

**MEETING**

**LICENSING COMMITTEE**

**DATE AND TIME**

**THURSDAY 19TH MARCH, 2015**

**AT 7.00 PM**

**VENUE**

**HENDON TOWN HALL, THE BURROUGHS, LONDON NW4 4BQ**

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

Chairman: Councillor John Hart BA (Hons) MA (Chairman),  
Vice Chairman: Councillor Brian Salinger (Vice-Chairman)

**Councillors**

Maureen Braun	Anne Hutton	Wendy Prentice
Alison Cornelius	Kitty Lyons	Jim Tierney
Claire Farrier	John Marshall	Zakia Zubairi

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

**Andrew Charlwood – Head of Governance**

Governance Services contact: [jan.natynczyk@barnet.gov.uk](mailto:jan.natynczyk@barnet.gov.uk), 0208 359 5129

Media Relations contact: Sue Cocker 020 8359 7039

**ASSURANCE GROUP**

## ORDER OF BUSINESS

Item No	Title of Report	Pages
1.	Minutes	1 - 4
2.	Absence of Members	
3.	Disclosable Pecuniary interests and Non Pecuniary interests	
4.	Report of the Monitoring Officer (if any)	
5.	Public Question and Comment (if any)	
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## Decisions of the Licensing Committee

24 November 2014

Members Present:-

AGENDA ITEM 1

Councillor John Hart (Chairman)

Councillor Brian Salinger (Vice-Chairman)

Councillor Alison Cornelius

Councillor John Marshall

Councillor Claire Farrier

Councillor Jim Tierney

Councillor Anne Hutton

Councillor Zakia Zubairi

### Apologies for Absence

Councillor Maureen Braun

Councillor Wendy Prentice

Councillor Kitty Lyons

#### 1. MINUTES

**RESOLVED** - That the minutes of the meeting held on 17 July 2014 be approved as a correct record.

#### 2. ABSENCE OF MEMBERS

An apology of absence was received from Councillor Kitty Lyons, Councillor Wendy Prentice and Councillor Maureen Braun. An apology for lateness was received from Councillor Anne Hutton.

#### 3. DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS

None were declared.

#### 4. REPORT OF THE MONITORING OFFICER (IF ANY)

There were none.

#### 5. MEMBERS ITEM (IF ANY)

There were none.

#### 6. LICENSING AUTHORITY - FIXED ODD BETTING TERMINALS

The Trading Standards and Licensing Manager introduced the report.

The committee considered the report.

Councillor Marshall moved a motion to include an additional recommendation "That the committee write to the London Borough of Newham requesting an update on the

progress of their proposal in relation to fixed odd betting terminals in betting premises” Councillor Cornelius seconded the motion.

Councillor Cornelius moved for an addendum to Councillor Marshall’s motion “That the committee also write to the 3 Members of Parliament, for the London Borough of Barnet, requesting that they raise the issue in Parliament” Councillor Marshall seconded the motion.

Having been put to the vote the Committee voted:

For: 3  
Against: 4  
Abstain: 0

The motion was therefore lost.

Councillor Hart moved a motion that was duly seconded, that words “on street” be deleted from recommendation 1.

Having been put to the vote the Committee voted unanimously in favour of the motion.

Councillor Hart moved a motion that was duly seconded to include an additional recommendation “That the committee write to the London Borough of Newham in support of their proposal in relation to fixed odd betting terminals in betting premises”.

Having been put to the vote the Committee voted:

In Favour: 4  
Against: 3  
Abstain: 0

The motion was therefore carried.

The Committee;

## **RESOLVED**

1. That the committee consider and note the following proposal by the London Borough of Newham in relation to fixed odd betting terminals in betting premises; and
2. That the committee write to the London Borough of Newham in support of their proposal in relation to fixed odd betting terminals in betting premises.

## **7. LICENSING AUTHORITY - REVIEW OF THE IMPACT OF PREMISES LICENCES AND THE SALE AND SUPPLY OF ALCOHOL ON THE LONDON BOROUGH OF BARNET.**

The Trading Standards and Licensing Manager introduced the report.

Councillor Cornelius moved a motion to include an additional recommendation “That the Assistant Director for Regulatory Services circulate the cost incurred in producing the report on the impact of premises licences and the sale and supply of alcohol on the

London Borough of Barnet, and any future costs for any further reports, before a decision is taken on any future proposals” Councillor Marshall seconded the motion.

Having been put to the vote the Committee voted:

For: 3  
Against: 4  
Abstain: 1

The motion was therefore lost

The Committee;

**RESOLVED** - That the committee consider and note the following report on the impact of premises licences and the sale and supply of alcohol on the London Borough of Barnet.

## 8. REVIEW OF THE LICENSING POLICY

The Trading Standards and Licensing Manager introduced the report.

The Committee;

**RESOLVED** - That the committee consider and approve the proposed Licensing Policy and recommend for its adoption by full Council at the meeting on 16th December 2014, to take effect from 1st January 2015

## 9. REVIEW OF THE CURRENT STREET TRADING REGIME

The Trading Standards and Licensing Manager introduced the report.

The Committee voted in favour of “Option 2: Designating some streets as licences streets” in the report.

Having been put to the vote the Committee voted:

In Favour: 5  
Against: 0  
Abstain: 3

Councillor Hart then moved a motion that was duly seconded to include additional recommendations:

1. That the Licensing Officers consult with the Commissioner of Police of the Metropolis and other relevant parties on the proposal to designate some streets as licenced streets; and
2. That the consultation include a policy on the demarcation of licensed street trading areas

Having been put to the vote the Committee voted:

In Favour: 5  
Against: 0

Abstain: 3

The Committee

**RESOLVED**

1. That the committee consider report on the current street trading regime and in particular the committee resolved to introduce the designation of streets as “licence streets”;
2. That the Licensing Officers consult with the Commissioner of Police of the Metropolis and other relevant parties on the proposal to designate some streets as licenced streets; and
3. That the consultation include a policy on the demarcation of licensed street trading areas

**10. STREET TRADING POLICY**

The Trading Standards and Licensing Manager introduced the report.

The Committee;

**RESOLVED** - That the committee consider and approve the proposed revisions/amendments to the London Borough of Barnet’s Street Trading Policy, and recommend for its adoption by full Council at the meeting on 16th December 2014.


**11. STREET TRADING FEES**

This item was deferred to a future meeting at the request of officers.

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

There were none.

The meeting finished at 9.00 pm

	AGENDA ITEM 7
	<h2>Licensing Committee</h2> <h3>19<sup>th</sup> March 2015</h3>
<b>Title</b>	<b>Fees and Charges: Licensing</b>
<b>Report of</b>	Alan Bowley – Commissioning Director - Environment
<b>Wards</b>	All
<b>Status</b>	Public
<b>Enclosures</b>	Appendix A
<b>Officer Contact Details</b>	Chris Carabine, <a href="mailto:chris.carabine@barnet.gov.uk">chris.carabine@barnet.gov.uk</a> 020 8359 7438

<h3>Summary</h3>
<p>This report recommends, in accordance with the Constitution, the fees and charges under this Committee’s remit to be considered by the Committee prior to being presented to the Policy and Resources Committee for approval.</p>

<h3>Recommendations</h3>
<p><b>1. That the Licensing Committee consider and recommend the fees and charges set out in Appendix A to this report to be presented to Policy and Resources Committee for approval.</b></p>

**1. WHY THIS REPORT IS NEEDED**

- 1.1 Fees and charges are considered annually to comply with legislative changes, to take into account inflation (where applicable), the cost of service provision and any new opportunities to improve the service offered to the residents and service users. This report presents the proposed fees and charges for the coming financial year for those that fall within the remit of this committee. Any

fees and charges which are not being increased by more than the rate of inflation are not included within this report as their approval method is different.

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1 The review of fees and charges is good practice and is undertaken annually, for reasons such as ensuring that the cost of providing services are being recouped as appropriate. For those fees and charges that will be levied on the services provided by Re, the Council and Re have undertaken an audit of the fees and charges proposed and have updated, deleted or added fees as appropriate.

## **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 3.1 The alternative is to not review the fees and charges and adjust them (or add new ones if appropriate) but this is not good practice and could result in a failure to recover or to over recover costs of provision of the service.

## **4. POST DECISION IMPLEMENTATION**

- 4.1 If the fees and charges recommended are agreed then these will be submitted with a report to the Policy and Resources Committee for approval, in accordance with Constitutional requirements.

## **5. IMPLICATIONS OF DECISION**

### **5.1 Corporate Priorities and Performance**

- 5.1.1 The proposed fees and charges will help towards the financial strategy and to ensure costs are being recovered where appropriate.

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

- 5.2.1 The proposed fees and charges schedule will aid Regional Enterprise to meet the financial challenges that the Council is facing, which will in turn benefit the residents of the Borough.

- 5.2.2 The proposed changes have been reviewed by the Re finance team for both the proposed level to be charged and it has also been checked by finance for VAT implications. This is in line with good practice of reviewing fees and charges on a regular basis.

- 5.2.3 An exercise has been completed to model the actual costs of issuing special treatments licences which has resulted in some fees having to be increased to ensure costs are recovered, where this was not previously the case.



### **5.3 Legal and Constitutional References**

- 5.3.1 Local authorities have a variety of powers to charge for specific statutory services set out in statute. The Local Government Act 2003 also provides a power to trade and a power to charge for discretionary services, the latter on a costs recovery basis. Discretionary services are those that a local authority is permitted to provide under statute but is not obliged to do so. The power to charge for discretionary services is not available to local authorities if there is a statutory duty to provide the service or if there is a specific power to charge for it or if there is a prohibition on charging.
- 5.3.2 Additionally the Localism Act 2011 provides local authorities with a general power of competence that confers on them the power to charge for services but again subject to conditions/limitations similar to those noted above.
- 5.3.3 Where authorities have a duty to provide a statutory service free of charge to a certain standard, no charge can be made for delivery to that standard, however delivery beyond that point may constitute a discretionary service for which a charge could be made.
- 5.3.4 There is a variety of legislation permitting charging for different services, some which set prescribed fees and charges (or the range of charges for a given service), and others which allow discretion based on costs of providing the service.
- 5.3.5 The Council's Constitution at Annex A, Responsibility for Functions sets out the responsibilities of the various committees including Licensing Committee. The Financial Regulations in the Constitution at paragraphs 4.1.1 and at 4.3.8 note that fees and charges must be approved by the Policy & Resources Committee, and that Policy and Resources Committee must approve changes to fees and charges that are significantly different from inflation, the introduction of new fees and charges, and changes to fees and charges outside the normal annual cycle. It is also noted at 4.3.9 that Chief Officers are able to approve changes to fees and charges annually where the change is broadly in line with inflation.

### **5.4 Risk Management**

- 5.4.1 The increases in fees and charges are necessary to offset rising costs, and to help towards the financial challenges faced by the council.
- 5.4.2 Increasing fees and charges always poses an element of risk around the proportionate level of increase, when compared to the resident's ability to pay. Every effort has been made to manage the charge increase to an appropriate level based on costs; however some element of reputational risk will remain.

### **5.5 Equalities and Diversity**

5.5.1 The Equality Act 2010 outlines the provisions of the Public Sector Equality Duty which requires public authorities and organisations acting on their behalf to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it

The relevant protected characteristics are age, race, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation. The duty also covers marriage and civil partnership, but to a limited extent.

5.5.2 The broad purpose of this duty is to integrate considerations of equality into day to day business and keep them under review in decision making, the design of policies and the delivery of services so that the potential impact on any protected groups is identified and steps taken to mitigate or remove them.

5.5.3 There is no equalities data on the persons who would be in receipt of the services contained in Appendix A to this report. The fees have been calculated to reflect actual costs and are therefore above inflation, however the increase is not considered to be excessive and it is considered that any impact would be minimal and is not likely to affect one group any more than any other or anyone else. An initial equalities impact assessment (EqIA) did not find that a full EqIA would be required as no adverse impact issues on any protected groups were indicated.

5.5.4 The increases in fees and charges will enable resourcing to be made available to ensure that these services and information on how to receive assistance, is easily accessible and is also promoted through a variety of different communication channels.

5.5.5 The outcomes and impact of these changes and equality data will be monitored going forward to ensure that different groups are not adversely affected.

## 5.6 Consultation and Engagement

5.6.1 As in previous years, all fees and charges have been published on Engage Barnet, Barnet's Citizen Space for public consultation, between the 26<sup>th</sup> January 2015 and 20<sup>th</sup> February 2015, and the results will be presented to the Policy and Resources Committee on 23<sup>rd</sup> March 2015.

## **6. BACKGROUND PAPERS**

6.1 Policy and Resources Committee, 10<sup>th</sup> June 2014, decision item 6.

[http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=692&MId=7856  
&Ver=4](http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=692&MId=7856&Ver=4)

## Appendix A

Area	Service	Description of Charge	UNIT	Subject to VAT	(a) Current charge excluding VAT	(b) Proposed charge excluding VAT
<b>Food, Health &amp; Safety</b>						
<u>Food Safety Courses</u>	-	-				
Re	Environmental health	Level 1 Award in Food Safety	Per person	VAT not applicable	n/a	£45.00
Re	Environmental health	Level 1 Award in Food Safety - block bookings (greater than 10 candidates)	per course	VAT not applicable	n/a	Price on Application
Licence for Massage and Special Treatments (including cosmetic skin piercing)						
Band A - Low risk and non-invasive treatments, including manicure, pedicure, ear and nose piercing using a single use piercing gun designed for the purpose, and sun beds						
Re	Environmental health	New licence	Each	VAT not applicable	£219.50	£233.00
Re	Environmental health	Renewal licence	Each	VAT not applicable	£181.50	£187.00
Band B - medium risk non-invasive treatments including some beauty treatments and therapeutic treatments, head, neck and below the knee massage.						
Re	Environmental health	New licence	Each	VAT not applicable	£296.00	£315.00
Transfer and Variation Fee (where a variation takes the licence into a higher band then the full fee pro-rata will be payable)						
Re	Environmental health	Band A	Each	VAT not applicable	£48.50	£59.00
Re	Environmental health	Additional licensing fee for Laser Removal of hair and intense pulsed light treatments	Each	VAT not applicable	£65.00	£69.00
Scrap Metal						
Re	Trading Standards and Licensing	Site Licence - Change of details	Per application	VAT not applicable	New	£30.00
Re	Trading Standards and Licensing	Collectors Licence - Change of details	Per application	VAT not applicable	New	£30.00
Film classification						
Re	Trading Standards and Licensing	Fee for classification of a film	per film	VAT not applicable	Varies depending on length of film	£80.00

	AGENDA ITEM 8  <b>Licensing Committee</b> <b>19<sup>th</sup> March 2015</b>
<b>Title</b>	<b>Street Trading Strategy</b>
<b>Report of</b>	Commissioning Director for Environment
<b>Wards</b>	All
<b>Status</b>	Public
<b>Enclosures</b>	<b>Appendix 1 – Current Conditions</b> <b>Appendix 2 – Proposed new conditions</b> <b>Appendix 3 - Proposed new policy</b> <b>Appendix 4 - Current and proposed fees</b>
<b>Officer Contact Details</b>	Emma Phasey Trading Standards and Licensing Manager <a href="mailto:Emma.phasey@barnet.gov.uk">Emma.phasey@barnet.gov.uk</a>

**Summary**

The existing approach to licensing of street trading has not been reviewed since 2008. The current arrangements are inappropriate, administratively burdensome and confusing to traders. This report seeks approval by the Committee of a new Street Trading strategy, with an updated policy, including for the designation of streets in which street trading will be permitted and a simpler approach to licensing.

- Recommendations**
1. The Licensing Committee Instruct the Commissioning Director for Environment to:
    - A. Consult on the proposed changes to:
      - The street trading licence conditions at Appendix 2
      - The street trading policy, including the designation of licence streets and

**demarcation of permanent street trading pitches/areas (Appendix 3)**

- **The revised fees for street trading at Appendix 4**
  
- B. Consult on the proposal to operate a street market in Edgware as a pilot for future street markets elsewhere in the borough and to report back to the Committee with further recommendations for approval, taking into account any representations made in the responses to the consultation**
  
- C. Implement a 6 month trial on the licensing of A Boards and review in six months time, with a report back to the Committee on 23 November 2015 on the results of the trial.**

## **1. WHY THIS REPORT IS NEEDED**

1.1 At the Licensing Committee on 24th November 2014 the committee resolved to consider designating streets within the London Borough of Barnet for street trading and that the Licensing Officers should consult with the Police and other relevant parties on this proposal and report back; and that the consultation should include a policy on the demarcation of licensed street trading areas.

1.2 The licensing department has consulted the police licensing team and the highways service on the proposal. This report updates the committee on the views expressed in response to the consultation and makes further recommendations to take the proposals forward.

### **1.3. Designation**

1.3.1 The London Local Authorities Act 1990 as amended allows for any street to be designated.

1.3.2 The existing approach is to issue a temporary licence to a trader for a period of 6 months for the pitch they wish to operate. This is then renewed every six months. Adopting the approach to designate licence streets will facilitate the application of permanent licences where it is considered it is appropriate to carry out street trading. The streets within the borough where street trading already occurs will initially be designated. To designate, an initial consultation will be carried out with relevant parties in relation to these streets. Following consultation a report will then be submitted to a licensing sub-committee seeking approval to designate. If the streets are approved for designation then notice of this will be given in the local papers and after the expiry of 1 month the designation will come into effect.

1.3.3 After the initial designation process, traders will be able to request further streets or areas to be designated and these will be considered following the same process.

1.3.4 Once a street has been designated, temporary licences will be restricted in that street to only be issued on one occasion (i.e. for a period up to 6 months) unless there are exceptional circumstances as determined by the relevant Head of Service, in which case one further temporary licence may be issued..

1.3.5 An example of such exceptional circumstances would be where concerns have been raised in relation to the licence and a longer trial period is needed to assess the suitability of a licence. Once a temporary licence expires the trader must either apply for a designated pitch to street trade or else cease street trading.

1.3.6 In streets which are not designated it is proposed that temporary licences will still be permitted, however that these can only be applied for twice (ie for a period up to twelve months). After this time we would expect the trader to cease trading or else request designation of the area in which they trade.

1.3.7 Once a street is designated an application for a street trading licence in that street must be granted under the provisions of the 1990 Act unless specific grounds for refusal of the licence exist. These are:

- There are enough traders in the street in respect of the type of goods in which the applicant wishes to trade
- The applicant is unsuitable to hold a licence
- The applicant has previously traded without first obtaining a licence
- A previous licence held by the applicant could have been revoked on the grounds that the applicant has failed or refused to pay any outstanding fees
- The applicant is unable to provide adequate storage for perishable goods when street trading is not taking place

1.3.8 By designating licence streets, the applicant and holder of a “street trading licence” will also be entitled to statutory rights under the 1990 Act that do not exist for “temporary street trading licences”. These are:

- Rights of succession.
- Statutory right of appeal to the magistrates court against the decision of the council not to grant or renew a street trading licence
- Statutory right of appeal to the magistrates court against the decision of the council to vary a street trading licence
- Rights to be given 21 days notice to make representations to the Council of its intention to revoke or vary the terms of a licence

## **1.4 Street Markets**

1.4.1 In recent months there has been considerable interest expressed by traders and local groups in establishing new street markets in some of our town centres. E.g. Edgware, Cricklewood, Golders Green, Mill Hill and East Barnet. Street markets are often considered to be beneficial to an area as they attract trade not just to the market but also to other local shops etc. It is also recognised that street trading and markets are hugely important to a vibrant economy, as they offer an excellent low risk step for businesses. Should all other factors be right for a market to operate safely, without inconvenience to road and footway users, then it is suggested that street markets should be facilitated where possible.

1.4.2 As well as the safety issues in establishing street markets that need to be considered, another factor is the need in some areas to suspend parking bays to enable the market to operate. This is likely to result in a reduction in parking revenue. Licence fees are calculated upon actual costs of licensing and are unlikely to be to the same value as any reduction in parking revenue.

1.4.3 A consultation was carried out in 2014 on a proposed street market in Edgware. There were no police or public objections, however the parking issue was not resolved. As there is still an interest in establishing the market, it is recommended that a further consultation is carried out with a view to operating Edgware as a pilot street market. If approved then the consultation on the Edgware market will start immediately will the proposed timescale for the first market by end April 2015. This will give an opportunity to fully evaluate the impact and assist in the development of guidance to support applicants for further street markets, giving clarity and transparency on any new sites

## **1.5 Demarcation**

1.5.1 A frequent cause of complaint in relation to street trading is the extension of trading beyond what is the licensed pitch. This can cause difficulties in relation to restriction of the footway and access and egress into premises. It can be particularly hazardous to the disabled, blind or partially sighted. It can however be difficult for traders to remain within the licensed dimensions of their pitch where these are not clearly marked. Adoption within the street trading policy of a requirement for demarcation of all licensed street trading areas within a designated street will enable traders to know clearly where the extent of their pitch is and facilitate enforcement by officers. Insertion of metal studs into the pavement at appropriate intervals will provide a permanent and durable marking of the extent of the pitch and is less visually obtrusive than painted lines, which will also require occasional repainting. A one off fee would be payable for the installation of the studs, payable by the applicant for a permanent licence. The proposed fee can be found in appendix 4

## **1.6. "A" boards**

1.6.1 In 2008 the Council adopted a zero tolerance policy in relation to advertising/"A" boards. It was considered that these caused street clutter and had a negative effect on the area. However many traders see "A" board advertisements as a cheap and effective way of promoting their business. In many cases they want to place the "A" board either within their licenced street trading area, or else in another location where there is ample public footpath. "A" boards can be well constructed and maintained and rather than having a negative impact on the area, in many cases they blend in, if they are appropriately styled for the street they are placed on.

1.6.2 It is proposed that a trial is implemented to allow "A" boards to be placed within a street trading pitch and to licence such advertising boards on other areas of the public highway under Section 115 of the Highways Act 1980. Permission would be initially given for a six month trial period. Strict conditions would be imposed in the licence. There would need to be at least 2 metres of clear public footpath around the "A" boards, the "A" board would need to be in-keeping with the area it was placed in, etc. There would be a fee charged for those who sought an additional licence for these boards, the proposed fee can be found in Appendix 4.



## **1.7. Conditions**

1.7.1 Although the 1990 Act sets out when a “street trading licence” must be granted, there is still a method for the local authority to control the street trading in that area.

1.7.2 This is achieved through a set of standard conditions approved by the Local Authority, that apply to all granted licences. The current conditions for street trading have not been reviewed since 2008, and were drafted when the majority of licences issued were to be temporary licences. In line with the proposal to move to designating streets, the conditions have been reviewed and updated. The current conditions can be found in Appendix 1 and the proposed new conditions in relation to street trading licences can be found in Appendix 2

1.7.3 To change conditions for street trading licences, a consultation must take place. Notice of the intention to review the conditions must be published in a local paper, with a period of 28 days for any party to make representations. All traders will be advised in writing of the proposed changes. After a period of 28 days, any representations will be considered before the conditions are adopted. These will then take effect on the next renewal of the street trading licences.

1.7.4 Further to the standard conditions which apply to all licences, individual conditions can be applied to each licence.

## **1.8. Policy**

1.8.1 The current street trading policy was recently reviewed. However should the committee decide to adopt designated streets then the policy must be amended to reflect this. The proposed new policy can be found in Appendix 3.

1.8.2 The policy has been simplified to help traders understand the process. More information has been given in relation to the kind of street trading that the London Borough of Barnet wish to encourage. Sections have been added on trading hours and goods sold.

1.8.3 To change the policy for street trading a consultation must be undertaken. The consultation will run concurrently with the consultation on the revised conditions. A period of 28 days is allowed for any party to make representations. All traders will be advised in writing of the proposed changes. After a period of 28 days any representations will be considered before the policy may be adopted. The policy will be put before the Licensing Committee for adoption.

## **1.9. Fees**

1.9.1 The current street trading fees for temporary and permanent pitches have not been changed since 2008, the fees for markets were initially set in 2014 but having moved forward in relation to markets these need a further review. Should the committee decide to adopt designated streets then the fee schedule must be amended to reflect the changes. The current and proposed fees can be found in Appendix 4.

1.9.2 The new fees are based upon cost recovery and are simpler than the current fees. Currently fees are charged depending on the size of the pitch. However the costs of administering the licence do not vary significantly depending on area. Therefore the fees are being simplified to a fixed price per licence, irrespective of the size of the pitch. Currently the annual fee for a street trading licence varies significantly depending on pitch size. It is planned to replace the fees with a single fee of £550 per year for permanent licences and £400 for a six month temporary licence. The higher cost of the temporary licence reflects the increased compliance checks required for new traders.

1.8.3 Currently almost 60% of traders pay over £600 a year for a licence and these will all see a reduction in fees. The 40% that pay under £600 will see an increase in fees.

1.8.4 A consultation must take place on proposed changes to street trading fees. The consultation will run concurrently with the consultation on the revised conditions and policy. A period of 28 days is allowed for any party to make representations. All traders will be advised in writing of the proposed changes. After a period of 28 days, any representations will be considered before the fees can take effect. These proposed fees will be put before the Licensing Committee for recommendation to the Policy and Resources Committee and if agreed by Policy and Resources Committee will then take immediate effect.

## **2. REASONS FOR RECOMMENDATIONS**

2.1 The Licensing Committee resolved at its meeting on 24th November 2014 to introduce the designation of streets as licence streets and that a consultation include a policy on the demarcation of licensed street trading areas. There were no significant concerns following the consultation with the relevant parties and so the committee are now recommended to formally agree this strategy. Concerns have been separately raised about the placing of advertising boards known as "A" boards on the footway and it is therefore also recommended that the policy is amended to include the licensing of "A" boards. As a result of the proposed changes the current fees, policy and mandatory conditions all require review. Approval is therefore sought to consult on the required changes as outlined above.

## **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

3.1 The Licensing Committee could chose not to designate any streets and maintain the current strategy, however this would be contrary to the decision taken by the Licensing Committee on 26th November 2014.

3.2 The Committee could choose to maintain the current zero tolerance policy in relation to A boards, however there is a high demand by local traders for this type of low cost advertisement and so many traders continue to place A boards on the footway. It is suggested that a regulated licensed approach is more effective and suitable than a zero tolerance policy that demands a high level of enforcement resources.

3.3 The Committee could choose not to implement a demarcation of licensed pitches, but this would mean the continued lack of clarity on the extent of pitches, leading to encroachment and increased enforcement resources.

3.4 The Committee could choose to implement demarcation by painted lines, which will be a lower cost to the trader but will be more unsightly and require occasional repainting.

3.5 The Committee could choose not to review and update the street trading policy, licence conditions and fees, but this would result in the continuation of an out dated and administratively burdensome scheme with an inequitable fee structure.

## **4. POST DECISION IMPLEMENTATION**

### **4.1 Designations, demarcation and “A” boards:**

4.1.1 Should the Committee make these recommendations then these decisions were take immediate effect.

### **4.2 Licence Conditions, fees and policy:**

4.2.1 If the Committee agree recommendations at 1.a. in relation to changing licence conditions, fees and policy for street trading licences a consultation must take place. Notice of the intention to review the conditions and fees must be published in the local paper, with a period of 28 days for any party to make representation's. A letter will be sent to all trader in relation to these changes and also the proposed changes to the policy. After a period of 28 days any representations will be considered before the condition and new policy will be brought back to the Licensing Committee for adoption. Currently the next Licensing Committee meeting is scheduled for 23 November 2015, the Committee may wish to consider scheduling a meeting prior to then for the consideration of the consultation responses. The fees, if accepted for adoption, will go to the next Policy and Resources Committee for adoption.

4.2.2 The fees, policy and licence conditions, once approved by the Committee will be applied immediately. However the licence conditions will only come into force on existing licences at the time the licence is due for renewal.

4.2.3 The costs of these consultations will be undertaken within current resources. The cost of the new regime and A board trial will mostly be covered by the new fees proposed. However there will be an additional cost for the consultation and report in relation to the designation of streets which is not covered by the fees or within existing resources. The reason this cannot be covered by the fees is that this designation will benefit all traders present and future therefore it is difficult and unfair to pass this cost onto the small number of traders who will initially benefit from this. If approved the designation process will be undertaken in an efficient way so that a number of street will be designated in one meeting. Therefore the cost to the London Borough of Barnet in relation to this will be kept to a minimam.

## **5. IMPLICATIONS OF DECISION**

### **5.1 Corporate Priorities and Performance**

5.1.1 Street trading supports objectives contained within the Corporate Plan. In particular, in relation to “maintaining the right environment for a strong and diverse local economy” as street trading can contribute to the economic, cultural, environmental and social well being of the borough.

5.1.2 Street trading also supports the Sustainable Community Strategy 2010-2020 in relation to helping create a successful London Suburb as street trading supports enterprise within the London Borough of Barnet.

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

5.2.1 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.

5.2.2 The current fees were set in 2014. Fees are kept under constant review to ensure that they accurately reflect recovery of costs incurred in administration of the licence process and compliance checks.

### **5.3 Legal and Constitutional References**

5.3.1 The London Local Authorities Act 1990 provides for Authorities to license street trading.

5.3.2 Section 24 of the London Local Authorities Act 1990 (as amended) (“the Act”) deals with the Designation of Licence Streets. Under section 24 of the Act, if the Council consider that street trading should be licensed in their area they may pass a resolution designating any street within the borough as a license street.

5.3.3 Section 25 of the Act deals with the application, grant or renewal of a street trading licence. Under the Act, the Council is responsible for granting, renewing, varying or revoking all street trading licences.

5.3.4 Under section 30 of the Act, any person aggrieved by the refusal by the Council to grant or renew a licence has the right to appeal to the Magistrates Court at any time before the expiration of the period of 21 days beginning with the date upon which notification in writing is given of the refusal or decision.

5.3.5 Section 31 of the Act deals with Temporary Street trading licences which is the current process that is operated by the Council. Under Section 31, the Council can grant a temporary licence to an applicant. The temporary licence is only valid for the day or period specified in the licence (maximum 6 months). There is no right of appeal in respect of the refusal of a temporary licence.

5.3.6 Annex A To Responsibility for Council Functions- Membership and Terms of Reference of Committees and Partnership Boards”, details the functions of the Licensing Committee which includes street trading

## **5.4 Risk Management**

5.4.1 It is important that the London Borough of Barnet adopts a robust and accountable regulatory regime in relation to street trading. It needs to ensure that the risk of non-compliance and the regulatory burden to both the Local authority and to the trade is minimised. However it must balance this with the desire of residents to have an unobstructed pavements.

## **5.5 Equalities and Diversity**

5.5.1 The Council has a legal obligation under section 149 of the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different groups.

5.5.2 When considering street trading 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.

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

## **5.6 Consultation and Engagement**

5.6.1 In relation to changes to fees, conditions and policy a consultation must take place as detailed elsewhere in this report.

5.6.2 The Council have notice requirements under the Act which allows a period of 28 days for representations to be made which the Council will consider.

## **6. BACKGROUND PAPERS**

None

# London Borough of Barnet

# Street Trading

## Licence Conditions

## 1 DEFINITIONS

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

- 1.1 **“Act”** means Part III of the London Local Authorities Act 1990 as amended by the London Local Authorities Acts 1994, 1999, 2004 & 2007”.
- 1.2 **“Advertisement”** means any word, letter, model, sign, placard, board, notice, whether illuminated or not, in the nature, and employed wholly or partly for the purposes of advertisement, announcement or direction and includes any hoarding or similar structure or any balloon used, or adapted for use for the display of advertisements, and references to the display of advertisement shall be constructed accordingly.
- 1.3 **“Assistant”** means a named person employed by and acting under the directions of a trader to assist him/her in the business of the stall and whose name and address has been notified to the Council in writing by the trader.
- 1.4 **“Awning”** means a sheet of canvas or other material, which projects beyond the Pitch Limits.
- 1.5 **“Authorised Officer”** An officer employed by The London Borough of Barnet and authorised by the Council to act in accordance with the provisions of the London Local Authorities Act 1990 (as amended).
- 1.6 **“Child”** means a child who has not reached school leaving age.
- 1.7 **“Commodities”** means any goods, wares or merchandise for sale or on display at a Licensed Street Trader Pitch.
- 1.8 **“Ice Cream Trading”** means the selling, exposing or offering for sale of goods consisting wholly or mainly of ice cream, frozen confectionery or other similar commodities from a vehicle.
- 1.9 **“Itinerant Ice Cream Trading”** means ice cream trading from a vehicle which goes from place to place remaining in any one location in the course of trading for periods of 15 minutes or less and not returning to the same location or any other location in the same street on the same day;

- 1.10 **"Licensed Street Trader"** means any person who is licensed for Street Trading under Part III of the Act
- 1.11 **"Licensed Street Trading Pitch"** The area in any street authorised as a place at which street trading may be engaged in by a street trader, and includes any temporary alternative place approved by the Council or a duly authorised officer of the Council.
- 1.12 **"Premises"** means any land, building or part of a building and includes any commercial premises adjacent to a Licensed Street Trading Pitch.
- 1.13 **"Receptacle"** includes a box, vessel, table, chair or stand, vehicle or thing which is used (whether or not constructed or adapted for such use) as a container for the display of any article or thing or equipment used in the provision of any service or sale or offer or display of goods for sale.
- 1.14 **"Refuse"** means waste which has been generated in the course of a Licensed Street Trader's business activity including fruit and vegetable waste, cardboard, paper, small plastic items and other non-perishable waste.
- 1.15 **"Regulations"** refers to the contents of this document.
- 1.16 **"Shop Front Trading"** refers to a licence which permits the display of shop goods on a street in a manner permitted by the Act.
- 1.17 **"Special conditions"** are such conditions as it is deemed reasonable by the council to apply / not to apply to any Street Trading Licence in addition to the standard conditions.
- 1.18 **"Standard conditions"** means those matters set out in Section 27 (7) of the London Local Authorities Act 1990 (as amended) and as stated on a Street Trading Licence together with the conditions set out in these Regulations
- 1.19 **"Street Trading"** shall have the meaning described in Section 21 (1) of the Act.
- 1.20 **"Street Trading Licence"** A licence given by The Council to trade on a licensed street (valid for a period of not less than 6 months and no more than 3 years).
- 1.21 **"Temporary Street Trading Licence"** A short term/provisional licence given by The Council to trade on a street (valid for a period up to 6 months).



- 1.22 **"Street Trading Pitch"** The area in any street authorised as a place at which street trading may be engaged in by a street trader, and includes any temporary alternative place approved by the Council or a duly authorised officer of the Council.
- 1.23 **"Tables and Chairs Licence"** refers to a licence authorising the placement of tables and chairs on a street.
- 1.24 **"The Council"** means the council of the London Borough of Barnet.
- 1.25 **"Trader"** A trader granted permission by The London Borough of Barnet Council to trade from a specified position.

# **General Conditions Applicable To All Street Trading Licences**

## **2 GENERAL**

- 2.1 The grant of a Street Trading Licence shall not be deemed to give any approval or consent which may be needed under any Bye-Law, enactment or regulation other than Part III of the London Local Authorities Act 1990 (as amended).
- 2.2 These Regulations may be dispensed with or modified by the Council in any individual case by means of a Street Trading Licence variation in accordance with the statutory requirements;
- 2.3 Where in these Regulations there is reference to the consent or agreement of the Council, such consent or agreement may be given on such terms and conditions and subject to such restrictions as may be specified by the Council; any variation shall not take effect until the consent of the Council has been received in writing by the licensed street trader.
- 2.4 If a licensed street trader wishes any of the terms or conditions of a Street Trading Licence to be varied, application must be made in writing to the Council in accordance with the statutory requirements. Any variation shall not take effect until the licence holder has received the consent of the Council in writing.
- 2.5 Licensed street traders shall ensure that they comply with all relevant legislation including orders and regulations and any amendment or replacement of such legislation. Failure to comply with such legislation may result in the revocation of the Street Trading Licence.
- 2.6 The Trader shall engage in street trading only from the position, which is indicated on the licence, unless otherwise directed by an Authorised Officer.
- 2.7 The street trading pitch shall not exceed the dimensions specified on the Street Trading Licence and any licensed street trading pitch limits marked on the ground. An awning may be permitted to extend 30cm (12inches) at the front of the licensed street trading pitch but no articles are to be suspended from the awning beyond the permitted area.
- 2.8 A trader shall not cause or permit any receptacle, part of a receptacle, goods or other articles whatsoever to project beyond the licensed street trading pitch.

- 2.9 Traders shall not cause or permit receptacles, vehicles, commodities or other articles to be placed or to stand anywhere on the street otherwise than within the limits a licensed street trading pitch. Traders shall not use feeder barrows, feeder vehicles or feeder receptacles for the display of goods.
- 2.10 The licence holder shall not place on any street or public place, or affix to any equipment placed on the street or public place, any advertising of any description whatsoever except with the previous consent in writing from the Council.
- 2.11 Advertisements or other notices must not be placed outside of the immediate area of the street trading site without the approval of the Council. The licence holder shall not make any excavations or alterations of any description in the surface of the street, or land in the ownership of the Council adjoining a street, or place or fix equipment of any description in the said surface except with the previous consent from the Council in writing.
- 2.12 Advertisements or other notices shall not be displayed on any street furniture or any other location without the licence holder first obtaining written consent from the highway authority or any other relevant authority.
- 2.13 Only those goods specified on the Street Trading Licence may be sold from the Licensed street trading pitch and traders shall be limited to the group of goods listed on the licence.
- 2.14 No advertisement shall be displayed on the licensed pitch, which relates to any goods, commodities or services other than the goods offered for sale or provided on that pitch.
- 2.15 Licensed street trading may only take place on the days and during the times specified on the Street Trading Licence.
- 2.16 Traders or their assistants shall remove their receptacles and commodities by the closing time stated on the Street Trading Licence.
- 2.17 Except where specifically authorised by the Authorised Officer, no receptacle shall be left in the street after the closing time stated on the Street Trading Licence.
- 2.18 Traders may trade only during the times stated on the Street Trading Licence.
- 2.19 Vehicles are not permitted into the street trading area when prohibited by a road traffic Order.

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

### **3 REFUSE**

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

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

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

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

3.5 Traders shall keep waste 'Duty of Care' transfer notes or any such proof of proper disposal of commercial waste as may be required by law. All proof of proper disposal should be available for inspection at the street trading licensed pitch during trading day for inspection by Authorised Officers upon request. Obtaining of any such proof shall be the absolute liability of the Trader irrespective of the body or company removing the waste.

### **4 DISPLAY OF LICENCE**

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

## 5

### SAFETY OF EQUIPMENT

- 5.1 Any electrical equipment must receive prior approval from the Council before being used on a licensed street trading pitch. Equipment must be tested annually by a suitably qualified electrician at the trader's expense and copies of electrical safety test certificates must be deposited with the Council before approval will be given by the Council. Traders will be required to retain and produce the original safety certificate for electrical equipment approved for use on the stall to an authorised officer of the Council on request. All equipment will require a safety tag to be displayed recording that the equipment has passed the necessary test and the date on which it was last tested
- 5.2 Any electrical equipment must receive prior approval from the Council before being used on a licensed street trading pitch. Equipment must be tested annually by a suitably qualified electrician at the trader's expense and copies of electrical safety test certificates must be deposited with the Council before approval will be given by the Council. Traders will be required to retain and produce the original safety certificate for electrical equipment approved for use on the stall to an authorised officer of the Council on request. All equipment will require a safety tag to be displayed recording that the equipment has passed the necessary test and the date on which it was last tested.
- 5.3 All traders using an electric supply must have consent from the Council before seeking installation from an electricity supplier. Where relevant, the trader and the supplier will be required to provide the Council with an indemnity for the safety of the supply of electricity.
- 5.4 Traders will disconnect from the supply when directed to do so by an authorised officer of the Council.
- 5.5 Where mobile electrical generators are used their use and position must be approved by the Council. They shall be so positioned as to ensure that:
- 5.5.1 They do not present a danger to the passing public.

- 5.5.2 They do not present a fire or similar hazard risk to the stall or goods displayed thereon.
  - 5.5.3 They do not cause any noise or fume nuisance.
  - 5.5.4 Any inflammable fuel is stored away from the stall in a London Fire Authority approved location and an approved container.
  - 5.5.5 A generator shall be turned off at the request of an authorised Council officer or police officer.
- 5.6 A Trader must not tamper with, or use an electricity supply of the Council without payment. Any trader causing damage to any Council installation or equipment will be required to pay the full cost of any repair or replacement. Any trader responsible for such acts may be subject to a separate prosecution or civil proceedings.

## 6 RECEPTACLES

- 6.1 Receptacles shall be easily and immediately assembled and removed. The Council reserves the right to inspect receptacles for health and safety compliance and to ensure that they are fit for purpose. Any receptacle deemed to present a risk or hazard shall be immediately removed at the request of an authorised Council officer. It shall be and shall remain the responsibility and liability of the Trader to ensure that any receptacle is safe in its construction, siting, erection and use and will not cause injury to any person.
- 6.2 Traders or their assistants shall remove the receptacles and commodities for so long as may be necessary in the event of extreme circumstances and when required to do so by a police officer or a duly authorised officer of the Council.
- 6.3 All receptacles shall be of an approved type and shall be kept in clean condition and good repair. A receptacle shall be repaired or repainted within one month of a written request from the Council.
- 6.4 A Trader shall ensure that until such time as a receptacle that is unsafe or becomes unfit for purpose or beyond repair in the opinion of the Council is replaced with one fit for purpose.

## 7 CONDUCT

- 7.1 A licensed street trader and any assistants employed by them shall ensure that all members of the community are fairly treated with courtesy and respect. Traders and their assistants shall not use any form of racist, sexist, homophobic or abusive language or display any materials that can cause offence to a person's race, religion or sexual orientation. Traders must not behave in an aggressive manner or commit any acts of aggression or harassment (whether racial, sexual or otherwise) against any person.
- 7.2 In order to protect the community, any trader or assistant who commits one of the offences listed below will be liable for immediate suspension of their Street Trading Licence whilst the matter is investigated and until the Council determines if their licence should be permanently revoked:
- Possession or supply of any controlled drugs,
  - Supply of counterfeit goods or offensive weapons,
  - Sale and supply of alcohol unless permitted by licence.
  - Trading under the influence of drugs or alcohol.
- 7.3 All licensed street traders shall produce their Street Trading Licence when requested to do so by an Authorised Officer of the Council or police officer.
- 7.4 Traders shall not use or permit another person to use on the licensed street trading pitch or within the immediate vicinity any radio, cassette player or other equipment or apparatus to produce music or other sound, except in connection with the sale of their commodity and then either through ear phones or at a volume level that allows a face to face conversation at normal speech level from the traders stall. Any Trader must reduce the level of sound from any device when required to do so by an authorised officer.

## 8 INSURANCE

- 8.1 The licensed street trader shall indemnify the Council against all actions, proceedings, claims demands and liability which may at any time be taken, made or incurred in consequence of the use or presence of the trader, their assistant, their stall, receptacle or goods and any other object or thing they bring with them or produce in the course of their business and for this purpose must take out at the traders expense a policy of public liability insurance approved by the council in the minimum sum of £5,000,000 (5 million pounds) in respect of any one event and must produce to the Council on request the current receipts for the premium payment and confirmation of the renewals of the policy. The Council reserves the right to vary this amount from time to time and to notify traders of any increase required by letter. A copy of the certificate of insurance shall be handed to the Council on request.

- 8.2 Satisfactory evidence of such insurance must be produced to the Council before a Street Trading Licence will be granted or renewed. Failure to produce insurance certificates when requested by an Authorised Officer of the Council will lead to temporary suspension from trading until the certificate is produced and the Council is satisfied with the level of cover.
- 8.3 The Council reserves the right to contact insurance companies for the purposes of verifying the authenticity of the cover. Any trader who does not have full insurance for the period specified within their licence and for the value stated by the Council will be suspended from trading until suitable insurance is in place and the cover note or policy presented to the Council.
- 8.4 Traders must inform the Council in writing and provide an updated copy of the certificate of insurance where there are any changes to their insurance cover. The Council may use the information provided to contact the trader's insurer to confirm the details of any policy held or purported to be held and the applicable level of cover and indemnity provided.

## 9 STORAGE

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

## 10 EMPLOYED ASSISTANTS

- 10.1 Traders shall notify the Council in writing on the relevant forms of the name, address and national insurance number of each and every assistant who assists with sales on the licensed street trading pitch. Details of any subsequent change of assistant or any other relevant information regarding assistants shall be given in writing to the Council.
- 10.2 The licence holder shall provide the Council with details of all assistants who may work on the licensed street trading pitch whether the trader is present or not.
- 10.3 A licensed street trader shall not employ a child in any capacity in the course of his trade or business.



## 11 ASSISTANCE TO COUNCIL OFFICERS

- 11.1 A trader shall give immediate assistance to Council officers when requested so to do in the exercise of their official duties.
- 11.2 A trader shall not use rude or offensive language or behave in an aggressive manner when dealing with any agent, officer or elected member of the Council.

## 12 PAYMENT OF CHARGES

- 12.1 A Trader shall pay all charges in connection with street trading to the Council, on the dates and intervals advised by the Council upon the issue and/or renewal of the street trading licence and in the manner agreed as appropriate for payment by the Council.

## 13 CHANGE OF ADDRESS AND CIRCUMSTANCES

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

## 14 ASSISTANTS

- 14.1 The licensed trader may employ any other person to assist in the conduct of the business but may not let assign or part with his interest or possession under this licence, but he may surrender it at any time. The right granted by this licence cannot be sub let transferred or shared with any other person or party.
- 14.2 Traders shall notify the council of any changes of assistants as soon as the changes occur.
- 14.3 Any contravention of these regulations by an assistant shall be deemed to be a contravention by the trader whether the trader was present at the time of the contravention or not.

## 14 PITCH AREA

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

and other equipment.

- 14.2 No goods or other articles whatsoever shall project beyond or be placed alongside or around the extremities of the agreed trading area. The trader shall immediately remove items placed outside the licensed area if requested to do so by an authorised officer of the Council.
- 14.3 No patio heaters or other CO2 emitting heaters, "A" boards, or barriers are permitted in the licensed area
- 14.4 Any awnings sheets covers screens clips and ties need to be secured in a manner that they do not pose a health and safety hazard or nuisance to any person. No part of an awning may be less than 2.6 metres from the ground or project into the carriageway without prior approval. No items may be affixed to it.
- 14.5 Paper goods must be secured so that they do not blow away.

## 15 VEHICLES

- 15.1 The trader shall not leave his vehicle in the street in which he trades apart from approved parking spaces. Where permitted loading and unloading of goods shall be carried out as quickly as possible with the vehicle moved immediately on completion.
- 15.2 A licensed trader shall not permit vehicles used in connection with his licensed pitch to be in the vicinity of the trading area for loading/unloading or other purposes during trading hours.

## 16 TABLES AND CHAIRS LICENCES

The Regulations below shall apply to Tables and Chairs Licences Only in addition to the preceding conditions

- 16.2 The grant of a 'Tables and Chairs' trading licence shall not be deemed to give any approval or consent which may be needed under any Bye-law, enactment, or Regulation other than under the Act(s).
- 16.3 A copy of the 'Tables and Chairs' licence must be kept on the premises and produced to an authorised officer or police officer immediately upon request.
- 16.4 Only those commodities sold in shop premises can be served under the 'Tables and Chairs' Licence.

- 16.5 Only those services provided within the premises can be provided in the licensed area where a licence permits tables and chairs to be placed on the street.
- 16.6 Ashtray units allowing for the secure disposal of butts shall be present at all premises licensed for tables and chairs
- 16.7 It is a specific condition of a 'Tables and Chairs' Licence that monetary exchange or payment can not be made in the licensed street trading pitch.
- 16.8 The dimensions of a licensed street trading pitch shall be such that a minimum of 2.5 metres clear of any obstruction shall be maintained on the public highway for the safe pass, re-pass and free flow of pedestrian and vehicular traffic.
- 16.9 No receptacle, display or tables(s) or Chair(s) shall at any time be permitted to obstruct an entrance or exit to any adjacent premises or to any part of the building to which the temporary licence applies that is under separate occupation
- 16.10 Temporary barriers are not permitted in or around the perimeter of the street trading pitch.
- 16.11 The licence holder shall ensure that customers using the tables and chairs do not cause any nuisance whatsoever to residents, other businesses or persons using the highway.
- 16.12 Alcohol shall not be consumed in the licensed street trading pitch unless the plan attached to the premises licence issued under the Licensing Act 2003 includes the licensed street trading pitch.

## **17 SHOP FRONT LICENCES**

The Regulations below shall apply to 'Shop Front' Licences only

- 17.1 The grant of a 'Shop Front' trading licence shall not be deemed to give any approval or consent which may be needed under any Bye-law, enactment, or Regulation other than under the Act(s).

- 17.2 Any display or part of a display of goods or services sold or offered within a shop and that is located on a public forecourt adjacent to the shop shall require a 'Shop Front' Licence if the display is placed within 7 metres of the kerb of a carriageway.
- 16.13 A copy of the 'Shop Front' licence must be kept on the premises and produced to an authorised officer or police officer immediately upon request.
- 17.3 A 'Shop Front' trading licence authorises the display of goods. No payment or monetary exchange may take within the licensed street trading pitch.
- 17.4 Only those commodities sold in shop premises can be displayed outside premises provided they are not excluded items as defined in these regulations.
- 17.5 A separate Street Trading Licence shall be required in the event that a commodity that is not sold in the shop is displayed or offered for sale on the licensed street trading pitch.
- 17.6 Only those receptacles and containers which are suitable and fit for purpose and approved by the Council shall be used by the licence holder and assistants for shop front trading or ancillary to shop front trading. Displays shall not be formed by the use of unsuitable items such as milk crates and the like.
- 17.7 The dimensions of a licensed street trading pitch shall be such that a minimum of 2.5 metres clear of any obstruction shall be maintained on the public highway for the safe pass, re-pass and free flow of pedestrian and vehicular traffic.
- 17.8 A display, receptacle, table or chair shall not be used if it is likely to damage the street.
- 17.9 The display/stand must be of a construction that will cause minimal damage if there is a collision. There must be no sharp edges or protruding parts.

## **18 Markets**

- 18.1 Static street trading units, vehicles or other equipment associated with the market shall be removed from the site at the cessation of trading each day.

# London Borough of Barnet

# Street Trading

## Licence Conditions

Updated ? 2015



## 1 DEFINITIONS

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

- 1.1 **“Act”** means Part III of the London Local Authorities Act 1990 as amended by the London Local Authorities Acts 1994, 1999, 2004 & 2007”.
- 1.2 **“Advertisement”** means any word, letter, model, sign, placard, board, notice, whether illuminated or not, in the nature, and employed wholly or partly for the purposes of advertisement, announcement or direction and includes any hoarding or similar structure or any balloon used, or adapted for use for the display of advertisements, and references to the display of advertisement shall be constructed accordingly.
- 1.3 **“Assistant”** means a named person employed by and acting under the directions of a trader to assist him/her in the business of the stall and whose name and address has been notified to the London Borough of Barnet in writing by the trader.
- 1.4 **“Awning”** means a sheet of canvas or other material, which projects beyond the Pitch Limits.
- 1.5 **“Authorised Officer”** An officer employed by The London Borough of Barnet and authorised by the London Borough of Barnet to act in accordance with the provisions of the London Local Authorities Act 1990 (as amended).
- 1.6 **“Child”** means a person under 16.
- 1.7 **“Commodities”** means any goods, wares or merchandise for sale or on display at a Licensed Street Trader Pitch.
- 1.8 **“Ice Cream Trading”** means the selling, exposing or offering for sale of goods consisting wholly or mainly of ice cream, frozen confectionery or other similar commodities from a vehicle.
- 1.9 **“Itinerant Ice Cream Trading”** means ice cream trading from a vehicle which goes from place to place remaining in any one location in the course of trading for periods of 15 minutes or less and not returning to the same location or any other location in the same street on the same day;

- 1.10 **"Licensed Street Trader"** means any person who is licensed for Street Trading under Part III of the Act
- 1.11 **"Licensed Street Trading Pitch"** The area in any street authorised as a place at which street trading may be engaged in by a street trader, and includes any temporary alternative place approved by the London Borough of Barnet or a duly authorised officer of the London Borough of Barnet.
- 1.12 **"Premises"** means any land, building or part of a building and includes any commercial premises adjacent to a Licensed Street Trading Pitch.
- 1.13 **"Receptacle"** includes a box, vessel, table, chair or stand, vehicle or thing which is used (whether or not constructed or adapted for such use) as a container for the display of any article or thing or equipment used in the provision of any service or sale or offer or display of goods for sale.
- 1.14 **"Refuse"** means waste which has been generated in the course of a Licensed Street Trader's business activity including fruit and vegetable waste, cardboard, paper, small plastic items and other non-perishable waste.
- 1.15 **"Regulations"** refers to the contents of this document.
- 1.16 **"Shop Front Trading"** refers to a licence which permits the display of shop goods or the placing of tables and chairs on the street ancillary to the existing business and in a manner permitted by the Act.
- 1.17 **"Special conditions"** are such conditions as it is deemed reasonable by the London Borough of Barnet to apply / not to apply to any Street Trading Licence in addition to the standard conditions.
- 1.18 **"Standard conditions"** means those matters set out in Section 27 (7) of the London Local Authorities Act 1990 (as amended) and as stated on a Street Trading Licence together with the conditions set out in these Regulations
- 1.19 **"Street Trading"** shall have the meaning described in Section 21 (1) of the Act.
- 1.20 **"Street Trading Licence"** A licence given by The London Borough of Barnet to trade on a licensed street (valid for a period of not less than 6 months and no more than 3 years).



- 1.21 **“Temporary Street Trading Licence”** A short term/provisional licence given by The London Borough of Barnet to trade on a street (valid for a period up to 6 months).
- 1.22 **“Street Trading Pitch”** The area in any street authorised as a place at which street trading may be engaged in by a street trader, and includes any temporary alternative place approved by the London Borough of Barnet or a duly authorised officer of the London Borough of Barnet.
- 1.23 **“The London Borough of Barnet”** means the council of the London Borough of Barnet.
- 1.24 **“Trader”** A trader granted permission by The London Borough of Barnet Council to trade from a specified position.

# **General Conditions Applicable To All Street Trading Licences**

## **2 GENERAL**

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

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

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

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

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

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

2.7 The street trading pitch shall not exceed the dimensions specified on the Street Trading Licence and any licensed street trading pitch limits marked on the ground. An awning may be permitted to extend 30cm (12 inches) at the front of the licensed street trading pitch but no articles are to be suspended from the awning beyond the permitted area.

2.8A trader shall not cause or permit any receptacle, part of a receptacle, goods or other articles whatsoever to project beyond the licensed street trading pitch.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **3 REFUSE**

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

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

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

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

3.6 Traders shall keep waste 'Duty of Care' transfer notes or any such proof of proper disposal of commercial waste as may be required by law. All proof of proper disposal should be available for inspection at the street trading licensed pitch during trading day for inspection by Authorised Officers upon request. Obtaining of any such proof shall be the absolute liability of the Trader irrespective of the body or company removing the waste.

## 4 DISPLAY OF LICENCE

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

## 5 SAFETY OF EQUIPMENT

- 5.1 Prior to using any electrical equipment on a licensed street trading pitch permission must be sought in writing from the London Borough of Barnet.
- 5.2 Electrical equipment must be tested annually by a suitably qualified electrician. Traders will be required to retain and produce the original safety certificate for electrical equipment approved for use on the stall to an authorised officer of the London Borough of Barnet on request. All equipment will require a safety tag to be displayed recording that the equipment has passed the necessary test and the date on which it was last tested.
- 5.3 All traders using an electric supply must have consent from the London Borough of Barnet before seeking installation from an electricity supplier. Where relevant, the trader and the supplier will be required to provide the London Borough of Barnet with an indemnity for the safety of the supply of electricity.
- 5.4 Traders will disconnect from the supply when directed to do so by an authorised officer of the London Borough of Barnet.
- 5.5 Where mobile electrical generators are used their use and position must be approved by the London Borough of Barnet. They shall be so positioned as to ensure that:
  - 5.5.1 They do not present a danger to the passing public.
  - 5.5.2 They do not present a fire or similar hazard risk to the stall or goods displayed thereon.
  - 5.5.3 They do not cause any noise or fume nuisance.
  - 5.5.4 Any inflammable fuel is stored away from the stall in a London Fire Authority approved location and an approved container.
  - 5.5.5 A generator shall be turned off at the request of an authorised London Borough of Barnet officer or police officer.
- 5.6 A Trader must not tamper with, or use an electricity supply of the London Borough of Barnet without payment. Any trader causing damage to any London Borough of Barnet installation or equipment will be required to pay the full cost of any repair or replacement. Any trader responsible for such acts may be subject to a separate prosecution or civil proceedings.

- 6.1 Receptacles shall be easily and immediately assembled and removed. The London Borough of Barnet reserves the right to inspect receptacles for health and safety compliance and to ensure that they are fit for purpose. Any receptacle deemed to present a risk or hazard shall be immediately removed at the request of an authorised officer of the London Borough of Barnet. It shall be and shall remain the responsibility and liability of the Trader to ensure that any receptacle is safe in its construction, siting, erection and use and will not cause injury to any person.
- 6.2 Traders or their assistants shall remove the receptacles and commodities for so long as may be necessary in the event of extreme circumstances and when required to do so by a police officer or an authorised officer of the London Borough of Barnet.
- 6.3 All receptacles shall be of an approved type and shall be kept in clean condition and good repair. A receptacle shall be repaired or repainted within one month of a written request from an authorised officer of the London Borough of Barnet.
- 6.4 A Trader shall ensure that until such time as a receptacle that is unsafe or becomes unfit for purpose or beyond repair in the opinion of an authorised officer of the London Borough of Barnet is replaced with one fit for purpose.
- 6.5 Only those receptacles and containers which are suitable and fit for purpose and approved by the London Borough of Barnet shall be used by the licence holder and assistants for trading. Displays shall not be formed by the use of unsuitable items such as milk crates .
- 6.6 A display, receptacle, table or chair shall not be used if it is likely to damage the street.
- 6.7 The display/stand must be of a construction that will cause minimal damage if there is a collision. There must be no sharp edges or protruding parts.
- 6.8 Well designed high quality finish styled appropriately for the street they are placed on

- 7.1 A licensed street trader and any assistants employed by them shall ensure that all members of the community are fairly treated and with courtesy and respect. Traders and their assistants shall not use any form of racist, sexist, homophobic or abusive language or display any materials that can cause offence to a person's race, religion or sexual orientation. Traders must not behave in an aggressive manner or commit any acts of aggression or harassment (whether racial, sexual or otherwise) against any person.
- 7.2 In order to protect the community, any trader or assistant who commits one of the offences listed below will be liable for immediate suspension of their Street Trading Licence whilst the matter is investigated and until the London Borough of Barnet determines if their licence should be permanently revoked:
- Possession or supply of any controlled drugs,
  - Supply of counterfeit goods or offensive weapons,
  - Sale and supply of alcohol unless permitted by licence.
  - Trading under the influence of drugs or alcohol.
- 7.3 All licensed street traders shall produce their Street Trading Licence when requested to do so by an Authorised Officer of the London Borough of Barnet or police officer.
- 7.4 Traders shall not use or permit another person to use on the licensed street trading pitch or within the immediate vicinity any equipment or apparatus to produce music or other similar sound, except in connection with the sale of their commodity and then either through ear phones or at a volume level that allows a face to face conversation at normal speech level from the traders stall. Any Trader must reduce the level of sound from any device when required to do so by an authorised officer.
- 7.5 There shall be no continuous playing of amplified music other than for the purposes in the paragraph above.

## 8 INSURANCE

- 8.1 The licensed street trader shall indemnify the London Borough of Barnet against all actions, proceedings, claims demands and liability which may at any time be taken, made or incurred in consequence of the use or presence of the trader, their assistant, their stall, receptacle or goods and any other object or thing they bring with them or produce in the course of their business and for this purpose must take out at the traders expense a policy of public liability insurance approved by the London Borough of Barnet in the minimum sum of £5,000,000 (5 million



pounds) in respect of any one event and must produce to the London Borough of Barnet on request the current receipts for the premium payment and confirmation of the renewals of the policy. The London Borough of Barnet reserves the right to vary this amount from time to time and to notify traders of any increase required by letter. A copy of the certificate of insurance shall be handed to the London Borough of Barnet on request.

- 8.2 Satisfactory evidence of such insurance must be produced to the London Borough of Barnet before a Street Trading Licence will be granted or renewed. Failure to produce insurance certificates when requested by an Authorised Officer of the London Borough of Barnet will lead to temporary suspension from trading until the certificate is produced and the London Borough of Barnet is satisfied with the level of cover.
- 8.3 The London Borough of Barnet reserves the right to contact insurance companies for the purposes of verifying the authenticity of the cover. Any trader who does not have full insurance for the period specified within their licence and for the value stated by the London Borough of Barnet will be suspended from trading until suitable insurance is in place and the cover note or policy presented to the London Borough of Barnet.
- 8.4 Traders must inform the London Borough of Barnet in writing and provide an updated copy of the certificate of insurance where there are any changes to their insurance cover. The London Borough of Barnet may use the information provided to contact the trader's insurer to confirm the details of any policy held or purported to be held and the applicable level of cover and indemnity provided.

## 9 STORAGE

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

## 10 EMPLOYED ASSISTANTS

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

- 10.2 The licence holder shall provide the London Borough of Barnet with details of all assistants who may work on the licensed street trading pitch whether the trader is present or not.
- 10.3 A licensed street trader shall not employ a child in any capacity in the course of his trade or business.
- 10.4 The licensed trader may employ any other person to assist in the conduct of the business but may not let, assign or part with his interest or possession under this licence, but he may surrender it at any time. The right granted by this licence cannot be sub-let transferred or shared with any other person or party.
- 10.5 Traders shall notify the London Borough of Barnet of any changes of assistants as soon as the changes occur.
- 10.6 Any contravention of these regulations by an assistant shall be deemed to be a contravention by the trader whether the trader was present at the time of the contravention or not.

## 11 ASSISTANCE TO LONDON BOROUGH OF BARNET OFFICERS

- 11.1 A trader shall give immediate assistance to London Borough of Barnet officers when requested so to do in the exercise of their official duties.
- 11.2 A trader shall not use rude or offensive language or behave in an aggressive manner when dealing with any agent, officer or elected member of the London Borough of Barnet.

## 12 PAYMENT OF CHARGES

- 12.1 A Trader shall pay all charges in connection with street trading to the London Borough of Barnet, on the dates and intervals advised by the London Borough of Barnet upon the issue and/or renewal of the street trading licence and in the manner agreed as appropriate for payment by the London Borough of Barnet.

## 13 CHANGE OF ADDRESS AND CIRCUMSTANCES

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

## 14 PITCH AREA

- 14.1 The trading area shall not exceed the agreed dimensions specified within the licence; except solely in connection with the setting up or taking down of the stall and other equipment.
- 14.2 No goods or other articles whatsoever shall project beyond or be placed alongside or around the extremities of the agreed trading area. The trader shall immediately remove items placed outside the licensed area if requested to do so by an authorised officer of the London Borough of Barnet.
- 14.3 No patio heaters or other CO2 emitting heaters are permitted in the licensed area
- 14.4 Any awnings sheets, covers, screens, clips and ties need to be secured in a manner that they do not pose a hazard or nuisance to any person. No part of an awning may be less than 2.6 metres from the ground or project into the carriageway without prior approval. No items may be affixed to it.
- 14.5 Paper goods must be secured so that they do not blow away.
- 14.6 Ashtray units allowing for the secure disposal of butts shall be present at all premises licensed for tables and chairs
- 14.7 The licence holder shall ensure that customers using the tables and chairs do not cause any nuisance whatsoever to residents, other businesses or persons using the highway.

## 15 VEHICLES

- 15.1 The trader shall not leave his vehicle in the street in which he trades apart from approved parking spaces upon full payment of any relevant fee. Where permitted loading and unloading of goods shall be carried out as quickly as possible with the vehicle moved immediately on completion.
- 15.2 A licensed trader shall not permit vehicles used in connection with his licensed pitch to be in the vicinity of the trading area for loading/unloading or other purposes during trading hours.

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

- 16.1 Only those items sold in the shop premises to which the street trading area is adjacent to can be sold under the 'shop front licence'.
- 16.2 Only those services provided within the premises can be provided in the licensed area where a licence permits tables and chairs to be placed on the street.
- 16.3 Alcohol shall not be consumed in the licensed street trading pitch unless the plan attached to the premises licence issued under the Licensing Act 2003 includes the licensed street trading pitch

## **Appendix A List of prohibited goods and services**

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

- Live animals
- Second hand electrical goods
- Sex articles
- Medicines or treatments
- Alcohol (unless consumption in an shop front licence adjacent to a licensed premises and covered by the premises licence)
- Cigarettes or tobacco
- Any form of gambling
- Firearms
- Fireworks

# **London Borough of Barnet**

# **Street Trading Policy 2015-2020**

**London Local Authorities Act 1990 (as amended)**

## 1 DEFINITION OF TERMS

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

- 1 **Authorised Officer** An officer employed and authorised by The London Borough of Barnet to act in accordance with the provisions of the London Local Authorities Act 1990 (as amended).
- 2 **Permanent Street Trading Licence** A licence given by the London Borough of Barnet to trade on a licensed street or at a licensed pitch
- 3 **Temporary Street Trading Licence** A short term/provisional licence (valid for 6 months or less), given by the London Borough of Barnet to trade on a street.
- 4 **Street Market licence** A street trading licence given by the London Borough of Barnet to an individual to allow him/her to trade on a street as a designated street market.
- 5 **Licence** The term used when this policy applies equally to a street trading licence, street market licence and a temporary street trading licence.
- 6 **Licence Holder** The person or company to whom the licence to trade has been granted.
- 7 **Market** An outdoor space where three or more stalls are situated together for the purpose of allowing people to trade on the street.
- 8 **Itinerant ice cream trading** shall have the meaning ascribed in Section 21(1) of the London Local Authorities Act 1990 (as amended).
- 9 **Street Trader** A trader granted permission by The London Borough of Barnet to trade from a specified position.
- 10 **Street** Shall have the meaning ascribed in Section 21(1) of the London Local Authorities Act 1990 (as amended).
- 11 **Street Trading:** Shall have the meaning ascribed in Section 21(1) of the London Local Authorities Act 1990 (as amended) and includes the use of tables and chairs situated on the highway for business purposes.
- 12 **Street Trading Pitch/Location** The area in any street authorised as a place from which street trading may be carried on by a street trader, and includes any temporary alternative place approved by the London Borough of Barnet.
- 13 **Advertisement** Any word, letter, model, sign, placard, board, notice, whether illuminated or not, in the nature, and employed

wholly or partly for the purposes of advertisement, announcement or direction and includes any hoarding or similar structure or any balloon used, or adapted for use for the display of advertisements, and references to the display of advertisement shall be constructed accordingly.

- 14 **Assistant** A person employed by and acting under the directions of a street trader to assist him/her about the business of the stall and whose name and address has been notified to the London Borough of Barnet
- 15 **Awning** A sheet of canvas or other material, used as a protection against the weather, which projects as an extension of the roof beyond the structure of the stall.
- 16 **Goods** Any goods, wares or merchandise displayed for sale at a stall
- 17 **Pitch Limits** The agreed area within which street trading is permitted.
- 18 **Refuse** Any waste material.
- 19 **Stall** Any structure used by a trader for the display of goods, or in connection with his or her business, and which occupies a licensed street trading pitch; and includes all goods offered or to be offered for sale and any additional structure or equipment used as part of the stall or business. On “isolated pitches” this also includes all rubbish created as a result of the business.
- 20 **Premises** Any shop, house or block of flats or other building.



## 2 INTRODUCTION

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

2.2 This policy will take effect from <Date to be confirmed when meeting date is set>

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 The London Borough of Barnet is keen to ensure minimum standards in relation to facilities, appearance and choice are maintained in relation to street trading. Therefore, in granting and renewing licences it is important that stalls are well designed with a high quality finish that enhances the area.

2.7 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.

2.8 It is also recognised that street trading and markets are hugely important to a vibrant economy, as they offer an excellent low risk step for businesses.

2.9 However the London Borough of Barnet will not accept poorly managed or visually untidy and unappealing stalls/pitches, or those that cause an obstruction to persons or prevent safe access and egress.

2.10 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.

2.11 On <Date to be confirmed when meeting date is set> Barnet Council made regulations prescribing standard licence conditions in accordance with Section 27(3) London Local Authorities Act 1990 (Appendix 2)

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

2.13 The licensing authority will maintain an up-to-date record of all designated street trading pitches including those which are currently vacant.

## **Hours**

2.14 Trading hours for street trading covered by this policy will be set on the basis of promoting the following purposes:

- (a) Preventing crime, disorder and anti-social behaviour
- (b) Avoiding public nuisance
- (c) Protecting public safety
- (d) Preventing obstruction of the highway
- (e) Location and neighbouring hours of business activity

2.15 Licences will not be granted or varied beyond the hours of 07.00 to 23.00

2.16 Licences may be granted or varied for shorter periods within these times where, as it appears to the licensing authority to be appropriate

2.17 Hours of trading may be variable depending upon the day of the week and will generally be granted having regard to the operating hours of other retail outlets in the vicinity.

2.18 Other factors to be taken into account when granting or varying hours of trading pertaining to any licence include:

- (a) The ability to service the pitch (to stock and re-stock)
- (b) Time needed to set up and take down the street trading stall

## **Goods Sold**

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

2.20 The London Borough of Barnet prohibits the sale of certain goods from the street. A list of prohibited goods can be found in Appendix A.

2.21 The level of nuisance should be kept to a minimum and particular attention should be paid to cooking odours, smoke, noise, and litter. Goods should not be sold if they cause an unacceptable level of nuisance as determined by an authorised officer.

2.22 The goods applied for should not cause or contribute to crime and disorder.

2.23 In a limited range of circumstances it may be unsuitable for different types of stalls to be close together – for example a hot food stand next to clothing stalls.

### 3 THE APPLICATION

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

**Trading Standards and Licensing Team, London Borough of Barnet,**

**Building 4, North London Business Park,**

**Oakleigh Road South**

**London N11 1NP**

3.2 The application must be:

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

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

#### Renewal Applications

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

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

3.6 An incomplete or incorrectly completed application will be rejected.

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

#### Casual Market Trader Registration

3.8 Any individual who wishes to trade at a licensed street market within the London Borough of Barnet must hold a casual market trader registration

3.9 The application must be:

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

- Accompanied by the full fee, unless agreed in writing that a partial fee will be acceptable.
- Accompanied by an acceptable passport sized photo
- Accompanied by an original certificate of insurance that covers the street trading activity for third party and public liability risks

3.10 There are 2 forms of registration a year licence or a provisional 6 week trial licence.

3.11 The provisional 6 weeks trial licence can only be applied for once and at 1 market. This is only applicable when the market holder agrees to a provisional trail. In these circumstances there is no application form and the market organisers will sponsor the individual and certify they have valid public liability and food hygiene registration if applicable.

3.12 There are exemptions from the need to apply for a casual market registration. If a person is trading for no more than 2 consecutive days a year, and is trading from the same market which has a predominantly community/charitable purpose i.e. Barnet Christmas Market then they do not require a registration. However the market organiser must certify all traders have valid public liability and food hygiene registration if applicable.

## **4. DETERMINING APPLICATIONS**

### **Designation Application**

4.1 Before deciding whether to designate a pitch/street/area the London Borough of Barnet will carry out a consultation process with various persons and groups. In particular, the following organisations or persons will 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 that the London Borough of Barnet believes may provide relevant information in respect of the application.

4.2 Notices may be displayed in the vicinity of the designation area outlining the application and inviting representations.

4.3 Letters may, as appropriate be sent to businesses immediately adjacent to the proposed street market outlining the application and inviting consultations

4.4 Consultees will be given 28 days within which to make comments.

### **Street Trading licence**

4.5 Before a street trading licence is granted, the London Borough of Barnet will carry out a consultation process with various persons and groups. In particular the following organisations or persons will be, as appropriate to the licence application, consulted.

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

4.6 The site will be visited within 14 days of the application by an officer and assessed for its suitability to have a street trading licence.

### Renewal Applications

4.7 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 will be, as appropriate, consulted.

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

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

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

### Street Market – Casual Market Trader registration

4.10 A street market trader registration will not have a consultation period.

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

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

## 5 REPRESENTATIONS TO AN APPLICATION

5.1 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.

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

## **6 DETERMINATION OF THE APPLICATION**

6.1 The decision to designate a street shall be determined by the Licensing Sub-Committee or under delegated powers as appropriate

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

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

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

- (a) Preventing crime, disorder and anti-social behaviour
- (b) Avoiding public nuisance
- (c) Protecting public safety
- (d) Preventing obstruction of the highway
- (e) Location and neighbouring hours of business activity

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

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

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

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

## **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 3 years.

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

7.6 Each individual trader at a street market will need to apply for and hold a casual street market registration for the London Borough of Barnet. It will be the responsibility for the market operator to confirm that each trader on each day has a valid street trading licence and to provide details of the traders and licence numbers to the Licensing Authority.

## **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 2.0 metres of clear unobstructed passage must be maintained from the roadside kerb to the outermost point of the pitch. In areas of high pedestrian use or high levels of traffic a larger clearance may be required.

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

## 9 EXPIRY OF THE LICENCE

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

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

### Lapse

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

### Succession

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

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

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

**9.7 THE LICENCE WILL BE GRANTED BY THE LONDON BOROUGH OF BARNET IN ALL CIRCUMSTANCES, PROVIDED THAT THE CONDITIONS SPECIFIED ABOVE ARE SATISFIED.**

## 10 REVOCATION OR VARIATION

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

- (a) It has not been used for trading for a period of greater than six months;
- (b) There are altered circumstances due to increased pedestrian footfall resulting from altered highway layouts, public realm improvements or construction projects;
- (c) Where new development and the siting and operation of the trading pitch would adversely affect local pedestrian flow or cause congestion, including close to transport stops and stations.

### Permanent street trading licence



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

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

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

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

10.6 The senior officer will consider the representations before a decision is made.

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

### Temporary Street Trading Licence

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

10.9 If the London Borough of Barnet revokes or suspends the temporary licence it will take effect as soon as this is notified to the relevant party.

10.10 As an alternative, or in addition to revocation or variation of a licence, the London Borough of Barnet may decide that other enforcement action is appropriate. This may include pursuing a criminal prosecution in accordance with the Enforcement Policy.

## **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 compliance 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.

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

## **12 DECISIONS**

12.1 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.

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

## **13 APPEALS**

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

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

## **14 DEMARCATION**

14.1 All licences granted on a designated street must have the licensed area demarcated.

14.2 This will be undertaken by the Highways authority.

14.3 The cost for this will be paid for by the applicant and the current costs can be found in our current fees and charges list.

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

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

## **15 ENFORCEMENT**

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

## **16 UNLICENSED STREET TRADING**

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

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

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

## **17 MOTOR VEHICLES**

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

17.2 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 and prohibited.

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

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

18.1 The London Borough of Barnet London Borough of Barnet is the Data Controller of all personal information held by the licensing authority. The London Borough of Barnet will process and hold that information in accordance with principles of the Data Protection Act 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 4– Current fees**  
**Current fees (for comparison purposes)**

1. Street Trading Fee – permanent pitch

£1.32 per sq metre per day

2. Street Trading Fee– temporary licence for tables & chairs/shop front display only

For a six months licence:

up to 3 square metres	£100
3 - 10 square metres	£300
10 - 15 square metres	£600
above 15 square metres (max. 25 square metres)	£900.00

3. Street Trading Fee – temporary licence (other than tables and chairs and shop front display)

£1.32 per sq metre per day

4. Street Trading Fee - Street Market

Casual temporary trader registration (12 months validity) £28.00

Daily street trading licence charge (Occasional markets):

Total market size	
10-14 stalls	£15 per stall per day
15-19	14 per stall per day
20-24	13 per stall per day
25-30 stalls	11 per stall per day
> 30 stalls	£10 per stall per day

## **Proposed new fees:**

### **Street Trading**

#### **1. Permanent licence**

£550 per annum

#### **2. Temporary licence**

£400 per 6 months

£180 up to 2 months

#### **3. A board licence**

£140 per 6 months

#### **4. Street Markets:**

##### **a. Permanent market**

£15 per trader per month

##### **b. Occasional market**

###### **Band 1: Less than 30 traders**

£18 per trader per event (up to 7 days)

£15 per trader per event (1 day event)

###### **Band 2: More than 30 traders**

£12 per trader per event (up to 7 days)

£10 per trader per event (1 day event)

#### **5. Casual temporary trader registration**

(12 months validity) £28.00

Provisional trader registration (6 weeks at same market, only 1 can be applied for per applicant) £10

#### **7. Cost of demarcation**

£20 per stud (likely to be approx. 6 studs per site)

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