meeting	Licensing Committee
Date	26 November 2012
<b>Subject</b>	<b>Gambling Statement of Principles</b>
Report of	Interim Director of Environment, Planning and Regeneration
Summary	This is a report proposes that the draft Gambling Statement of Principles be approved by the Licensing Committee and that the Committee recommend it for adoption as policy by full Council, together with an affirmation of the resolution not to licence casinos in the borough.

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Officer Contributors	Emma Phasey – Trading Standards & Licensing Manager Michelle Rudland – Licensing Officer
Status (public or exempt)	Public
Wards Affected	All
Key Decision	No
Reason for urgency / exemption from call-in	Not Applicable
Function of	Council
Enclosures	Appendix 1 – Draft statement of principles Appendix 2 – Consultation document Appendix 3 – List of substantial deletion/insertions
Contact for Further Information:	Emma Phasey Trading Standards and Licensing Manager <a href="mailto:Emma.phasey@barnet.gov.uk">Emma.phasey@barnet.gov.uk</a>

## **1. RECOMMENDATIONS**

- 1.1 That the proposed Gambling Statement of Principles be approved by the Licensing Committee and recommended for adoption as policy by full Council in January 2013 so it can be published on or before 13 January 2013 in accordance with the Gambling Act 2005**
- 1.2 That the resolution not to license casinos be reaffirmed and recommended to full Council for adoption as policy.**

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 Decision on 15 December 2009 by council on recommendation of Licensing Committee, to adopt the current licensing policy and also that the resolution not to license casinos be reaffirmed and adopted as policy.
- 2.2 Decision of the Licensing Committee on 11 July 2012 to approve for consultation the draft Gambling Statement of Principles.

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 Under the Licensing Act 2003 there are three statutory objectives to be met through licensing:
  - (1) Preventing gambling from being a source of crime, being associated with crime or being used to support crime
  - (2) Ensuring that gambling is conducted in a fair and open way
  - (3) Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 3.2 The Gambling Statement of Principles will support objectives contained within the corporate plan. In particular in relation to a “successful London suburb” by providing for well regulated gambling within the borough.

## **4. RISK MANAGEMENT ISSUES**

- 4.1 Failure to review and adopt a Gambling Statement of Principles would be in breach of the legislative requirement of the Gambling Act 2005 and would mean that decisions of the Licensing Committee would not be valid.
- 4.2 The adoption of an unsound policy may result in poor licensing decisions being taken and could cause difficulty to businesses, residents and responsible authorities. This would leave the authority open to challenge by way of Judicial Review in relation to the Statement of Principles and/or appeal of a Licensing Committee decision to the Magistrates’ Court. This would adversely affect the Council’s reputation.

## **5. EQUALITIES AND DIVERSITY ISSUES**

- 5.1 The Council has a legal obligation to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different groups.
- 5.2 When considering gambling applications and representations, only issues provided for in the Gambling Act 2005 and associated Guidance, in addition to the licensing authority's Statement of Gambling Principles will be taken into account. This will ensure a consistent approach is adopted. Under the terms of the policy, every application will be considered on its own merits, regardless of the race, colour, nationality, ethnic origin, sex, marital status, disability or age of the individuals involved.
- 5.3 The community in Barnet has a richness of diversity with a broad range of cultural activities and entertainments. Applications will be dealt with in accordance with the Act. Guidance will only be issued and conditions will only be imposed that are reasonable, proportionate and strictly necessary for the promotion of the licensing objectives.

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

- 6.1 There are no resources implications of this report
- 6.2 The setting of fees is dealt with separately to the Statement of Principles and fees are reviewed every 12 months.

## **7. LEGAL ISSUES**

- 7.1 It is mandatory under the Gambling Act 2005 for the statement of principles to be reviewed and updated.

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

- 8.1 Constitution Part 3, Section 2, details the functions of the Licensing Committee including "all functions under the ...Gambling Act 2005, associated Regulations, not otherwise delegated to the Licensing Sub-Committee".
- 8.2 The statutory and regulatory provisions reserve to full Council the decision to approve the draft Gambling Statement of Principles and also to resolve whether to license casinos and it will therefore be necessary for the Committee to make a recommendation to the Council meeting on

December 2012 in order to meet the statutory deadline for publication which is January 2013.

## **9. BACKGROUND INFORMATION**

- 9.1 Under the Gambling Act 2005 the Council is the licensing authority for gambling premises in the Borough. The Act 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.
- 9.2 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.
- 9.3 There are currently 72 gambling premises licences in the borough.
- 9.4 The casino resolution lapses after three years and the local authority must therefore pass a new resolution by 14 January 2013. The proposed resolution is included in paragraph 10.10.1 of the draft Statement of Principles and has been included in the consultation.
- 9.5 At its meeting on 11 July 2012 the Licensing Committee instructed the Interim Director of Environment, Planning and Regeneration to consult with relevant persons and bodies on the reviewed statement of gambling principles.
- 9.6 The consultation document was sent to the Police, trade associations for gambling businesses, and residents groups. It was also sent to councillors, responsible authorities, sample gambling businesses in the area, faith groups, and voluntary organisations, community organisations working with children and young people and organisations working with problem gambling.
- 9.7 The draft Gambling Statement of Principles was subject to public consultation for 13 weeks ending on 23 October 2012. The consultation was available on the Council's web site, and was sent by email to statutory consultees, all Members and various other individuals and organisations. Comments were invited on any aspect of the Statement. The full list of consultees is contained in Appendix 2 of the draft Gambling Statement of Principles.



- 9.8 No responses were received in response to the consultation.
- 9.9 The Statement of Principles is attached at Appendix 2. There are no changes to the proposed Statement that was submitted at the July meeting.
- 9.10 If the Statement is approved, the Committee will recommend it for adoption by full Council In January 2013 before it is published on or before 14 January 2013 in accordance with the Gambling Act 2005.
- 9.11 The Statement may be changed at any time after adoption (after further consultation), and must be renewed at intervals of not less than three years.

**10. LIST OF BACKGROUND PAPERS**

- 10.1 Guidance to licensing authorities on the Gambling Act 2005 issued by the Gambling Commission, May 2009
- 10.2 Draft Guidance to licensing authorities on the Gambling Act 2005 issued by the Gambling Commission, 2012

<b>Cleared by Finance (Officer's initials)</b>	<b>JH</b>
<b>Cleared by Legal (Officer's initials)</b>	<b>BH</b>

**London Borough of Barnet**

**Statement of  
Principles**

**Gambling Act 2005**

**2013-2016**

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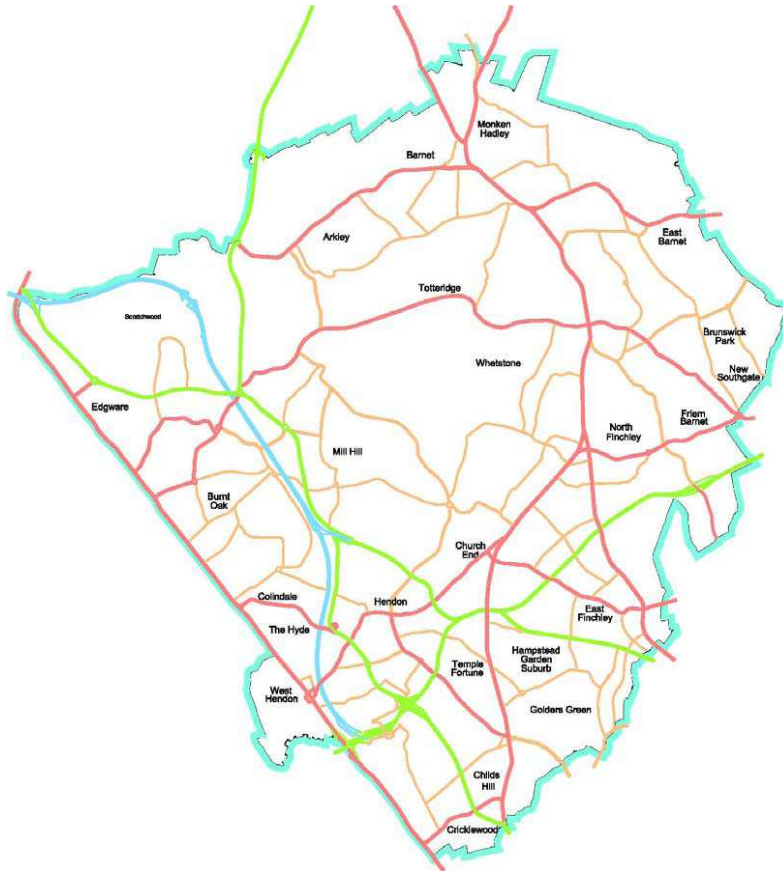
## 1. Introduction

- 1.1 The London Borough of Barnet here 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 2011 was projected to be 353,900, the largest population of the 32 London boroughs. In terms of area it is the fourth largest. 36% of the borough is undeveloped, being green belt (28%) and metropolitan open land (8%). The rest of the borough is made up of densely populated suburban areas, 20 town centres and the transport network. For more information of the demographics of the London Borough of Barnet please refer to the State of The Borough Report or 2011.

[http://www.barnet.gov.uk/downloads/download/352/state\\_of\\_the\\_borough\\_2011](http://www.barnet.gov.uk/downloads/download/352/state_of_the_borough_2011)

1.3 The Borough is shown in the map below and in detail at

<http://maps.barnet.gov.uk/>



1.4 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions under the Act. This statement must be published at least every three years and must also be reviewed from “time to time”. Any amendments must be consulted upon and the statement published before giving it effect.

1.5 In preparing a statement, the Act requires licensing Authorities to consult the following:

- The Chief Officer of Police;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Gambling Act 2005.

1.6 The Council 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

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

1.7 The consultation took place between 12 July 2012 and 4<sup>th</sup> October 2012 in accordance with the HM Government Code of Practice on Consultation (published July 2008), which is available at: <http://www.berr.gov.uk/files/file47158.pdf>

1.8 This Statement of Principles was approved at a meeting of the Full Council on <DATE> and was published on [Date to be inserted following approval process].

1.9 It should be noted that this Statement of Principles will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on

its own merits and in accordance with the statutory requirements of the Gambling Act 2005.

## **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 Council of 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 Council as the relevant licensing authority will consider this objective on a case by case basis and will not interpret the term narrowly.
- 2.3 It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”
- 2.4 It should be noted that this statement of licensing principles will not override the right of any person to make an application, make representations about an application, or apply to review a licence as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

## **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
  - The Council’s Planning Service
  - The London Fire and Emergency Planning Authority
  - The Safeguarding Children Board
  - HM Revenue and Customs
  - The Council itself as the licensing authority



- 4.2 The Licensing authority 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 authorities are 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 childrens 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
- 4.3 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;

Lives sufficiently close to the premises to be likely to be affected by the authorised activities

Has business interests that might be affected by the authorised activities  
Represents persons who satisfy paragraph a) or b)”

- 5.2 Interested Parties have the right to make representations in connection to an application, or to ask for a review of an existing licence. Any such representation must be relevant to the application.
- 5.3 To enable the licensing authority to decide whether a person is an interested party it will expect any person making a representation to give their name and address and explain how they or their business interests would be affected by the authorised activities. If this information is not provided then the representation will not be accepted by the licensing authority.
- 5.4 In considering whether an interested party lives or has business interests sufficiently close to the premises certain factors will be taken into account including:
- The size of the premises
  - The nature of the premises
  - The distance of the premises from the habitual residence or workplace of the person making the representation
  - The potential impact of the premises (number of customers, routes likely to be taken when visiting the premises)
  - The circumstances of the complainants and their interest that may be relevant to the distance from the premises
- 5.5 In determining whether a person or organisation has “business interests” the authority will adopt the widest possible interpretation and may recognise certain groups which include but are not limited to; trade unions, partnerships, charities, faith groups, residents and tenants associations and medical practices.
- 5.6 If the representation is from an association or any other body then these will only be accepted provided that they have at least one member who is an interested party.
- 5.7 Unless the person making the representation is a locally elected councillor or member of parliament the licensing authority may require written evidence that they represent identified interested parties. A letter from one of these persons will be sufficient.
- 5.8 If individuals wish to approach locally elected councillors to ask them to represent their views then those councillors cannot sit on a licensing committee that meets to determine the licence application.
- 5.9 To be deemed relevant a representation must relate to the licensing objectives or raise issues under the policy or the Gambling Commissions guidance or codes or practice.

5.10 In deciding whether to treat a representation as frivolous or vexatious the following will be taken into account

- Who is making the representation and whether that person has a history of making representation that are not relevant
- Whether or not it raises a relevant issue
- Whether it raises issues specifically to do with the premises which are the subject of the application

5.11 The validity of each representation will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities at paragraphs 8.11 to 8.18.

## **6. Exchange of Information**

6.1 The 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 1998 will not be contravened.

6.2 The 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 licensing authority will seek to establish information exchange protocols with the responsible authorities and will make these available.

## **7. Inspection and Enforcement**

7.1 A licensing authority 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 licensing authority's principles are that it will be guided by the Gambling Commissions Guidance for Local Authorities and in doing so will endeavour to be:

- Proportionate -The licensing authority will only intervene when necessary; remedies will be appropriate to the risks posed and costs identified and minimised
- Accountable - the licensing authority must be able to justify decisions and will be subject to public scrutiny
- Consistent - rules and standards will be implemented fairly
- Transparent -the licensing authority will be open and do its best to keep things simple and user friendly

- Targeted – the licensing authority 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 this licensing authority 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 licensing authority but should be notified to the Gambling Commission.
- 7.5 This licensing authority 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 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 this licensing authority 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 licensing authority 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, the licensing authority may 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 licensing authority 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 licensing authority 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 Licensing authorities 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 local licensing authorities 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 licensing authority 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 licensing authority will give particular weight to child protection issues. The licensing authority 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 House 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 licensing authority will place information about licence applications on its web site, and will notify ward councillors when applications are received.

## 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 licensing authority 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 licensing authority 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 a 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 licensing authority is aware that the Gambling Commission takes a lead role in preventing gambling from being a source of crime. However, the guidance does envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective.
- This licensing authority 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.
- This licensing authority 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”

10.2.2 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.

10.2.3 However, the licensing authority 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.

10.2.4 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.

10.2.5 The licensing authority 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.

10.2.6 This licensing authority 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.

10.2.7 Other factors which the licensing authority may 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

This authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

10.2.8 The Gambling Commission's relevant access provisions for each premises type are reproduced below:

#### Adult Gaming Centre

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

#### Betting Shops

- Access must be from a street (as per paragraph 7.26 Guidance to Licensing Authorities) or from another 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 and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

#### Tracks

No customer should be able to access the premises directly from:

- a casino
- an adult gaming centre

#### Bingo Premises

No customer must be able to access the premise directly from:

- a casino
- an adult gaming centre
- a betting premises, other than a track

#### Family Entertainment Centre

No customer must be able to access the premises directly from:

- a casino
- an adult gaming centre
- a betting premises, other than a track

10.2.9 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 licensing authority 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 licensing authority 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. The licensing authority has not identified any such areas, but will be receptive to advice from the Police when considering applications.

10.3.2 As stated in the Gambling Commissions Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling. Applications for granting licences in respect of gambling premises that are in close proximity to locations for such vulnerable persons for example schools, centres for gambling addicts, hostels, centres catering for people with mental disabilities or learning difficulties or those with drug or alcohol abuse problems, will receive very careful consideration.

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

### 10.4 Premises "ready for gambling"

10.4.1 The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority 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.

10.4.2 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 should be made instead.

10.4.3 In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this licensing

authority 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.

10.4.4 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.

## 10.5 Duplication with Other Regimes

10.5.1 This licensing authority seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. This licensing authority 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.

10.5.2 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.

10.5.3 The licensing authority 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.

10.5.4 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.

10.5.5 The licensing authority has a duty to take into consideration all relevant matters and not to take into consideration irrelevant matters ie those not related to gambling and licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their application

10.5.6 The licensing authority will take into account any concerns about conditions that are not able to be met by licence holders due to planning restrictions

## 10.6 Licensing Objectives

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

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

The licensing authority 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 licensing authority 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.

### 10.6.2 Ensuring that gambling is conducted in a fair and open way

This licensing authority 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).

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

This licensing authority 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). The licensing authority 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.

10.6.4 This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

## 10.7 Adult Gaming Centres

10.7.1 The licensing authority 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.

10.7.2 The licensing authority 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.

10.7.3 The licensing authority 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.

## 10.8 Licensed Family Entertainment Centres

10.8.1 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 payouts, they are likely to engender repetitive and excessive play. In considering applications the licensing authority 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 licensing authority, for example, that those aged under 18 years old do not have access to the adult only gaming machine areas.

10.8.2 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.

10.8.3 The licensing authority 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. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

## 10.9 Tracks

10.9.1 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. The licensing authority 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.

10.8.1 10.9.2 The licensing authority 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.

## 10.10 Casinos

10.10.1 The licensing authority has resolved not to license casinos, with immediate effect. Any applications received will be returned with a notification that a 'no-casino' resolution is in place.

## 10.11 Bingo

10.11.1 The licensing authority 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.

10.11.2 This authority 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.

10.11.3 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.

## 10.12 Betting premises

10.12.1 The licensing authority is aware that there is a trend to enlarge betting offices and that this can result in improved customer facilities. The licensing authority 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.

10.12.2 The licensing authority 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 licensing authority a single named point of contact, who should be a senior individual, and whom the licensing authority will contact first should any compliance queries or issues arise.

10.11.1 10.12.3 Betting machines - This licensing authority 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.

## 10.13 Provisional Statements

10.13.1 Developers may wish to apply to this licensing authority 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.

10.13.2 S204 of the Gambling Act provides for a person to make an application to the licensing authority 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.

10.13.3 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.

10.13.4 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority 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.

10.13.5 In addition, the licensing authority 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 licensing authority's opinion reflect a change in the operator's circumstances;
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

## 10.14 Licence Conditions

10.14.1 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 licensing authority is able to exclude default conditions and also attach others. The licensing authority 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.

10.14.2 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.

10.14.3 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority 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 licensing authority will also expect the licence applicant to offer his/her own suggestions as to ways in which the licensing objectives can be met effectively.

10.14.4 This licensing authority 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.

10.14.5 This authority believes that children should not normally be permitted access to premises or parts of premises where gambling takes place.

10.14.6 The authority 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.

10.14.7 This licensing authority 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. This licensing authority 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.

- 10.14.8 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.
- 10.14.9 Licence conditions may be imposed if there is justified concern about burglary targeted at gaming machines or the use of gaming machines by children.
- 10.14.10 If the licensing authority 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.
- 10.14.11 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).
- 10.14.12 When considering whether to impose a licence condition to restrict the number of betting machines in particular premises, the licensing authority 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.
- 10.14.13 It is noted that there are conditions which the licensing authority 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

10.14.14 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 licensing authority 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.

## 10.15 Reviews

10.15.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities. However, it is for the licensing authority 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 the licensing authority 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 licensing authority 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.

10.15.2 The licensing authority 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 officers 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.

10.15.3 The licensing authority 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, the licensing authority expects that they, not the licensing officers, will normally initiate the review.

10.15.4 Once a valid application for a review has been received by the licensing authority, 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 the licensing authority, who will publish notice of the application within 7 days of receipt. The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

- 10.15.5 The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are;
- (a) add, remove or amend a licence condition imposed by the licensing authority;
  - (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.
- 10.15.6 In determining what action, if any, should be taken following a review, the licensing authority will have regard to the principles set out in section 153 of the Act, as well as any relevant representations. In particular, the licensing authority may 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.
- 10.15.7 Once the review has been completed, the licensing authority 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 licensing authority believes that gambling, including the use of category D gaming machines, is harmful to children. The licensing authority believes that the use of gaming machines by children is not consistent with the third licensing objective.
- 11.1.2 The licensing authority 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 licensing authority 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 licensing authority 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 licensing authority 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 \(Statement of Principles on Permits - Schedule 10 paragraph 7\)](#)

11.2.1 Where a premise does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority 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 licensing authority 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 This licensing authority 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 licensing authority 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 a licensing authority cannot attach conditions to this type of permit.

### 11.3 Alcohol Licensed Premises Gaming Machine Permits (Schedule 13 paragraph 4(1)) Automatic entitlement: 2 machines

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 licensing authority.

11.3.2 The licensing authority 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 licensing authority, 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.

### 11.4.1 Alcohol Licensed Premises Gaming Machine Permits Permit: 3 or More Machines

11.4.2 If a premises wishes to have more than 2 machines, then it needs to apply for a permit. The licensing authority 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 This licensing authority 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 licensing authority 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 This licensing authority 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 licensing authority 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 by which the permit holder must comply, but that the licensing authority 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.

11.5.5 The licensing authority 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 licensing authority 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 licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

11.7.5 This licensing authority 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.

### 11.8.1 Occasional Use Notices

11.8.2 The licensing authority 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 licensing authority 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 This licensing authority 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 licensing authority 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 This licensing authority 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 licensing authority will therefore expect full details to be provided of the purpose for which the society is established. The licensing authority may make enquiries to satisfy itself on this point.
- 13.2 If the licensing authority 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 licensing authority 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  
[http://www.cityoflondon.gov.uk/NR/rdonlyres/DC8388C6-A0B8-4BFE-9EBD-D7A4D5361E23/0/DP\\_PL\\_CulturalStrategydocument17Feb.pdf](http://www.cityoflondon.gov.uk/NR/rdonlyres/DC8388C6-A0B8-4BFE-9EBD-D7A4D5361E23/0/DP_PL_CulturalStrategydocument17Feb.pdf)
  - The objectives of the Security Industry Authority  
<http://www.sia.homeoffice.gov.uk/Pages/home.aspx>
  - The Safer Communities Strategy

[http://www.barnet.gov.uk/downloads/download/116/safer\\_communities\\_partnership\\_strategy\\_2011-2014](http://www.barnet.gov.uk/downloads/download/116/safer_communities_partnership_strategy_2011-2014)

- The Sustainable Communities Strategy  
[http://www.barnet.gov.uk/downloads/file/125/one\\_barnet\\_a\\_sustainable\\_community\\_strategy\\_for\\_barnet\\_2010-2020](http://www.barnet.gov.uk/downloads/file/125/one_barnet_a_sustainable_community_strategy_for_barnet_2010-2020)
- Barnet's Equalities policy  
[http://www.barnet.gov.uk/downloads/200041/equality\\_and\\_diversity](http://www.barnet.gov.uk/downloads/200041/equality_and_diversity)

## 15. Tourism and employment

15.1 The licensing authority recognises the relevance of licensed premises to tourism and employment in the borough. The Licensing Committee will receive reports from any body that it considers appropriate on the needs of the local cultural strategy, and tourist economy, including the employment situation in the area and the need for new investment and employment. These issues will be taken into account so far as the Gambling Act permits when making licensing decisions.

## 16. Promotion of equality

16.1 The licensing authority 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 licensing authority 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 licensing authority 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 licensing authority 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 <http://www.berr.gov.uk/files/file45019.pdf>
- The Human Rights Act 1998  
<http://www.legislation.gov.uk/ukpga/1998/42/contents>
- Crime and Disorder Act 1998  
<http://www.legislation.gov.uk/ukpga/1998/37/contents>

- Disability Discrimination Act 1995  
[www.hmso.gov.uk/acts/acts1995/Ukpga\\_19950050\\_en\\_1.htm](http://www.hmso.gov.uk/acts/acts1995/Ukpga_19950050_en_1.htm)

Guidance issued by the Gambling Commission under section 25 of the Gambling Act 2005

[http://www.gamblingcommission.gov.uk/licensing\\_authorities/information\\_for\\_licensing\\_auth/guidance\\_to\\_las.aspx](http://www.gamblingcommission.gov.uk/licensing_authorities/information_for_licensing_auth/guidance_to_las.aspx)

## 19. Complaints about the Licensing Service

19.1 The licensing authority 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. The Council has a formal complaints procedure. For information see [www.barnet.gov.uk/contact-us.htm](http://www.barnet.gov.uk/contact-us.htm)

## 20. Further information

20.1 Information about applications, fees, how to make a representation, details of the responsible authorities and the licensing register, see [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk) or contact the Licensing Team on 020 8359 7443, [licensingadmin@barnet.gov.uk](mailto:licensingadmin@barnet.gov.uk) or see the council's website, [www.barnet.gov.uk](http://www.barnet.gov.uk)

## 21. Commencement and Review

21.1 This policy will come into effect on (date) It will be kept under review and the Council may make changes after consultation. It will be renewed every three years. The council 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	10.2.9.1.1.1 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 the council in its capacity as licensing authority				All cases
Fee setting (when appropriate)		Normal budget-setting arrangements		

Consideration of representations when the council is minded to refuse to register a lottery or to revoke a lottery registration

All cases



## Appendix 1 List of Consultees

### All responsible authorities

### All councillors

### Main Trade Associations

- British Casino Association  
28 Grosvenor Gardens  
10.2.9.1.1.1.1.1.1 London  
SW1W 0EB
- BACTA  
Alders House  
13 Aldergate St  
London  
EC1A 4JA
- Association of British Bookmakers  
Norris House  
  
4 Norris Street  
London  
SW1y 4RJ
- Business in Sport and Leisure  
17a Chartfield Avenue  
Putney  
London  
SW15 6DX
- BALPA  
Suite 12  
37 Tanner Street  
London  
SE1 3LF

### Residents Groups

Church Gate Residents Association Whetstone Ltd, 3 Tudor Grove  
Church Crescent, London, N20 0JW

- Alan Lodge Residents Ltd  
Flat 3 Alan Lodge, Nether Street, London, N3 1QH
- Hendon Avenue Residents Ltd  
9 Hendon Avenue, London, N3 1UL
- Barnet Residents Association  
Melvyn Sears 71 Byng Road Barnet EN5

- North West Two Residents Association [group@northwesttwo.co.uk](mailto:group@northwesttwo.co.uk)
- Hampstead Garden Suburb Residents Association  
[chaiman@hgs.org.uk](mailto:chaiman@hgs.org.uk)
- Sunnyhill Residents Association (Hendon)  
[daniel@sunnyhill-residents.co.uk](mailto:daniel@sunnyhill-residents.co.uk)

### **Sample Gambling Businesses in our Area**

10% of each type of business directly contacted:

#### **Faith Groups**

- Hindu Cultural Society  
321 Colney Hatch Lane, London, N11 3DH

#### **Voluntary Organisations**

CAB's

- [newbarnet@barnetcab.org.uk](mailto:newbarnet@barnetcab.org.uk)
- [finchley@barnetcab.org.uk](mailto:finchley@barnetcab.org.uk)
- Hendon, 40-42 Church End Hendon, London, NW4 4JT
- Graheme Park, The Concourse  
Graheme Park, London,  
NW9 5XA
- 

#### **Community Organisations Working With Children and Young People**

Organisations Working With Problem Gambling

GamCare [info@gamcare.org.uk](mailto:info@gamcare.org.uk)

Christian Centre for Problem gambling [admin@ccgr.org.uk](mailto:admin@ccgr.org.uk)

Empowering Communities, Riverside Business Centre, Riverside Road, Lowestoft, NR33  
0TQ  
[info@empowering-communities.org](mailto:info@empowering-communities.org)

Appendix 2

# London Borough of Barnet

## GAMBLING ACT 2005

### FORMAL CONSULTATION: COMMENTS ON OUR DRAFT GAMBLING POLICY

When you have completed this form please return to [licensingadmin@barnet.gov.uk](mailto:licensingadmin@barnet.gov.uk) or by letter, addressed to  
Emma Phasey, Trading Standards and Licensing Manager,  
London Borough of Barnet, Building 4,  
North London Business Park,  
Oakleigh Road South,  
London,  
N11 1NP

**Name:**

**Organisation or capacity (if applicable):**

**Address:**

**E-mail:**

**Telephone Number:**

**Paragraph No.  
COMMENTS**

**Paragraph No.  
COMMENTS**

Please add further rows if you wish

**In addition I wish to make the following general comments:**

***Declaration:***

***I am happy for this Response to be made public OR  
I do not wish this Response to be made public***

***Failure to complete the above Declaration will result in your Response being made public.***

Signature: ..... Date: .....

Name: ..... (Please print)

### **APPENDIX 3**

Number	Insertion deletion	or Text
2.5	Insertion	It should be noted that this statement of licensing principles will not override the right of any person to make an application, make representations about an application, or apply to review a licence as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.
2.5	Deletion (repeated elsewhere)	<p>This licensing authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it:</p> <p>in accordance with any relevant code of practice issued by the Gambling Commission;</p> <p>in accordance with any relevant guidance issued by the Gambling Commission; reasonably consistent with the licensing objectives;</p> <p>and</p> <p>in accordance with the authority's statement of licensing policy.</p>
4.2 - 4.3	insertion	<p>The Licensing authority 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</p>

		<p>children from harm. The principles are:</p> <p>The need for the body to be responsible for an area covering the whole of the licensing authorities are and</p> <p>The need for the body to be answerable to the democratically elected persons rather than any particular vested interest group</p> <p>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.</p>
4.4	Deletion (repeated elsewhere)	<p>The Gambling Commission has a number of important functions in the regulation of gambling. In particular it issues operating and personal licences, and deals with internet gambling. These matters are not within the Council's remit. For information see <a href="http://www.gamblingcommission.gov.uk">www.gamblingcommission.gov.uk</a></p>
10.5.5	deletion	<p>Where there is no relevant planning permission or building regulation approval, or where there are planning conditions that conflict with the licence application, the licensing authority recommends applicants to submit a planning application or building regulation approval application as early as possible in order to regularise the position.</p>
10.5.5	Insertion (to replace above)	<p>The licensing authority has a duty to take into consideration all relevant matters and not to take into considerations irrelevant matters ie those nor related to gambling and licensing objectives. One example of a irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their application</p>
10.6	insertion	Licensing Objectives

		<p>Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commissions Guidance to licensing authorities and some comments are made below.</p> <p>Preventing Gambling from being a source of crime and disorder or being associated with crime and disorder or being used to support crime</p> <p>The licensing authority 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 attention 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 licensing authority 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.</p> <p>Ensuring that gambling is conducted in a fair and open way</p> <p>This licensing authority 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</p>
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		<p>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).</p> <p>Protecting children and other vulnerable persons from being harmed or exploited by gambling</p> <p>This licensing authority 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). The licensing authority 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.</p> <p>This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.</p>
11.4.5	insertion	The licensing authority may not impose any further conditions

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<b>Meeting</b>	Licensing Committee
<b>Date</b>	26 November 2012
<b>Subject</b>	<b>Sex Entertainment Venue Licensing</b>
<b>Report of</b>	Interim Director of Environment, Planning and Regeneration
<b>Summary</b>	To report on the outcome of the formal consultation on whether to adopt Section 27 of the Policing and Crime Act 2009 and introduce a licensing regime for “Sexual Entertainment” Venues.

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Officer Contributors	Emma Phasey – Trading Standards and Licensing Manager
Status (public or exempt)	Public
Wards Affected	All
Key Decision	No
Reason for urgency / exemption from call-in	Not Applicable
Function of	Council
Enclosures	Appendix 1 - Responses to consultation into adoption of Section 27 of the Policing and Crime Act 2009.
Contact for Further Information:	Emma Phasey Trading Standards and Licensing Manager <a href="mailto:Emma.phasey@barnet.gov.uk">Emma.phasey@barnet.gov.uk</a>

## **1. RECOMMENDATIONS**

- 1.1 That the Licensing Committee approve the adoption of Section 27 of the Policing and Crime Act 2009 and recommend its adoption by the Council at the meeting on 22nd January 2013

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 Decision by Council on 17th April 2012 to approve amendments to the council constitution including moving a number of functions (including functions relating to sex establishment functions) to the Licensing Committee
- 2.2 Decision of the Licensing Committee on 11 July 2012 to consult with local people in relation adoption of section 27 of the Policing and Crime Act 2009.

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 The regulation of sex entertainment venues is important in relation to the prevention of crime, disorder and public nuisance, protecting the vulnerable and public safety. These contribute to the corporate priority of 'A Successful London Suburb' and the strategic objective to "ensure that our town centres are vibrant places where business can thrive", thereby helping to ensure that the Borough is a prosperous place where people want to live and ensuring it remains clean and safe.

## **4. RISK MANAGEMENT ISSUES**

- 4.1 Failure to adopt the legislation could mean that the Council will not have the appropriate controls in place to administer and enforce the specific regulations in relation to Sexual Entertainment Venues. Otherwise, such premises will only be regulated through the more general Licensing Objectives of the Licensing Act 2003.
- 4.2 Controls over the number or location of premises or conditions on the provision of Sexual Entertainment cannot be imposed without adopting the legislation.

## **5. EQUALITIES AND DIVERSITY ISSUES**

- 5.1 When considering applications and representations, only issues provided for in the Local Government (Miscellaneous Provisions) Act 1982 and the authorities' policy will be taken into account. This will ensure a consistent approach is adopted. Every application under the terms of the policy will be considered on its own merits regardless of the race, colour, nationality, ethnic origin, sex, marital status, disability or age of the individuals involved.

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

- 6.1 Lap dancing venues are currently licensed under the provisions of the Licensing Act 2003 and as such fees are set by statute. If the Council adopts the provisions to licence Sexual Entertainment venues, fees will be set by the Council having regard to the cost of implementation, administration and enforcement of the legal requirements. The fee will be set by Council as part of the annual fee setting process.

## **7. LEGAL ISSUES**

- 7.1 This Authority has adopted the provision of Part II and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (Licensing of sex shops and sex cinemas)
- 7.2 Section 27 of the Policing and Crime Act 2009 makes amendments to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and the Council has to consider whether to adopt the amendments to Schedule 3 of that Act.
- 7.3 Section 2 of Part II of the 1982 Act provides for the adoption of the provisions contained in schedule 3, which allows the Council to control sex establishments in their area, by way of a licensing regime. .
- 7.4 Where a Local Authority does not make a resolution under section 2 within the period of 1 year, beginning with the coming into force of the legislation, the Local Authority must, as soon as is reasonably practicable, consult local people about whether the local authority should make such a resolution. If the Local Authority does not make a resolution to adopt the new provisions then sexual entertainment venues would be able to operate without the requirement for any kind of Sexual Entertainment Licence.

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

- 8.1 Constitution, Part 3 – responsibility for functions, section 2 responsibility for council functions.

## **9. BACKGROUND INFORMATION**

- 9.1 The increase nationally in the number of lap dancing clubs since the implementation of the Licensing Act 2003 has become a concern for many local communities. Under this licensing regime any representations made against premises licence applications for venues providing lap dancing and similar entertainment can only be based on the four licensing objectives, namely:

- The prevention of crime and disorder;

- Public safety;
- The prevention of public nuisance
- The protection of children from harm.

As a result, licensing authorities cannot consider any objections made by local people and businesses that are based on matters outside the scope of the four objectives noted above. For example, such as whether a lap dancing club would be appropriate, given the character and locality of the area in which it is proposed to be situated.

- 9.2 Sex shops, in contrast, are licensed under the Local Government (Miscellaneous Provisions) Act 1982. This regime gives the Licensing Authority a wider discretion in determining whether to grant or refuse licences (including the statutory grounds for refusal), a power to set a limit on the number of premises that may be suitable for a particular locality, greater flexibility on applying licence conditions and the ability to accept representations from a wider scope of the community. Sex shop licences are only valid for up to a year at a time, meaning there is scope for regular review.
- 9.3 Currently there are no sex shops or sex cinemas in the London Borough of Barnet and there have not been any applications for premises licences for venues to provide lap dancing or similar entertainment
- 9.4 The Local Government (Miscellaneous Provisions) Act 1982 was amended through the Policing and Crime Act 2009, so as to create a new category of “sex entertainment venue” (SEV) licence that would include lap, table and pole dancing. This allows local authorities to have more powers to control the number and location of lap dancing clubs and similar venues in their area. These powers are not mandatory and will only apply where they are adopted by local authorities. Where adopted, these provisions will allow local authorities to refuse an application on potentially wider grounds than is permitted under the 2003 Act and will give local people a greater say over the regulation of lap dancing clubs and similar venues in their area
- 9.5 Section 27 of the Policing and Crime Act came into effect on 6<sup>th</sup> April 2010. Following this date Local Authorities had 1 year to resolve to adopt Schedule 3 to the 1982 Act as amended by the 2009 Act so that it has effect in their area. Where a local Authority did not make a resolution within the period of 1 year the Local Authority must, as soon as is reasonably practicable, consult local people about whether the local authority should make such a resolution.
- 9.6 Although the London Borough of Barnet has already adopted Schedule 3 to the 1982 Act for the licensing of sex shops and sex cinemas, a further resolution is necessary before the provisions introduced by Section 27 Policing and Crime Act 2009 will have effect in this area.
- 9.7 In summary, the amendments to Schedule 3 to the 1982 Act will, in particular:
- allow local people to oppose an application for a Sex Establishment licence if they have legitimate concerns that a Sexual Entertainment Venue (SEV) would be inappropriate given the character of an area, for example, if the area was primarily residential.

- require licences to be renewed at least annually, at which point local people will have the opportunity to raise objections (if any) with their local authority.
  - allow a local authority to reject a licence application if they believe that to grant a licence for a SEV (including a lap dancing club) would be inappropriate given the character of a particular area.
  - allow a local authority to set a limit on the number of SEVs that they think is appropriate for a particular area.
  - allow a local authority to impose a wider range of conditions or to refuse an application on wider grounds than they are currently able to under the Licensing Act 2003.
- 9.8 At its meeting on 11 July 2012, the Licensing Committee instructed the Interim Director of Environment, Planning and Regeneration to consult in relation to the adoption of the above legislation.
- 9.9 The consultation document was sent to the police, all Members, a number of local residents groups and was available on the Council's web site.

### **Consultation response**

- 9.10 Consultation commenced in July and closed on the 23 October. A total of 46 responses were received. 68% were in favour of the adoption and 17% were not. 15% of respondents were unsure. It should be noted that of those who were not in favour there is some evidence in the comments of confusion over what not adopting would mean. E.g. the comments suggest the consultee thought that not adopting Section 27 would mean no such venues could be within the London Borough of Barnet.
- 9.11 Attached as Appendix 1 is the full set of consultation comments received. In summary, those supporting the proposal believe it will give the London Borough of Barnet more power to regulate these premises and local residents more of a say.
- 9.12 Should the London Borough of Barnet choose to adopt Schedule 3 as amended by section 27, the procedure is as follows:
- Firstly, the local authority must pass a resolution specifying that the amendments made by section 27 to Schedule 3 shall apply to their area and the day on which it shall come into force in the area. The specified day must be more than one month after the day on which the resolution was passed. The proposed date for the adoption to take effect is 1<sup>st</sup> March 2013.
  - The local authority shall also publish a notice that they have passed the resolution for two consecutive weeks in a local newspaper that is circulated in their area. The first publication shall not be later than 28 days before the day specified in the resolution for the provisions to come into force in the local authority's area and the notice should state the general effect of Schedule 3.

## **10. LIST OF BACKGROUND PAPERS**

- 10.1 Sexual Entertainment Venues, Guidance for England and Wales  
Home Office – March 2010

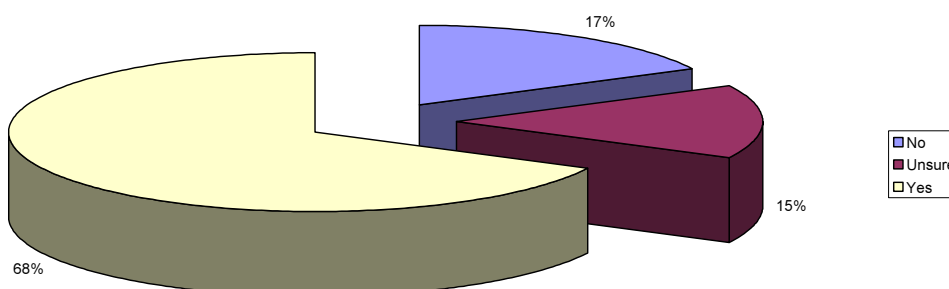
<b>Cleared by Finance (Officer's initials)</b>	<b>JH</b>
<b>Cleared by Legal (Officer's initials)</b>	<b>BH</b>

## Appendix 1

### Responses to consultation into adoption of Section 27 of the Policing and Crime Act 2009.

Question 1. Are you in favour of the Council adopting Section 27 of the Policing and Crime Act 2009?	
No	8
Unsure	7
Yes	31

Are you in favour of the Council adopting Section 27 of the Policing and Crime Act 2009?



#### Q2. Please could you provide an explanation for your response

Are you in favour of the Council adopting Section 27 of the Policing and Crime Act 2009?	Please could you provide an explanation for your response:
Yes	Communities should have more power over their environment
Yes	
Yes	I am in favour of the council having more powers to control these establishments
Yes	Surely lap dancing clubs are sex entertainment venues.
Yes	I feel that this is not a suitable premises to have on any "High Street", and would be opposed to any such premises opening up there.
Yes	
Yes	
Yes	

Yes	Lapdancing etc venues plainly are 'sex entertainment' venues, and I'm uncomfortable with many aspects of this. I would be strongly in favour of certain strategies which sought to enliven the evening economy in the borough - most High Streets and town centres in Barnet are currently disappointingly dull after office hours. We need to get people of all types out of their houses: children, families, old people, women. Yes, most of Barnet is pretty residential, but I don't see this as contradicting a goal of vibrancy etc; enlivening places doesn't have to revolve exclusively around alcohol (though boozing is also tremendous fun, and has its place). In the evening, there simply aren't enough people around, and so our public areas become rather intimidating for certain social groups. We currently fail, in other words, to foster social inclusivity in public space at these times. Sex entertainment venues, I believe, would only amplify the problem of the exclusivity of the local evening economy. So, I'll back any move to give councils the power to regulate their presence further. There may be some suitable locations for such establishments, and this needs careful consideration; at the very least, the default position shouldn't be that they can simply open wherever they like.
Yes	The Sex industry notoriously is involved in human trafficking, crime and degradation of a healthy community lifestyle. Women are objectified as sex slaves as it is overwhelmingly women who work in these industries. It destroys communities, it is inappropriate for many people because they have families, morals and do not want this kind of filth on their door step.
Yes	The proposal is to adopt a power to licence Sexual Entertainment venues. That seems entirely appropriate in a residential Borough such as Barnet. The power itself does not prevent a proposed operator from applying for a licence, but sets out the criteria on which objections may be based, which is a balanced approach.
Yes	We need to ensure Barnet council have all the powers it needs to ensure such "businesses" can be stopped and criminalised asap. We already have some high profile raids which were uncovered by the police in Barnet and in particular Hendon where they closed down brothels, and we need to ensure the Council has all the tools available to it to ensure such businesses are not conducted within Barnet which is a highly dense and family oriented residential suburb.
Yes	To ensure maximum local authority control, & resident input, to prevent establishments opening in unsuitable areas
Yes	Because I think they should have greater power to control whether we have 'sexual entertainment' in the Borough.
Yes	It would provide effective safeguarding protection for those that are vulnerable in society, such as children, young people and those who at risk of sexual exploitation.
Yes	I believe that lap-dancing clubs are bad for the high street and its local area so it would be a good thing if locally accountable council members were able to restrict their existence and location.
Yes	
Yes	
Yes	
Yes	
Yes	I think these kind of establishments should be regulated more thoroughly.
Yes	Because I would like to live in a safer environment, borough with my family and neighbours free from crime and prostitution.
Yes	I feel the Council need additional powers to ensure that these venues do not change the safety levels of residential communities



Yes	I do not believe that sex establishments / lap dancing clubs etc are appropriate to a borough such as barnet which is a highly family / residential area with many schools. Additionally the presence of these venues can make women and children feel uncomfortable in their own communities.
Yes	Provides flexible means of controlling venues in the light of local concerns so long as applications are considered in the light of all available evidence and moral objections are considered only in so much as they might influence feelings of safety around venues
Yes	I am deeply concerned by the sexualisation of our society. Many girls involved in the sex industry are trafficked into this country and engaged in such activities against their will. Even where the girls are choosing to work in such establishments freely, their performances bring out the worst in those watching. The fewer of such venues the better.
Yes	I think it would give the council greater powers to regulate and control SEVs. It also allows local opinion to be heard and represented in the decision making process in a clearer way.
Yes	
Yes	It is a different category of entertainment and has an impact on communities and family life, it should be more closely regulated than normal entertainment venues
Yes	Barnet does not need sex-clubs or lap-dancing clubs. They exist a tube ride away in the centre of the city.
Yes	We note that the proposal is to adopt a power to licence Sex Entertainment Venues. This seems to us entirely appropriate in a residential borough such as the London Borough of Barnet, and particularly relevant to the wholly residential conservation area that we represent; and that the power itself does not prevent a proposed operator from applying for a licence but sets out the criteria on which objections may be based. This is a proportional approach which we wholly support.
Unsure	don't understand enough about it to make that decision. the blurb at the beginning is insufficient.
Unsure	
Unsure	The information you have given does not explain at all what the consequence of the Council "adopting Section 27" would be. Does it mean it's easier to control sex entertainment venues, or that there may be more of them? I have no idea!
Unsure	
Unsure	
Unsure	I'm not clear what Schedule 3 which you mentioned on the previous page offered. If adopting this new policy implies that there is more likelihood of having (more) lap dancing in the area then I am very opposed to it. Allowing more choice will eventually allow more liberal attitudes towards sex shops and lap dancing as young people see sex more and more as a sport or commodity and have not made a connection to a potential link (and strong link in my opinion) between sexual liberalism and a decay in the moral fabric of society.. I think the government is right to include lap dancing as sexual entertainment. As a psychotherapist I am concerned by the marginalisation of virtual sex activities such as lap dancing and its effect on people's ability to commit to healthy relationships.
Unsure	
No	
No	
No	<b>Wouldn't like sex entertainment in this area</b>
No	not necessary. Council are not moral guardians.

No	<b>Barnet has several 'town centres' NONE of them would be suitable for Sex Establishments. Barnet is a conservative, family area. Have you completely lost your senses? We live here because we want to live in a nice family area not so our children and elderly family members can be subject to the intrusion of sex shops or bars.</b>
No	<b>I am not in favour of any form of sex entertainment, as this supports women exploitation and deforms healthy approach to sexuality in general.</b>
No	
No	

\*\* Please note the three comments highlighted in bold.

These all have stated that they do not want the London Borough of Barnet to adopt the legislation but have commented that they are not happy at all with sex entertainment venues. This suggests they may have answered "No" in Question 1 as they thought this meant no venues will be allowed.

## AGENDA ITEM 9

Meeting	Licensing Committee
Date	26 November 2012
<b>Subject</b>	<b>Sex Establishment and Sex Entertainment Venues Licensing Policy</b>
Report of	Director of Environment, Planning and Regeneration
Summary	This is a report on the proposed new sex establishment and sex entertainment venues policy.
Officer Contributors	Emma Phasey – Trading Standards & Licensing Manager
Status (public or exempt)	Public
Wards Affected	All
Key Decision	No
Reason for urgency / exemption from call-in	Not Applicable
Function of	Council
Enclosures	Appendix 1 – Draft sex establishment and sex entertainment venue policy Appendix 2 – Consultation document
Contact for Further Information:	Emma Phasey Trading Standards and Licensing Manager <a href="mailto:Emma.phasey@barnet.gov.uk">Emma.phasey@barnet.gov.uk</a>

## **1. RECOMMENDATIONS**

- 1.1 That the draft sex establishment and sex entertainment venue policy be approved for consultation and that the Officers be instructed to report to the next Licensing Committee meeting on the outcome of the consultation for its recommendation to Council.**
- 1.2 That the consultation is drafted as such that it particularly seeks views on the definition of the area which will be considered as a relevant locality.**

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 Decision by Council on 17<sup>th</sup> April 2012 to approve amendments to the council constitution including moving a number of functions (including functions relating to sex establishment functions) to the Licensing Committee
- 2.2 Decision of the Licensing Committee on 11 July 2012 to consult with local people in relation adoption of section 27 of the Policing and Crime Act 2009.

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 Control over sex cinemas, sex shops and sex entertainment venues will support objectives contained within the corporate plan. In particular in relation to a “successful London suburb”, as well controlled sex establishments can contribute to the economic, cultural, environmental and social well being of the borough.

## **4. RISK MANAGEMENT ISSUES**

- 4.1 Currently the council has no formal detailed policy in relation to sex establishments. The decisions are made in line with best practice. If Section 27 of the Policing and Crime Act 2009 is adopted then the control of Sex Entertainment Venues will fall outside of the remit of the Licensing Act 2003, for which there is an established policy. Therefore there is a need for a formal policy to be adopted.
- 4.2 The lack of a sound policy or the adoption of an unsound policy may result in poor decisions being taken and could cause difficulty to businesses and residents. This would leave the authority open to challenge by way of Judicial Review in relation to the policy and/or appeal of a Licensing Committee decision to the Magistrates’ Court. This would adversely affect the London Borough of Barnet’s reputation.

## **5. EQUALITIES AND DIVERSITY ISSUES**

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

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

- 6.1 Administration and enforcement of sex establishment and sex entertainment venues will be carried out by the Licensing team, together with support from Legal Services and from Governance Services, when arranging and co-ordinating arrangements for hearings
- 6.2 The current fees were set in 2008 and these are currently under review.
- 6.3 Any expenditure will be contained within the Environment, Planning and Regeneration budgets.

## **7. LEGAL ISSUES**

- 7.1 To ensure consistency in decision making an agreed sound policy is needed.

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

- 8.1 Constitution Part 3, Section 2, details the functions of the Licensing Committee including sex establishments and sex entertainment venues.

## 9. BACKGROUND INFORMATION

- 9.1 Sex shops are licensed under the Local Government (Miscellaneous Provisions) Act 1982. This regime gives the Licensing Authority a wide discretion in determining whether to grant or refuse licences, a power to set a limit on the number of premises that may be suitable for a particular locality, and flexibility on applying licence conditions. It also gives the ability to accept representations from a wide scope of the community.
- 9.2 The Local Government (Miscellaneous Provisions) Act 1982 was amended through the Police and Crime Act 2009 so as to create a new category of “sex establishment venue” (SEV) licence that would include lap, table and pole dancing. This allowed local authorities to have more powers to control the number and location of lap dancing clubs and similar venues in their area. These powers are not mandatory and will only apply where they are adopted by local authorities. The London Borough of Barnet has just finished consulting on whether to adopt these powers.
- 9.3 Currently there are no sex shops or sex cinemas in the London Borough of Barnet and there have not been any applications for premises licences for venues to provide lap dancing or similar entertainment, although there have been a number of recent enquiries in relation to this.
- 9.4 There is no formal agreed policy in relation to sex establishments and sex entertainment venues licensing. Without such a policy in place it is difficult to maintain consistency in decision making and leaves the London Borough of Barnet open to challenge.
- 9.5 Attached at Appendix 1 is the draft proposed policy. The areas highlighted in red relate purely to Sex Entertainment Venues and will be removed from the policy should the decision be made not to adopt this.
- 9.6 It should be noted that the legislation allows the local authority to set a quantity limit regarding the number of sex establishments/sex entertainment venues in an area. However it should be noted that the guidance is clear that regardless of this, all applications need to be considered on their own merits

*“...it is reasonable and potentially useful to future applicants, for a local authority to decide in advance of receiving any applications that certain areas are, or are not, appropriate locations for a sex establishment or a particular number of sex establishments. Nevertheless, all applications must be considered on their individual merits.”*

- 9.7 However setting up limit's, for example by ward, can cause difficulty in decision making. Particularly on the borders of wards where one ward may have a quota for such venues and another may have a zero quota. However in essence the street the venue proposed to set up in may be the same. This could result in more challenges to decisions.
- 9.8 It would be beneficial for the London Borough of Barnet to instead look much closer at the specific area around each proposed site. This would ensure that each application is treated individually and on its own merits. To make the decision making process clearer for the applicant and any representees, the London Borough of Barnet will define the area that will specifically be considered. The policy will then set out when it considers the grant of a licence inappropriate. I.e. when there is a school positioned in the relevant locality. The full information in relation to this can be found in the policy at 5.4 – 5.9 and is highlighted in italics
- 9.9 It is proposed as well as consulting on the policy that the London Borough of Barnet consults with all parties on the size of the “relevant Locality” area suggesting options of sizes.
- 9.10 If approved by the Committee, the policy will be submitted for consultation with all relevant stakeholders during the next 12 weeks, in accordance with best practice. All replies will be taken into account and the policy, revised as necessary, will be submitted to this Committee for final approval at its next meeting. The Committee will then be asked to recommend that the Statement of Principles be adopted at the meeting of the full Council in January 2013
- 9.11 The policy may be changed at any time after adoption (after further consultation), and will be regularly reviewed
- 9.12 The proposed draft sex establishment and sex entertainment venue policy for formal consultation can be found in Appendix 1.
- 9.13 The consultation document will be sent to the Police, any local trade associations, and residents groups. It will also be sent to Members.
- 9.14 In so far as possible, the consultation document will be emailed to the relevant consultees, or a hard copy sent, where this is not appropriate. All of the consultation documents will also be published on the Council's website.
- 9.15 A specific consultation response document has also been produced. This can be found in Appendix 2 and this will be sent out with the consultation.

**10. LIST OF BACKGROUND PAPERS**

<b>Cleared by Finance (Officer's initials)</b>	
<b>Cleared by Legal (Officer's initials)</b>	<b>BH</b>



# London Borough of Barnet

# Sex Establishment and Sex Entertainment Venues Policy

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## 1 DEFINITION OF TERMS

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

2009 Act	The Policing and Crime Act 2009
1982 Act	The Local Government (Miscellaneous Provisions) Act 1982
2003 Act	The Licensing Act 2003
Section 27	Section 27 of the Policing and Crime Act 2009
Schedule 3	Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982
Sexual Entertainment Venue (SEV)	Any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser of the entertainer
Relevant entertainment:	<p>The meaning of 'relevant entertainment' is 'any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means)'</p> <p>The definition of relevant entertainment would apply to the following forms of entertainment as they are commonly understood :</p> <ul style="list-style-type: none"> <li>_ Lap dancing</li> <li>_ Pole dancing</li> <li>_ Table dancing</li> <li>_ Strip shows</li> <li>_ Peep shows</li> <li>_ Live sex shows</li> </ul>
Sex establishment	Sex Cinema, Sex Shop or SEV
Sex Shop:	<p>Any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating:</p> <p>(a) sex articles; or</p> <p>(b) other things intended for use in connection with, or for the purpose of stimulating or encouraging:</p> <ul style="list-style-type: none"> <li>i) sexual activity</li> <li>ii) acts of force or restraint which are associated with sexual activity.</li> </ul>
Sex Cinema:	<p>Any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which :</p> <p>(a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage:</p> <ul style="list-style-type: none"> <li>i) sexual activity; or</li> <li>ii) acts of force or restraint which are associated with sexual</li> </ul>

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

## 2 INTRODUCTION

- 2.1 This document sets out the London Borough of Barnet's policy in respect of licensing functions for sex establishments and sex entertainment venues
- 2.2 This policy was approved at a meeting of the Licensing Committee on [DATE] and will take effect from [DATE].
- 2.3 This policy will be kept under review and before making any amendments the London Borough of Barnet will consult with licence holders and their representatives and will give consideration to all representations received within the 28-day consultation period.
- 2.4 Section 27 of Policing and Crime Act 2009 introduced a new type of sex establishment called 'sexual entertainment venue'. The London Borough of Barnet consulted on these additional powers and adopted them on (DATE)
- 2.5 This new category allows the London Borough of Barnet to regulate lap dancing clubs and other similar venues under Schedule 3.
- 2.6 Previously a sex establishment licence was not usually required for striptease or lap dancing venues, as the relevant permissions for adult entertainment would have been included on a Premises Licence issued under the Licensing Act 2003.
- 2.7 Paragraph 2A (3) of Schedule 3 sets out those premises that are not sexual entertainment venues and these include sex shops and cinemas and those premises that provide relevant entertainment on an infrequent basis. Those premises that provide infrequent relevant entertainment will continue to be regulated under the 2003 Act either by virtue of a premises licence or club premises certificate or a temporary events notice.
- 2.8 The London Borough of Barnet is mindful of possible local community concerns arising from premises applying for a sex establishment licence in their neighbourhood and the potential conflict that this may trigger between the applicant and community to such an application.
- 2.9 The London Borough of Barnet is a densely populated borough with many small town centres. Therefore commercial and business areas also have many residential properties in close proximity. Community facilities such as schools and places of worship, are situated close to

each other and to the residential populations they serve. As a consequence any location considered for a sex establishment is likely to have a large residential population and a number of community facilities in relatively close proximity

- 2.10 In regulating sex establishments and sex entertainment venue activities the London Borough of Barnet acknowledges that they need to take account of the potential conflict between the legitimate objectives of applicants and the desires of the population as a whole. A balance must be struck between these positions and all relevant views will be taken into account when making licensing decisions or determining a course of action.
- 2.11 This policy will apply to all activities to ensure consistency in decision-making. However, each application will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration.

### **3 THE APPLICATION**

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

**London Borough of Barnet**

**Trading Standards and  
Licensing Team  
Building 4  
North London Business Park  
Oakleigh Road South  
London  
N11 1NP**

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

#### **3.3 New applications**

- 3.3.1 New applications must be:

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

- 3.3.2 An incomplete or incorrectly completed application will be rejected.

#### **3.4 Renewal application**

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

- 3.4.2 An incomplete or incorrectly completed application will be rejected

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

### **3.5 Variation or transfer application**

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

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

## **4 CONSULTATION**

4.1 A notice of the application must be displayed in a prominent place on the exterior of the premises visible 24 hours a day for a continuous period of 21 days.

4.2 A notice outlining the details of the application must also be published in a local newspaper

within 7 days of the submission of the application. A copy of the notice once published should be sent to the Licensing Team.

4.3 Once the application is received, the licensing department will consult with:

- Ward Councillors
- Police
- Fire Brigade
- Planning Service
- Environmental health
- Community Safety
- Licensing Authority
- Safeguarding Children

4.4 The application will also be published on the London Borough of Barnet's website

## **5 DETERMINING THE APPLICATION**

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

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

- a. The type of activity to which the application relates;
- b. The duration of the proposed licence
- c. The days and hours of operation of the activity
- d. The layout and condition of the premises
- e. The character of the locality in which the proposed premises

- are to be situated. (This will include the likely character of an area as a result of redevelopment of that area.)
- f. The use to which other premises in the vicinity are put
- 5.3 The inside of sex establishments should not be visible to passers by on retail thoroughfares or pedestrian routes. Applicants should consider locating premises at basement level.
- 5.4 *The London Borough of Barnet recognises under The Act that it can set a quantity limit regarding the number of sex establishments in an area but has not chosen to do so based on the specific geographical characteristics and nature of the borough.*
- 5.5 *The London Borough of Barnet has not imposed a limit on the number of premises that may be licensed in any area, it will consider each application on its own merits. However, it will not grant licences if it is deemed inappropriate having regard to the character of the relevant locality and in particular in relation to the following:*
- *Purely or primarily residential accommodation*
  - *Schools, play areas, nurseries, youth clubs, children's centres or similar places*
  - *Access routes to and from schools, play areas, nurseries, children's centres or similar premises*
  - *Places of worship*
  - *Community facilities or public buildings including, but not*
- limited to, swimming pools, leisure centres, public parks, youth centres/clubs and sheltered housing.*
- *Historic buildings or tourist attractions*
- 5.6 *"Relevant Locality" is defined as an area of (to be confirmed) metres radius around the proposed location. The London Borough of Barnet will in general, in areas where the relevant locality includes one or more of the above list, consider it inappropriate for a licence to be granted.*
- 5.7 *London Borough of Barnet acknowledges that a concentration of sex establishments in a particular area can result in the potential for fear of crime, anti-social behaviour, disorder, noise pollution and other disturbance to residents. In such cases the amenity of local residents can be placed under severe pressure.*
- 5.8 *The London Borough of Barnet would also consider the following factors when deciding if an application were appropriate:*
- *Cumulative adverse impact of existing sex related licensed activities in the vicinity of the proposed premises*
  - *Proximity to areas with the highest levels of recorded crime*
  - *Whether the premises has met the relevant planning requirements*
  - *Whether the applicant is fit and proper to hold the*



*licence. This may include considering the operation of existing or previous licences held by the applicant, and/or any reports received about the applicant from the police or other sources.*

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

5.10 The Licensing Sub Committee will communicate their decision at the end of the hearing and all parties will receive written confirmation within 7 days.

## **6 CONDITIONS**

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

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

## **7 REFUSAL OF AN APPLICATION**

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

- To a person under the age of 18;
- To a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of London Borough

of Barnet within the last 12 months;

- To a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

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

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

## **8 EXPIRY OF A LICENCE**

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

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

## **9 REVOCATION OF A LICENCE**

- 9.1 The London Borough of Barnet may revoke a licence on any of the grounds contained within the Act which include (please note this list is not exhaustive):
- the licence holder being no longer being fit and proper
  - Poor operation of the premises
- 9.2 The London Borough of Barnet will not revoke a licence without first giving the holder of the licence the opportunity of appearing and making representations before the Licensing Sub-Committee.

## **10 FEES**

- 10.1 The application process involves paying a non-returnable application fee which includes the cost of inspecting premises, processing the application and committee hearing.
- 10.2 The fees applied are laid out in the London Borough of Barnet's Fees and Charges Schedule.

## **11 DECISIONS**

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

- 11.2 Decisions will be taken having regard to this Policy and Part III of the relevant legislation

## **12 APPEALS**

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

## **13 ENFORCEMENT**

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

## **14 PUBLIC REGISTER**

- 14.1 A public register will be made available and can be accessed on line on the Licensing webpage

#### 14.1 Appendix A: Schedule of standard conditions

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

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

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

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

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

Sexual entertainment venues	There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices which shall be illuminated and placed in such a position that it can easily and conveniently be read by persons before entering the premises. No employee shall stand in such a position as to obscure the notice.
Sexual entertainment venues	Any striptease entertainment must only be provided on a designated stage area, adjacent to tables where customers are seated and adjacent to the bar
Sexual entertainment	Performances of striptease / lap dancing shall be undertaken only by the performers/entertainers, and the audience shall

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





## APPENDIX 2

# London Borough of Barnet

## Sex establishment and Sex Entertainment Venues Policy

### FORMAL CONSULTATION: COMMENTS ON OUR DRAFT POLICY

#### Definitions

A sex establishment is defined as a sex shop or a sex cinema

A sexual entertainment venue is defined as *“any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.”*

The meaning of ‘relevant entertainment’ is *“any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means).”* An audience can consist of just one person (e.g. where the entertainment takes place in private booths).

## **Current Position**

Currently there are no premises offering this type of entertainment within the London Borough of Barnet.

In order to ensure that consistent decisions are made on application for such venues London Borough of Barnet need to ensure there is a sound policy setting out how applications should be submitted and how decisions will be made

## **Adopting section 27 of the Policing and Crime Act 2009**

Currently the decision to adopt the above Section has not been made. If the Licensing Committee approve its adoption, the formal decision to adopt will be made at the Council meeting in January 2013. It is recommended to the Committee to adopt the provision.

If adopted the amendments will,allow local people to oppose an application for a Sex Establishment licence if they have legitimate concerns that a Sexual Entertainment Venue (SEV) would be inappropriate given the character of an area, for example, if the area was primarily residential.

The section of the policy that relate only to sex entertainment venues are highlighted in red and these will be removed should the London Borough of Barnet decide not to adopt Section 27.

## **Relevant Locality**

The legislation allows the local authority to set a quantity limit regarding the number of sex establishments/sex entertainment venues in an area. However it should be noted that the guidance is clear that regardless of this all applications need to be considered on its own merits

*“...it is reasonable and potentially useful to future applicants, for a local authority to decide in advance of receiving any applications that certain areas are, or are not, appropriate locations for a sex establishment or a particular number of sex establishments. Nevertheless, all applications must be considered on their individual merits.”*

However setting up limit's, for example by ward, can cause difficulty in decision making. Which could result in more challenges to decisions.

The London Borough of Barnet proposes instead to look much closer at the specific area around each proposed site, ensuring that each application is treated individually and on its merits.

To make the decision making process clearer the area that will specifically be considered will be defined. The policy states that in general the grant of a licence will be deemed inappropriate if the defined area has specific characteristics. These include the area being primarily residential, their being a school or place of worship in the area, etc. The full information in relation to this can be found in the policy at 5.4 – 5.9 and is highlighted in italics.

However before defining the area that will be given specific consideration the London Borough of Barnet is consulting with all relevant parties on what size this area should be.

The options are 25 Metres from location, 50 Metres from location, 75 Metres from location, or another option.

Please note the guidance is very specific that a whole borough cannot be designated as a zero quota area.

## **Consultation**

This consultation is an opportunity for local residents, businesses and their representatives to formally comment on the proposal and provide feedback to the Authority.

The consultation commences on the 3 December 2012 and finishes on the 1 March 2013.

Further, more detailed information regarding the effect of the legislation can be found in the Home Office guidance titled “Sexual Entertainment Venues”

The council has identified people and organisations that may be interested in responding to this consultation. However, the council would welcome the views of any interested parties and recipients should feel free to draw the attention of this paper to others who might be interested in responding to the consultation.

In order to comment on the Proposal, respondents may first wish to refer to the guidance issued by the Home Office.

## **Responding to the Consultation**

**Name:**

**Organisation or capacity (if applicable):**

**Address:**

**E-mail:**

**Telephone Number:**

**When responding to this consultation, please address the following questions:**

**Question 1.**

**Please provide any comments on the proposed policy? (Please state which paragraph number you are referring to)**

**Question 2.**

**Please specify what size the area to be considered as the relevant locality should be.**

- **25 Metres from location**
- **50 Metres from location**
- **75 Metres from location**
- **Other (please specify)**

**Question 3**

**Please give your reasoning for the above answer? (Please include as much information as possible including if possible examples from your location)**

**The consultation responses are likely to be made public. If you do not wish your identity to be divulged, please make this clear in your response.**

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Meeting	Licensing Committee
Date	26 November 2012
<b>Subject</b>	<b>Street Trading Policy</b>
Report of	Interim Director of Environment, Planning and Regeneration
Summary	This report seeks approval from the Committee to engage in consultation on a draft Street Trading Policy.

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Officer Contributors	Emma Phasey - Trading Standards and Licensing Manager
Status (public or exempt)	Public
Wards Affected	All
Key Decision	No
Reason for urgency / exemption from call-in	Not Applicable
Function of	Council
Enclosures	Appendix 1 – Draft street trading police Appendix 2 – Consultation document
Contact for Further Information:	Emma Phasey Trading Standards and Licensing Manager <a href="mailto:Emma.phasey@barnet.gov.uk">Emma.phasey@barnet.gov.uk</a>

## **1. RECOMMENDATIONS**

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

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 Decision by Cabinet on 31 January 2008 to adopt the current Street Trading Policy and enforcement regime,

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 Street trading will support objectives contained within the Corporate Plan. In particular, in relation to a “successful London suburb” as Street trading can contribute to the economic, cultural, environmental and social well being of the borough.

## **4. RISK MANAGEMENT ISSUES**

- 4.1 Currently the council has no formal detailed policy in relation to street trading. The decisions are made in line with best practice and in line with the Cabinet Report in January 2008 that established the current regime.
- 4.2 The lack of a sound policy or the adoption of an unsound policy may result in poor decisions being taken and could cause difficulty to businesses and residents. This would leave the authority open to challenge by way of Judicial Review in relation to the policy and/or appeal of a Licensing Committee decision to the Magistrates’ Court. This would adversely affect the Councils reputation.

## **5. EQUALITIES AND DIVERSITY ISSUES**

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



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

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

6.1 Administration and enforcement of street trading will be carried out by the Licensing team, together with support from Legal Services and from Governance Services, when arranging and co-ordinating arrangements for hearings in relation to Permanent Pitches.

6.2 The current fees were set in 2008 and no change is currently proposed, although the fees are annually reviewed to ensure that the administration etc of street trading is fully covered by the fees

6.3 Any expenditure will be contained within the Environment, Planning and Regeneration budgets.

**7. LEGAL ISSUES**

7.1 To ensure consistency in decision making an agreed sound policy is needed.

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

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

**9. BACKGROUND INFORMATION**

9.1 In January 2008 the London Borough of Barnet adopted the current regime in relation to street trading. The Introduction of this street trading regime has allowed for the effective control of the street scene. The Council is able to attach relevant conditions to ensure good practice and control issues such as nuisance, crime and disorder. Where there is non compliance, licences can be revoked and appropriate enforcement action taken.

9.2 There are currently approximately 70 temporary street trading licences and 6 permanent pitches in the borough.

- 9.3 It is good practice for the Council to prepare, consult on and publish a policy which it proposes to apply when exercising relevant functions.
- 9.4 If approved by the Committee, the street trading policy will be submitted for consultation with all relevant stakeholders during the next 12 weeks, in accordance with best practice. All replies will be taken into account and the policy, revised as necessary, will be submitted to this Committee for final approval at its next meeting. The Committee will then be asked to recommend that the Statement of Principles be adopted at a meeting of the full Council in January 2013.
- 9.5 The policy may be changed at any time after adoption (after further consultation), and will be regularly reviewed.
- 9.6 The proposed draft street trading policy for agreement prior to formal consultation can be found in Appendix 1.
- 9.7 The consultation document must be sent to the Police, any local trade associations, and residents groups. It will also be sent to Members, sample street trading businesses in our area and the Environmental Health and Highways departments of the London Borough of Barnet
- 9.8 In so far as is possible, the consultation document will be emailed to the relevant consultees, or a hard copy sent, where this is not appropriate. All of the consultation documents will also be published on the Council's website.
- 9.9 A specific consultation response document has also been produced. This can be found in Appendix 2 and this will be sent out with the consultation.

## 10. LIST OF BACKGROUND PAPERS

<b>Cleared by Finance (Officer's initials)</b>	<b>JH</b>
<b>Cleared by Legal (Officer's initials)</b>	<b>BH</b>

# London Borough of Barnet

# Street Trading Policy

London Local Authorities Act 1990 (as amended)

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## 1 DEFINITION OF TERMS

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

- |    |                                         |                                                                                                                                                                                                                                                                                                                                                                                                         |
|----|-----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1  | <b>Authorised Officer</b>               | An officer employed and authorised by The London Borough of Barnet to act in accordance with the provisions of the London Local Authorities Act 1990 (as amended).                                                                                                                                                                                                                                      |
| 2  | <b>Permanent Street Trading Licence</b> | A licence given by the London Borough of Barnet to trade on a licensed street                                                                                                                                                                                                                                                                                                                           |
| 3  | <b>Temporary Street Trading Licence</b> | A short term/provisional licence given by the London Borough of Barnet to trade on a street. Usually issued for table and chairs and shop front displays outside of an established premises                                                                                                                                                                                                             |
| 4  | <b>Street Market licence</b>            | A street trading licence given by the London Borough of Barnet to an individual to allow him/her to trade on a street as a market.                                                                                                                                                                                                                                                                      |
| 5  | <b>Licence</b>                          | The term used when this policy applies equally to both a street trading licence and temporary street trading licence.                                                                                                                                                                                                                                                                                   |
| 6  | <b>Licence Holder</b>                   | The person or company to whom the licence to trade has been granted.                                                                                                                                                                                                                                                                                                                                    |
| 7  | <b>Ma Market</b>                        | An outdoor space where three or more stalls are situated together for the purpose of allowing people to street trade.                                                                                                                                                                                                                                                                                   |
| 8  | <b>Itinerant ice cream trading</b>      | shall have the meaning ascribed in Section 21(1) of the London Local Authorities Act 1990 (as amended).                                                                                                                                                                                                                                                                                                 |
| 9  | <b>Street Trader</b>                    | A trader granted permission by The London Borough of Barnet to trade from a specified position.                                                                                                                                                                                                                                                                                                         |
| 10 | <b>Street</b>                           | Shall have the meaning ascribed in Section 21(1) of the London Local Authorities Act 1990 (as amended).                                                                                                                                                                                                                                                                                                 |
| 11 | <b>Street Trading:</b>                  | Shall have the meaning ascribed in Section 21(1) of the London Local Authorities Act 1990 (as amended) and includes the use of tables and chairs on situated the highway for business purposes.                                                                                                                                                                                                         |
| 12 | <b>Street Trading Pitch/Location</b>    | The area in any street authorised as a place at which street trading may be engaged in by a street trader, and includes any temporary alternative place approved by the London Borough of Barnet.                                                                                                                                                                                                       |
| 13 | <b>Advertisement</b>                    | Any word, letter, model, sign, placard, board, notice, whether illuminated or not, in the nature, and employed wholly or partly for the purposes of advertisement, announcement or direction and includes any hoarding or similar structure or any balloon used, or adapted for use for the display of advertisements, and references to the display of advertisement shall be constructed accordingly. |
| 14 | <b>Assistant</b>                        | A person employed by and acting under the directions of a street trader to assist him/her about the business of the stall and whose name and address has been notified to the London Borough of Barnet                                                                                                                                                                                                  |
| 15 | <b>Awning</b>                           | A sheet of canvas or other material, used as a protection against the weather, which projects as an extension of the roof beyond the structure of the stall.                                                                                                                                                                                                                                            |

16	<b>Goods</b>	Any goods, wares or merchandise displayed for sale at a stall
17	<b>Pitch Limits</b>	The agreed area within which street trading is permitted.
18	<b>Refuse</b>	Any waste material.
19	<b>Stall</b>	Any structure used by a trader for the display of goods, or in connection with his or her business, and which occupies a licensed street trading pitch; and includes all goods offered or to be offered for sale and any additional structure or equipment used as part of the stall or business. On “isolated pitches” this also includes all rubbish created as a result of the business.
20	<b>Premises</b>	Any shop, house or block of flats or other building.

## 2 INTRODUCTION

2.1 This document sets out the London Borough of Barnet’s policy in respect of the London Borough of Barnet’s licensing functions for street trading under [Part III of the London Local Authorities Act 1990 \(as amended\)](#).

2.2 This policy was approved at a meeting of the Licensing Committee on [DATE] and will take effect from [DATE].

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

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

2.5 The London Borough of Barnet recognises that street trading can play a part in the cultural identity of the borough and also contributes to the local economy. It may attract visitors and can make for vibrant towns and communities, while at the same time providing employment.

2.6 In regulating street trading activities the London Borough of Barnet acknowledges that a balance must be struck between the legitimate objectives of applicants and the desires of the population as a whole, and in particular those members of the public living, working or engaged in normal activity in the area concerned. A balance must be struck between these, often conflicting, positions and all relevant views will be taken into account when making licensing decisions or determining a course of action.

2.7 This policy will apply to all street-trading activities to ensure consistency in decision-making. However, each application will be

considered on its own merits so that individual circumstances, where appropriate, are taken into consideration.

2.8 On **[DATE]**, Barnet Council made regulations prescribing standard licence conditions in accordance with Section 27(3) London Local Authorities Act 1990 (Appendix 2)

2.9 The Licensing functions under The Act will be discharged by officers acting under delegated authority.

### 3 THE APPLICATION

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

**London Borough of Barnet  
Trading Standards and  
Licensing Team  
Building 4  
North London Business Park  
Oakleigh Road South  
London  
N11 1NP**

#### 3.2 **New Applications – temporary licences**

3.2.1 The application must be:

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

- Accompanied by the full fee, unless agreed in writing that a partial fee will be acceptable.

- Accompanied by an acceptable passport sized photo

- Accompanied by the following documents:

An original certificate of insurance that covers the street trading activity for third party and public liability risks

Written proof of ownership of the land on which it is intended to trade or adjacent to or written consent of the land owner to trade from that land

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

3.2.3 An incomplete or incorrectly completed application will be rejected.

#### 3.3 **New Applications – permanent pitches**

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



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

### 3.4 Renewal Applications

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

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

3.4.3 An incomplete or incorrectly completed application will be rejected.

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

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

### 3.7 Fast Track application

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

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

3.5.3 A correctly completed application for a licence should (apart from

in exceptional circumstances to be determined by the London Borough of Barnet) be received at least 28 days before the proposed start date of the licence.

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

### 3.6 Street Markets

3.6.1 All persons intending to trade in a street market must submit an application for a street market.

3.6.2 The initial application to hold a market in the area must be submitted at least 4 months before the market will be held. This must be submitted with

An original certificate of insurance that covers the street trading activity for third party and public liability risks

A management plan for the market including a risk assessment

3.7.1 A further application must be submitted at least 2 months before each market confirming the date of the event.

3.7.2 A list of each stall trader complete with full name and address must be submitted at least 2 weeks prior to each event.

## 4. DETERMINING APPLICATIONS

### New Permanent pitches

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

- London Borough of Barnet (Highways Authority)
- London Borough of Barnet Environmental Health Department
- The Metropolitan Police Service
- London Fire & Rescue Service
- The elected ward councillor for the proposed street trading location
- Any other person at the London Borough of Barnet believes may provide relevant information in respect of the application.

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

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

### Renewal Applications

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

- London Borough of Barnet (Highways Authority)
- London Borough of Barnet Environmental Health Department

- The Metropolitan Police Service

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

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

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

### Temporary licence (non fast track applications)

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

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

### Temporary licence (fast track applications)

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

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

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

## Street Markets

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

- London Borough of Barnet (Highways Authority)
- London Borough of Barnet Environmental Health Department
- The Metropolitan Police Service
- London Fire & Rescue Service
- The elected ward councillor for the proposed street trading location
- Transport for London )if the market is on a TFL route.
- Any other person at the London Borough of Barnet believes may provide relevant information in respect of the application.

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

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

The consultation period will last for 6 weeks starting the day following

receipt of a valid application for a temporary street market.

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

If approval is given for a temporary street market to be held by a particular person in a particular area then a further applications must be submitted at least 2 months prior to each market specifying the date of the market. This information will be circulated to the following persons to consult on the suitability of the chosen date.

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

The parties will have 7 days to make any representations. This application must be accompanied by the relevant fee

Once a street market has been accepted, the applicant must ensure that a list of each individual stall holder with their full name address and photograph is sent to the London borough of Barnet at least 2 weeks prior to the event.

## 5 REPRESENTATIONS TO AN APPLICATION

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

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

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

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

## **6 DETERMINATION OF THE APPLICATION**

6.1 The decision to grant a new permanent street trading licence shall be determined by the Licensing Sub-Committee

6.2 The decision to renew a licence can be made by an officer using delegated powers, however if the officer is unable to make a decision due to exceptional or other circumstances the application may be determined by the Licensing Sub-Committee

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

- Public Safety
- Crime and Disorder
- Nuisance
- Visual Amenity of the area

6.4 The London Borough of Barnet will have regard to any relevant factors that may affect the use of a licence if granted including but not exclusively

- the suitability of the premises at which it is intended to trade and
- the adequate provision of storage facilities for receptacles or perishable goods when street trading is not taking place.

6.5 The London Borough of Barnet will also consider whether the applicant:

- is suitable to hold a licence on the grounds of misconduct or other sufficient reason and may consider the award of penalty points on any existing licence
- has previously failed to obtain a street trading licence
- has previously held a licence that was revoked
- has previously failed to pay fees or other charges in respect of a licence

## **7 GRANTING THE APPLICATION**

7.1 On approving an application the London Borough of Barnet may issue a permanent street trading licence or temporary street trading licence (a licence) as appropriate.

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

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

7.4 A permanent street trading licence shall be granted for a period not exceeding 12 months.

7.5 A temporary street trading licence may be granted on a daily, weekly or monthly basis up to a maximum period of six months.

### **Street Markets**

7.6 A street market licence shall be granted for a period not exceeding five days.

7.7 The licence will be issued subject to the London Borough of Barnet's standard conditions and shall be subject to additional conditions in respect of giving a notice of the intended use of the licence street for the purposes of holding a market and advertising the market in accordance with paragraphs 4.8 to 4.10 above.

7.8 The licence may also be issued subject to specific conditions that the licensing authority deems reasonable and necessary.

## **8 REFUSING THE APPLICATION**

## 8.1 A licence shall not be granted

unless:

- The fee has been paid in full or
- An agreement in writing has been obtained from the London Borough of Barnet which contains details of the payment of the fee by instalments.

8.2 A licence shall be refused if any of the circumstances in section 25(4) of the Act apply.

8.3 A licence may be refused if any of the circumstances in section 25(6) of the Act apply. However, before a final decision is taken the London Borough of Barnet will give the licence holder or applicant a written notice of its intention to refuse the licence. The licence holder or applicant will be given an opportunity to appear before a senior officer and to make representations in respect of the matter.

8.4 A licence will not be granted if the proposed street trading pitch will not allow sufficient and safe passage for pedestrians using the footpath. In general at least 2.5 metres of clear unobstructed passage must be maintained from the roadside kerb to the outermost point of pitch. In areas of high pedestrian use or high levels of traffic a larger clearance may be required.

8.5 A licence will not be granted for proposed street trading pitches to extend more than 1 metre from the building and onto the highway on all routes maintained by Transport for London.

8.6 A licence will not be granted if it is clear that the granting of the licence will cause significant nuisance.

## Street Markets

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

## 9 EXPIRY OF THE LICENCE

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

9.2 A licence holder may surrender his/her licence by sending it to the

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

### Lapse

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

### Succession

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

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

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

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

## 10 REVOCATION OR VARIATION

### Permanent street trading licence

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

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

10.3 Before a decision is taken the London Borough of Barnet will give the licence holder a written notice of its intention to revoke or vary the licence.

10.4 The licence holder will then be given an opportunity to appear before a senior officer within 21 days and to make representations in respect of the matter.

10.5 The senior officer will consider the representations before a decision is taken.

10.6 The senior officer will also have regard to this policy in particular section 7 before making a decision.

### Temporary Street Trading Licence

10.7 The London Borough of Barnet may revoke or suspend the use of a temporary licence on land within 7 metres of any road or footway as described in section 21 (1)(b) on the grounds of safety.

10.8 The London Borough of Barnet may revoke a temporary licence

- 10.9 If the London Borough of Barnet revokes or suspends the temporary licence it will refund a proportion of the fee on a pro-rata basis less the administrative costs of granting the licence.
- 10.10 As an alternative to revocation or variation of a licence, the London Borough of Barnet may decide that other enforcement action is appropriate. This may include using the 'Penalty Points System' or pursuing a criminal prosecution in accordance with the Enforcement Policy.
- 10.11 Use of the penalty points system may result in the revocation of a licence in certain circumstances. The Penalty Points System is contained in appendix 4.

## **11 FEES AND CHARGES**

- 11.1 The London Borough of Barnet will set the fees for all street trading licences to recover its reasonable administrative and enforcement costs. The cost of street cleaning and other appropriate costs will also be considered when setting the fee.
- 11.2 The fees will be reviewed annually and before any changes are made the London Borough of Barnet will consult with all licence holders and publish a notice of

the proposed charges in a local newspaper.

- 11.3 The consultation will last for a period of 28 days from the publication of the notice in the newspaper.
- 11.4 Before a final decision is made the London Borough of Barnet will consider any representations received during the consultation period.
- 11.5 After a final decision is made, the London Borough of Barnet will inform all licence holders and publish a notice of the fees and charges in a local newspaper.
- 11.6 The fees and charges will take effect no less than 28 days after the publication of the notice.

### **Application Fees**

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

## **13 DECISIONS**

- 13.1 The reasons for any decision(s) taken by the London Borough of Barnet in respect of an application for a licence will be provided in writing to all parties to the proceedings within 7 days of the decision.
- 13.2 Decisions will be taken having regard to this Street Trading Policy and Part III of the London Local Authorities Act 1990 (as amended).



## **14 APPEALS**

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

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

## **15 ENFORCEMENT**

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

## **16 UNLICENSED STREET TRADING**

- 16.1 Unlicensed street trading can have a negative impact on legitimate street traders and the community as a whole and will

not be tolerated by the London Borough of Barnet.

- 16.2 If an authorised officer suspects that a person has committed an offence of unlawful street trading he may seize any article or thing the officer will take appropriate action in line with the current enforcement policy

- 16.3 Before taking any formal action the authorised officer will identify him/herself by showing their authority before taking any action.

## **17 MOTOR VEHICLES**

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

- 17.2 If you are in the motor trade business and you offer a vehicle for sale on the internet at the same time as keeping the same vehicle on the public highway this is also classified as street trading.

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

## **18 DATA PROTECTION, FREEDOM OF INFORMATION AND DATA MATCHING**

- 18.1 The London Borough of Barnet London Borough of Barnet ("the Council") is the Data Controller of all personal information held by

the licensing authority. The London Borough of Barnet will process and hold that information in accordance with principles of the Data Protection Act 1998.

- 18.2 The information supplied and held as part of the street trading application and enforcement processes may be disclosable in accordance with the Freedom of Information Act 2000 or Environmental Information Regulations 2004.
- 18.3 The information supplied in all applications will be given to the Audit Commission to participate in the National Fraud Initiative (NFI) data matching exercise and will be used for cross-system and cross authority comparison with other relevant organisations' data for the prevention and detection of fraud.



Appendix 2

# London Borough of Barnet Street Trading Policy

## FORMAL CONSULTATION: COMMENTS ON DRAFT POLICY

When you have completed this form please return to [licensingadmin@barnet.gov.uk](mailto:licensingadmin@barnet.gov.uk)  
or by letter, addressed to  
Emma Phasey, Trading Standards and Licensing Manager,  
London Borough of Barnet, Building 4,  
North London Business Park,  
Oakleigh Road South,  
London,  
N11 1NP

**Name:**

**Organisation or capacity (if applicable):**

**Address:**

**E-mail:**

**Telephone Number:**

**Paragraph No.**  
**COMMENTS**

**Paragraph No.**  
**COMMENTS**

Please add further rows if you wish

**In addition I wish to make the following general comments:**

***Declaration:***

***I am happy for this Response to be made public OR  
I do not wish this Response to be made public***

***Failure to complete the above Declaration will result in your Response being  
made public.***

Signature: ..... Date: .....

Name: ..... *(Please print)*