

**MEETING**

**LICENSING COMMITTEE**

**DATE AND TIME**

**MONDAY 20TH JULY, 2015**

**AT 7.00 PM**

**VENUE**

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

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

Chairman: John Hart  
Vice Chairman: Brian Salinger

|                  |                |               |
|------------------|----------------|---------------|
| Maureen Braun    | Kitty Lyons    | Jim Tierney   |
| Alison Cornelius | Wendy Prentice | Zakia Zubairi |
| Claire Farrier   | Hugh Rayner    |               |
|                  | Agnes Slocombe |               |

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

**Andrew Charlwood – Head of Governance**

Governance Service contact: Jan Natynczyk [jan.natynczyk@barnet.gov.uk](mailto:jan.natynczyk@barnet.gov.uk) 020 8359 5129

Media Relations contact: Sue Cocker 020 8359 7039

**ASSURANCE GROUP**

## ORDER OF BUSINESS

| Item No | Title of Report   | Pages    |
|---------|---|----------|
| 1.      | Minutes   | 1 - 2    |
| 2.      | Absence of Members  |          |
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| 4.      | Report of the Monitoring Officer (if any)                   |          |
| 5.      | Public Question and Comment (if any)                        |          |
| 6.      | Members Item (if any)                                       |          |
| 7.      | Gambling Policy   | 3 - 54   |
| 8.      | Scrap Metal Policy  | 55 - 84  |
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| 10.     | Any item(s) that the Chairman decides is urgent             |          |

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## Decisions of the Licensing Committee

19 March 2015

### AGENDA ITEM 1

Cllr John Hart (Chairman)

Cllr Brian Salinger (Vice-Chairman)

Maureen Braun  
Alison Cornelius

Anne Hutton  
Jim Tierney  
John Marshall

Wendy Prentice  
Claire Farrier

#### 1. MINUTES

**RESOLVED** that the minutes of the meeting held on 24 November, 2014 be approved as a correct record and signed by the Chairman.

#### 2. ABSENCE OF MEMBERS

Apologies were received from Councillor Lyons and Councillor Zubairi.

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

None.

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

There was not a report.

#### 5. PUBLIC QUESTION AND COMMENT (IF ANY)

None.

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

None.

#### 7. FEES AND CHARGES - LICENSING

The Committee received the Officer's report.

**RESOLVED** that the fees and charges, as detailed in the report, be endorsed by this Committee and presented to Policy and Resources Committee for approval.

#### 8. STREET TRADING STRATEGY

The Committee received the Officer's report.

**RESOLVED** that the Commissioning Director for Environment be instructed to:

**1. Consult on proposed changes to:**

- **The Street Trading Licence at Appendix 2;**
- **The Street Trading Policy, including designation of licence streets and demarcation of permanent street trading pitches/areas (Appendix 3);**
- **The revised fees for street trading at Appendix 4.**

**2. Consult on the proposal to operate a street market in Edgware as a pilot for future street markets elsewhere in the borough and report back to this Committee with further recommendations for approval, taking into account any representations made in the responses to consultation;**

**3. Implement a 6 month trial on the licensing A Boards and review this in six months time, with a report back to Committee on 23 November 2015 on the results of the trial.**

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

None.

The meeting finished at 8.06PM

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|  | <p style="text-align: right;">AGENDA ITEM 7</p> <p style="text-align: center;"><b>Licensing Committee<br/>20<sup>th</sup> July 2015</b></p> |
| <p><b>Title</b></p>   | <p><b>Gambling Policy</b></p>   |
| <p><b>Report of</b></p>   | <p>Commissioning Director for Environment</p>   |
| <p><b>Wards</b></p>   | <p>All</p>  |
| <p><b>Status</b></p>  | <p>Public</p>   |
| <p><b>Enclosures</b></p>  | <p><b>Appendix 1 – Draft revised Gambling Policy</b></p>  |
| <p><b>Officer Contact Details</b></p>   | <p>Emma Phasey<br/>Trading Standards and Licensing Manager<br/><a href="mailto:Emma.phasey@barnet.gov.uk">Emma.phasey@barnet.gov.uk</a></p> |

|  |
|--|
| <p><b>Summary</b></p>  |
| <p>The Gambling Act 2005 places a responsibility on local authorities to publish a gambling statement of principles (policy) every three years. The last policy was published in January 2013. This is a report seeking approval to consult on the proposed revised statement of principles.</p> |

|   |
|---|
| <p><b>Recommendations</b></p>   |
| <p><b>That the draft Gambling Statement of Principles be approved for consultation and that the Officers be instructed to report to the November 2015 meeting on the outcome for recommendation to Council.</b></p> |

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

- 1.1 The Gambling Act 2005 places a duty on the Council as the 'Licensing Authority' for gambling premises in the Borough. It requires that a licensing authority should aim to permit the use of premises for gambling in so far as it thinks it is:
- a) in accordance with any relevant code of practice or any guidance from the Gambling Commission;
  - b) reasonably consistent with the licensing objectives; and
  - c) in accordance with its gambling licensing policy.
- 1.2 The Council has a number of important regulatory functions in relation to gambling. These include licensing premises, regulating gaming and gaming machines in clubs, granting permits to what the Guidance refers to as 'family entertainment centres' for the use of certain lower stake gaming machines, regulating gaming and gaming machines on alcohol licensed premises, granting permits for prize gaming, and registering small society lotteries.
- 1.3 In accordance with the Act, the Council must prepare, consult on and publish a Statement of Principles which it proposes to apply when exercising relevant functions. In exercising their functions, licensing authorities must have regard to the statutory guidance issued by the Gambling Commission.
- 1.4 This statement of principles must be reviewed at least every 3 years. The policy was last reviewed in January 2013 and therefore it must be reviewed before January 2016.
- 1.5 The proposed policy is an update on the previous policy taking into account any changes in guidance and best practice.

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1 The local authority is required, under the Gambling Act 2005, to consult prior to publishing a statement of principles in relation to the exercise of its functions under the Act.

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



- 3.1 The Committee could consider not consulting on the proposed policy; however this would be a breach of the Gambling Act.

#### **4. POST DECISION IMPLEMENTATION**

- 4.1 A 12 week consultation will take place in relation to the policy; the results of this will be presented to the Committee at the meeting on 23 November 2015.

#### **5. IMPLICATIONS OF DECISION**

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

5.1.1 The Gambling Statement of Principles will support objectives contained within the corporate plan. In particular in relation to a “successful London suburb” by ensuring that only legal, well regulated gambling within the borough.

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

5.2.1 Administration and enforcement of the Gambling Act will be carried out by the Licensing team in Re, together with support from HB Public Law and from Governance Services, when arranging and co-ordinating arrangements for hearings in relation to applications.

5.2.2 Fees are kept under constant review to ensure that they accurately reflect recovery of costs incurred in administration of the licence processes and compliance checks.

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

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

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

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

5.3.2 Constitution - Annex A 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 gambling. It needs to ensure that the risk of non-compliance and the regulatory burden to both the Local authority and to the trade is minimised. However it must balance this with the need to uphold the licensing objectives.

## **5.5 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 gambling applications, only issues provided for in the Gambling Act 2005 in addition to the statutory guidance and the authority's statement of principles will be taken into account. This will ensure a consistent approach is adopted. Under the terms of the policy, every application will be considered on its own merits.

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 The consultation document will be sent to the Police, trade associations for gambling businesses, and residents groups. It will also be sent to councillors, responsible authorities, gambling businesses in the borough, faith groups, voluntary organisations, community organisations working with children and young people and organisations working with problem gambling. The consultation will also be published on the Council's consultation portal on the Barnet online website.

5.6.2 If approved by the Committee, the Statement of Principles will be submitted for consultation with all relevant stakeholders for a period of 12 weeks. All replies will be taken into account and the Statement of Principles, revised as necessary, will be submitted to this Committee for final approval at its meeting in November 2015. The Committee will then be asked to recommend that the Statement of Principles be adopted at the next meeting of the full Council before being published in January 2016.

## **6. BACKGROUND PAPERS**

None

Appendix A Draft revised statement of principles

**London Borough of  
Barnet**

**Statement of  
Principles**

**Gambling Act 2005**

**2016-2019**

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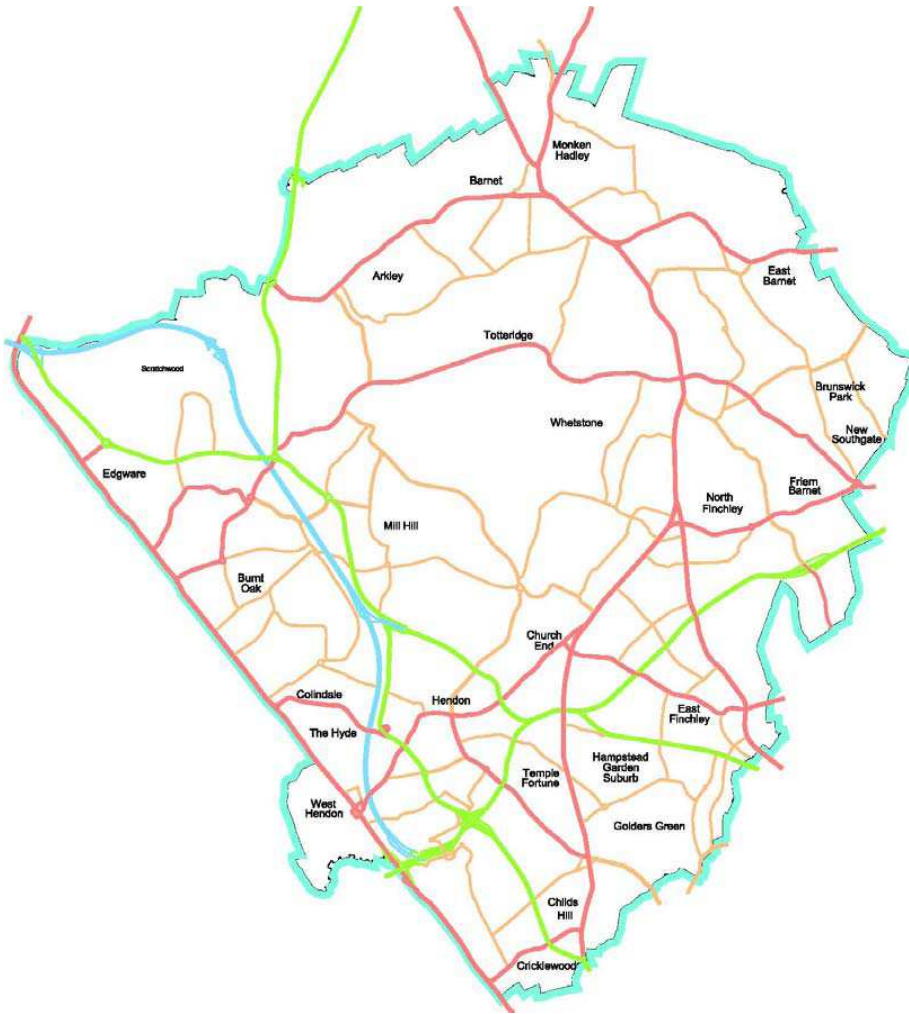
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## INTRODUCTION

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

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

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



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

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

- 1.8 This Statement of Principles was approved at a meeting of the Full Council on tbc and was published on tbc.
- 1.9 The Gambling Commission states in the introduction to its Guidance to Licensing Authorities:
- ‘The aim of this Guidance is to ensure that every licensing authority has the information it needs to make effective decisions. It does not seek to impose a ‘one size fits all’ model across all licensing authorities. We recognise that every licensing authority is different and will have different views about how



it wishes to manage gambling locally. Indeed, the Act establishes a high degree of local accountability for gambling regulation.

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

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

The Gambling Act 2005 is available at:

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

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

<http://www.gamblingcommission.gov.uk/pdf/GLA5---March-2015.pdf>

## **2. THE LICENSING OBJECTIVES**

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

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

- 2.2 The Council of the London Borough of Barnet as the relevant licensing authority accepts that the term “vulnerable person” is not defined. It may for example include people who gamble more than they want to, or beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs. The Council as the relevant licensing authority will consider this objective on a case by case basis and will not interpret the term narrowly.
- 2.3 It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”

### **3. DECLARATION**

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

### **4. RESPONSIBLE AUTHORITIES**

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

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

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

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

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

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

- The Safeguarding Children Board has a responsibility under the Children Act 2004 to promote the welfare and safety of children and young people in the London Borough of Barnet
- The Board includes a variety of professionals with skills and experiences directly relevant to the need to protect children from being harmed or exploited by gambling
- The Board is answerable to democratically elected persons and does not represent any particular interest group
- The Board is the responsible authority for the purposes of the Licensing Act 2003 and has experience of the licensing process
- The Board works in partnership with other local authority services and other organisations to make Barnet a safer place for children
- The Board is able to provide advice about protecting children and guidance in accessing appropriate training
- The Board works within the wider pan London framework of child protection so as to promote a consistent approach across London

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

## **5. INTERESTED PARTIES**

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

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

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

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

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

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

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

5.5 In determining whether a person or organisation has “business interests” the authority will adopt the widest possible interpretation and may recognise certain groups which include but are not limited to; trade unions, partnerships, charities, faith groups, residents and tenants associations and medical practices.

5.6 If the representation is from an association or any other body then these will only be accepted provided that they have at least one member who is an interested party.

5.7 Unless the person making the representation is a locally elected councillor or Member of Parliament the licensing authority may require written

evidence that they represent identified interested parties. A letter from one of these persons will be sufficient.

5.8 If individuals wish to approach locally elected councillors to ask them to represent their views then those councillors cannot sit on a licensing committee that meets to determine the licence application.

5.9 To be deemed relevant, a representation must relate to the licensing objectives or raise issues under the policy or the Gambling Commissions guidance or codes or practice.

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

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

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

## **6. EXCHANGE OF INFORMATION**

6.1 The licensing authority will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information with the Gambling Commission and other persons listed in Schedule 6 to the Act. This includes the provision that the Data Protection Act 1998 will not be contravened.

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

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

## 7. INSPECTION AND ENFORCEMENT

- 7.1 A licensing authority is required to state the principles to be applied by the authority in exercising its functions under Part 15 of the Act with respect to the inspection of premises; and the powers under Section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 7.2 The licensing authority's principles are that it will be guided by the Gambling Commissions Guidance for Local Authorities and in doing so will endeavour to be:
- Proportionate -The licensing authority will only intervene when necessary; remedies will be appropriate to the risks posed and costs identified and minimised
  - Accountable - the licensing authority must be able to justify decisions and will be subject to public scrutiny
  - Consistent - rules and standards will be implemented fairly
  - Transparent -the licensing authority will be open and do its best to keep things simple and user friendly
  - Targeted – the licensing authority will focus on the problem and do its best to minimise side effects.
- 7.3 Any enforcement action will be in accordance with the relevant enforcement policy.
- 7.4 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.
- 7.5 This licensing authority also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities. The Better Regulation Executive is a government agency which aims to achieve more effective regulation and reduce existing regulatory burdens affecting business, the third sector and frontline staff in the public sector.
- 7.6 The London Borough of Barnet's licensing officers will monitor ongoing compliance with licence conditions. They may carry out inspections without prior notice to the occupier or licensee.
- 7.7 As per the Gambling Commission's Guidance to Licensing Authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 7.8 Planned enforcement activity will be prioritised according to assessed risk (the potential for harm to the licensing objectives). This licensing authority

has adopted and implemented a risk-based inspection programme, based on:

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this statement of licensing policy

7.9 When assessing risk, the licensing authority may take into account the following matters:

- The type of gambling and its potential to result in harm
- The size of the premises and the number of patrons
- The standard of compliance with licence conditions
- Officers' confidence in the ability and intention of the management of the premises to maintain good standards of compliance with licence conditions
- Relevant information from other agencies.

7.10 The risk rating for each premises will be kept under constant review and may change at any time.

7.11 The licensing authority is prepared to receive complaints about licensed premises and, with the agreement of the complainant, deal with them informally with the aim of securing improvement if necessary without the need for a formal review of the licence.

7.12 The licensing authority will not tolerate non-compliance with licence conditions or licensable activity at unlicensed premises except in accordance with a Temporary Use Notice.

## **8. LICENSING AUTHORITY'S FUNCTIONS**

8.1 Licensing authorities are required under the Act to assume responsibility for;

- Licensing premises where gambling activities are to take place by issuing premises licences
- Issuing provisional statements
- Regulation of members clubs and miners welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issuing Club Machine Permits to Commercial clubs
- Granting permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres

- Receiving notifications from alcohol licensed premise (Under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issuing Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines.
- Registration of small society lotteries below the prescribed thresholds
- Issuing Prize Gaming Permits
- Receiving and endorsing Temporary Use Notices
- Receiving Occasional Use Notices
- Providing information to the Gambling Commission regarding details of licensing issues
- Maintaining registers of the permits and licences that are issued under these functions.

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

## **9. APPLICATIONS: GENERAL PRINCIPLES**

9.1 The licensing authority has no rigid rules about the acceptability of applications and will consider each on its merits.

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

- The type and nature of the gambling activity.
- The proximity of the gambling premises to sensitive premises such as schools or centres for vulnerable adults, or to residential areas where there may be a high concentration of families with children, and the likelihood that children or vulnerable adults will enter the premises.
- Where permits or licences are sought for use at premises that may attract children, or where children may be present, the licensing authority will give particular weight to child protection issues. The licensing authority is aware that children may be harmed not only by taking part in gambling, but also if they are able to watch it taking place. This concern may be particularly relevant at premises where there are multiple licences, where only part of a premises is licensed or where permits are to be used in part of a premises only.
- The adequacy of any proposed measures to prevent crime connected with gambling.



- The adequacy of any proposed steps to prevent access by children and vulnerable adults, or to prevent such people from seeing gambling taking place.
- The public availability at the premises of information about organisations that can provide advice and support in relation to gambling and debt, for example GamCare, Gamblers Anonymous, the Gordon House Association, the National Debtline and local Citizens Advice Bureaux and other relevant advice agencies.
- The existence of crime and disorder (particularly if it has required police intervention) or actual harm to children or vulnerable adults, where these are connected to gambling at the premises.

9.3 It will assist the sub-committee in contested cases if applicants, responsible authorities and interested parties address these matters.

9.4 When considering applications, sub-committees will decide matters of fact on the balance of probabilities.

9.5 The licensing authority will place information about licence applications on its web site, and will notify ward councillors when applications are received.

## **10. PREMISES LICENCES**

### **10.1 General**

10.1.1 A premises licence may authorise:

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

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

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

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

- in accordance with any relevant code of practice issued by the Gambling Commission;

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

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

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

- This licensing authority is aware that the Gambling Commission takes a lead role in preventing gambling from being a source of crime. The guidance does envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective.
- This licensing authority has noted that the Gambling Commission states it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.
- This licensing authority has noted that Gambling Commissions Guidance on protecting children from being harmed or exploited by gambling means preventing children from taking part in gambling as well as restriction of advertising so that gambling products are not aimed at or are particularly attractive to children.

## **10.2 DEFINITION OF "PREMISES"**

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

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

10.2.3 In most cases the expectation is that a single building or plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate

premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer.

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

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

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence.

10.2.6 Other factors which the licensing authority may consider are:

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

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

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

### **Adult Gaming Centre**

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

### **Betting Shops**

- Access must be from a street (as per paragraph 7.26 Guidance to Licensing Authorities) or from another premises with a betting premises licence
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

### **Race Tracks**

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

- a casino
- an adult gaming centre

### **Bingo Premises**

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

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

### **Family Entertainment Centre**

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

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

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

## **10.3 LOCATION**

10.3.1 The licensing authority will take into account the location of premises in the context of the crime prevention objective. For example, if an application for a licence or permit is received in relation to premises that are in an area noted for particular problems with organised crime, the licensing authority will consider what, if any, controls might be appropriate to prevent those premises becoming a source of crime. These might include conditions being put on the licence, such as a

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

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

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

#### **10.4 LOCAL AREA PROFILE**

10.4.1 A map of this Local Authority's area has been attached as Annex 2. The map contains the location of all schools and also hotspots of anti-social behaviour (ASB). This Authority will pay particular attention to applications for the new grant of, or variations to existing, premises licences where those premises lie within areas with a concentration of schools, ASB, hostels/homes for vulnerable people and centres for people with a gambling addiction.

10.4.2 Where paragraph 10.4.1 applies this Authority will expect applicants to fully explain in their applications how their proposal will not exacerbate any problems to individuals living in the vicinity, or exacerbate any ASB problems within the vicinity generally. Applicants will be expected to tailor their application, and have policies, procedures and control measures to mitigate any risks. They should have the appropriate numbers of trained staff, and propose licence conditions, to cater for the local area in which they propose to run their business.

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

- 10.4.4 Some publicly available sources of information to assist in operators completing a Local Area Profile include:
- (a) the Crime Mapping website;
  - (b) Neighbourhood Statistics websites;
  - (c) websites or publications by local responsible authorities;
- 10.4.5 This Authority will expect applicants for the new grant of, or variation to an existing, licence to include full details of their risk assessment in compliance with Social Responsibility (SR) code 10.1.1 and Ordinary code provision 10.1.2 (both effective as from 6 April 2016)

## **10.5 PREMISES “READY FOR GAMBLING”**

- 10.5.1 The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.
- 10.5.2 If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.
- 10.5.3 In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this licensing authority will determine applications on their merits, applying a two stage consideration process;
- First, whether the premises ought to be permitted to be used for gambling
  - Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.
- 10.5.4 Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

## **10.6 DUPLICATION WITH OTHER REGIMES**

- 10.6.1 This licensing authority seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. This licensing authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its

consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

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

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

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

10.6.5 The licensing authority has a duty to take into consideration all relevant matters and not to take into considerations irrelevant matters; i.e. those nor related to gambling and licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their application.

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

## **10.7 LICENSING OBJECTIVES**

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

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

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

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

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

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

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

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



## **10.8 ADULT GAMING CENTRES**

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

10.8.2 The licensing authority may consider measures to meet the licensing objectives such as:

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

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

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

## **10.9 LICENSED FAMILY ENTERTAINMENT CENTRES**

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

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

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises

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

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

## **10.10 TRACKS**

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

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

## **10.11 CASINOS**

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

## **10.12 BINGO**

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

10.12.2 This authority also notes the Gambling Commission's Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

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

## **10.13 BETTING PREMISES**

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

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

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

## 10.14 PROVISIONAL STATEMENTS

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

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

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

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

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

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

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

- which could not have been raised by objectors at the provisional statement stage;
- which in the licensing authority's opinion reflect a change in the operator's circumstances;
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can

discuss any concerns it has with the applicant before making a decision.

## **10.15 LICENCE CONDITIONS**

10.15.1 Premises licences will be subject to the permissions and restrictions set out in the Gambling Act 2005 and Regulations, as well as specific mandatory and default conditions detailed in regulations. It is expected that in most cases the mandatory and default conditions will be appropriate and sufficient but the licensing authority is able to exclude default conditions and also attach others. The licensing authority will be concerned to ensure that appropriate conditions are attached to licences and if it believes that the mandatory and default conditions will not be appropriate or sufficient in a particular case, it will be minded to impose others. Similarly, it may be prepared to remove or amend default conditions if satisfied that to do so would not harm the licensing objectives.

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

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

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

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

10.15.4 This licensing authority will also consider specific measures which may be required for buildings that are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of

gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives.

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

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

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder;
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18 years of age.
- Ages of younger patrons are checked.

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

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

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

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

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

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

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

10.15.13 It is noted that there are conditions which the licensing authority cannot attach to premises licences which are:

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

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

## 10.16 REVIEWS

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

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

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

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

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



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

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

10.16.6 In determining what action, if any, should be taken following a review, the licensing authority will have regard to the principles set out in section 153 of the Act, as well as any relevant representations. In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

10.16.7 Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:

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

## **11. PERMITS**

### **11.1 General**

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

11.1.2 The licensing authority will not grant permits for any category of gaming machines where it considers that they are likely to be used or easily accessed, by children. Permits may be granted if adequate precautions

are offered by the applicant. These could include, for example, steps to prevent access to the machines by children, and training for staff with respect to suspected truants and unsupervised very young children on the premises.

- 11.1.3 This licensing authority is concerned about burglary targeted at gaming machines. The authority considers that this is relevant to the first licensing objective.
- 11.1.4 Precautions to reduce the risk of burglary or theft from the machines may include:
- good security to deter break-ins
  - machines monitored by overt CCTV systems of an adequate standard to meet Police recommendations
  - machines to be of substantial construction to resist damage
  - emptying machines of cash nightly, and displaying a notice stating that this is done
  - siting machines where they can be observed by staff or the licence holder to deter theft when the premises are open
  - providing adequate secure cash storage facilities to Police recommendations.
- 11.1.5 The licensing authority recommends that applicants consult the Police, including the local Safer Neighbourhood Team, at an early stage, to obtain advice about crime prevention measures.
- 11.1.6 When considering an application for a permit, the licensing authority will take into account the applicant's suitability (including whether they have a conviction for any relevant offence).

## **11.2 Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 11 paragraph 7)**

- 11.2.1 Where a premise does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.
- 11.2.2 An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an Unlicensed Family Entertainment Centre (UFEC) and if the chief officer of police has been consulted on the application.
- 11.2.3 This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in

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

11.2.4 The licensing authority will expect applications to demonstrate:

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

11.2.5 It should be noted that a licensing authority cannot attach conditions to this type of permit.

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

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

11.3.2 The licensing authority can remove the automatic authorisation in respect of any particular premises if:

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

### **11.4 Alcohol Licensed Premises Gaming Machine Permits**

### **3 or More Machines**

- 11.4.1 If a premises wishes to have more than 2 machines, then it needs to apply for a permit. The licensing authority will consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and any other matters that it may think relevant.
- 11.4.2 This licensing authority considers that such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that those aged under 18 years old do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18 years. Notices and signage may also help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.
- 11.4.3 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 11.4.4 It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions other than these cannot be attached.
- 11.4.5 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

### **11.5 PRIZE GAMING PERMITS**

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

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

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

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

11.5.4 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:

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

11.4.5 The licensing authority may not impose any further conditions

## **11.6 CLUB GAMING AND CLUB MACHINE PERMITS**

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

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

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

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

- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young persons;
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years;
- (e) an objection has been lodged by the Gambling Commission or the Police.

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

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

11.6.6 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies

with any relevant provision of a code of practice about the location and operation of gaming machines.

## **11.7 TEMPORARY USE NOTICES**

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

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

11.7.3 The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

11.7.4 There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

11.7.5 This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

## **11.8 OCCASIONAL USE NOTICES**

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

## **12. TRAVELLING FAIRS**

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

## **13. SMALL SOCIETY LOTTERIES**

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

## **14. INTEGRATION OF LICENSING WITH OTHER STRATEGIES**

- 14.1 The licensing authority will ensure, so far as is consistent with the Act and Guidance, that action taken under this policy supports and does not conflict with strategies for local crime prevention and community safety, planning, equality, tourism and cultural issues, including in particular:



- The Cultural Strategy for London  
<https://www.london.gov.uk/priorities/arts-culture/consultations/cultural-strategy>
- The objectives of the Security Industry Authority  
<http://www.sia.homeoffice.gov.uk/Pages/home.aspx>
- The Safer Communities Strategy  
<https://www.barnet.gov.uk/citizen-home/housing-and-community/community-safety.html>
- The Sustainable Communities Strategy  
<https://www.barnet.gov.uk/citizen-home/council-and-democracy/policy-and-performance/major-policy-proposals/sustainable-community-strategy.html>
- Barnet's Equalities policy  
<https://www.barnet.gov.uk/citizen-home/council-and-democracy/policy-and-performance/equality-and-diversity.html>

## **15. TOURISM AND EMPLOYMENT**

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

## **16. PROMOTION OF EQUALITY**

16.1 The licensing authority encourages the provision of proper facilities for disabled people at licensed premises, and will offer advice and information where necessary to assist applicants.

16.2 The licensing authority is obliged to have due regard to the need to eliminate unlawful discrimination, for example on the grounds of race, gender, disability, sexual orientation or religion, and to promote equality of opportunity and good relations between persons of different groups. When considering applications and representations, the licensing authority will treat all parties equally. However, it can take into account only the issues provided for in the Gambling Act.

## 17 LICENSING REGISTER

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

## 18. RELEVANT DOCUMENTS

- The Enforcement Concordat  
<http://webarchive.nationalarchives.gov.uk/+http://www.berr.gov.uk/files/file10150.pdf>
- The Regulators' Compliance Code  
<https://www.gov.uk/government/publications/regulators-code>
- The Human Rights Act 1998  
<http://www.legislation.gov.uk/ukpga/1998/42/contents>
- Crime and Disorder Act 1998  
<http://www.legislation.gov.uk/ukpga/1998/37/contents>
- Disability Discrimination Act 1995  
[www.hmso.gov.uk/acts/acts1995/Ukpga\\_19950050\\_en\\_1.htm](http://www.hmso.gov.uk/acts/acts1995/Ukpga_19950050_en_1.htm)
- Guidance issued by the Gambling Commission under section 25 of the Gambling Act 2005  
<http://www.gamblingcommission.gov.uk/pdf/GLA5---March-2015.pdf>

## 19. COMPLAINTS ABOUT THE LICENSING SERVICE

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

## **20. FURTHER INFORMATION**

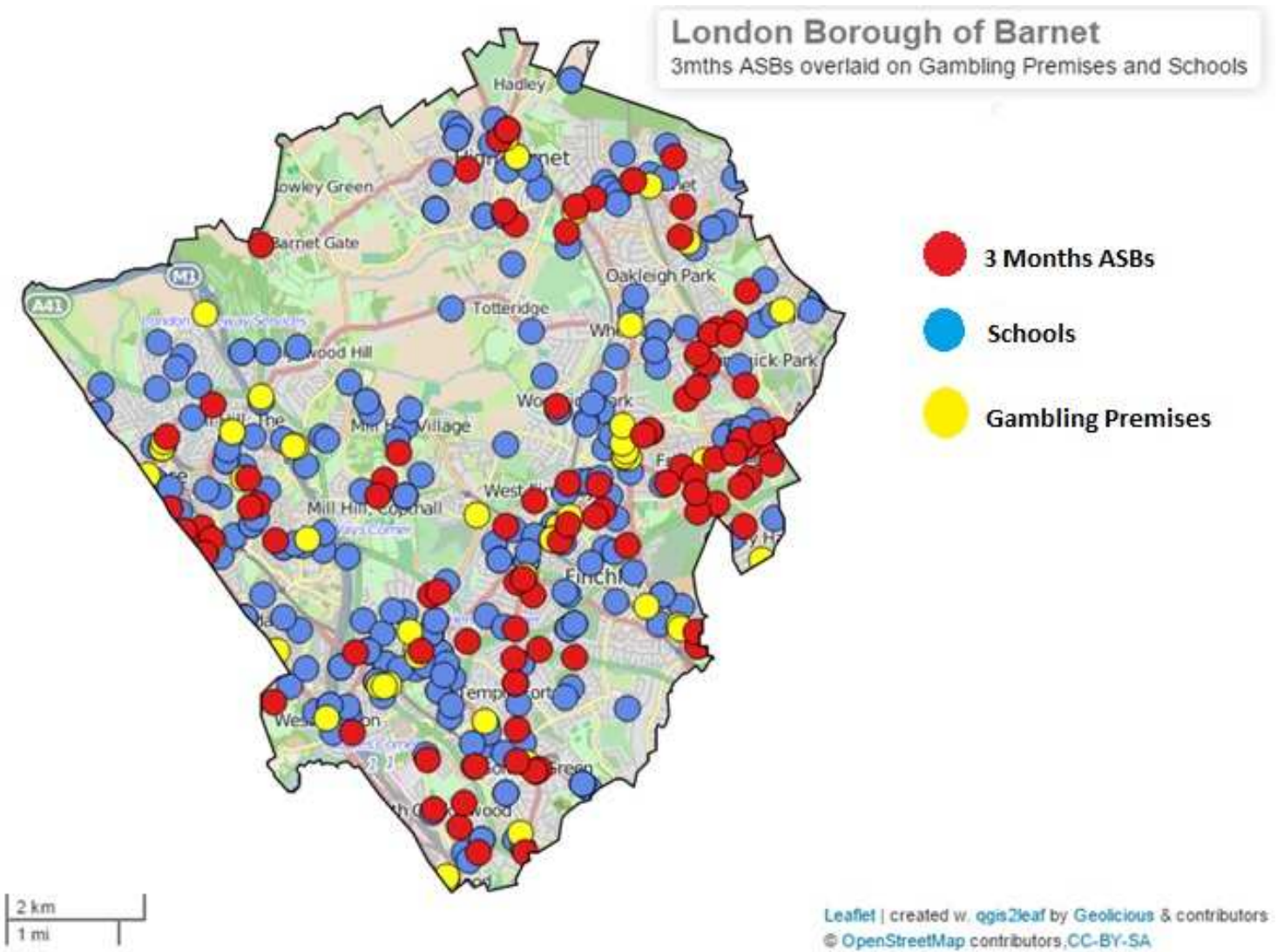
20.1.1 Information about applications, fees, how to make a representation, details of the responsible authorities and the licensing register, see [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk) or contact the Licensing Team on 020 8359 7443, [licensingadmin@barnet.gov.uk](mailto:licensingadmin@barnet.gov.uk)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

## **21. COMMENCEMENT AND REVIEW**

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

| Matter to be dealt with                                       | Full Council | Licensing Committee | Licensing sub committee                                      | 3.1.1.1.1.1 Officers  |
|---|--------------|---------------------|--|---|
| Final approval of the Licensing Authority Statement of Policy | X            |                     |  |   |
| Policy not to permit casinos                                  | X            |                     |  |   |
| Application for premises licence                              |              |                     | Where representations have been received and not withdrawn   | Where no representations received/representations have been withdrawn |
| Application to vary premises licence                          |              |                     | Where representations have been received and not withdrawn   | Where no representations received/representations have been withdrawn |
| Application for transfer of a licence                         |              |                     | Where representations have been received from the Commission | Where no representations have been received from the Commission       |
| Application for provisional statement                         |              |                     | Where representations have been received and not withdrawn   | Where no representations received/representations have been withdrawn |
| Review of a premises licence                                  |              |                     | All cases  |   |
| Application for club gaming/club machine permits              |              |                     | Where objections have been made (and not withdrawn)          | Where no objections have been made/objections have been withdrawn     |
| Cancellation of club gaming/club machine permits              |              |                     | All cases  |   |
| Applications for other permits                                |              |                     |  | All cases   |
| Cancellation of licensed premises gaming machine permits      |              |                     |  | All cases   |

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



## **Annex 3 – Consultees**

### **1. All responsible authorities**

#### **1 All councillors**

#### **2 Main Trade Associations**

- British Casino Association  
28 Grosvenor Gardens

3.1.1.1.1.1.1.1 London  
SW1W 0EB

- BACTA  
Alders House

13 Aldergate St

London

EC1A 4JA

- Association of British Bookmakers  
Norris House

4 Norris Street

London

SW1y 4RJ

- Business in Sport and Leisure  
17a Chartfield Avenue

Putney

London

SW15 6DX

- BALPA  
Suite 12

37 Tanner Street

London

SE1 3LF

### 3 Residents Groups

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

- Alan Lodge Residents Ltd  
Flat 3 Alan Lodge, Nether Street, London, N3 1QH
- Hendon Avenue Residents Ltd  
9 Hendon Avenue, London, N3 1UL
- Barnet Residents Association  
Melvyn Sears 71 Byng Road Barnet EN5
- North West Two Residents Association [group@northwesttwo.co.uk](mailto:group@northwesttwo.co.uk)
- Hampstead Garden Suburb Residents Association  
[chairman@hgs.org.uk](mailto:chairman@hgs.org.uk)
- Sunnyhill Residents Association (Hendon)  
[daniel@sunnyhill-residents.co.uk](mailto:daniel@sunnyhill-residents.co.uk)

### 4 Sample Gambling Businesses in our Area

10% of each type of business directly contacted:

### 5 Faith Groups

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



## 6 Voluntary Organisations

CAB's

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

## 8. Community Organisations Working With Children and Young People

Organisations Working With Problem Gambling

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


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

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

## Appendix 2

### Summary of changes

| Paragraph              | changes   |
|------------------------|---|
| 1.2                    | Amended to show the changed in the statistical information published  |
| 1.7 – 1.8              | Changes in dates shown to reflect the consultation for this draft policy  |
| 1.9 – 1.10             | Amended to reflect the latest version of the Gambling Commissions Guidance  |
| 10.4 (10.4.1 – 10.4.5) | New paragraphs relating to 'Local Area Profiles' and the Gambling commissions Social Responsibility Codes 10.1.1 and 10.1.2 |
| Annex 2                | New map of the London Borough of Barnet's 'Local Area Profiles'   |

|   |   |
|---|---|
|  | <p>AGENDA ITEM 8</p> <p><b>Licensing Committee</b><br/><b>20<sup>th</sup> July 2015</b></p>   |
| <p><b>Title</b></p>   | <p><b>Scrap Metal Dealers Policy</b></p>  |
| <p><b>Report of</b></p>   | <p>Commissioning Director for Environment</p>   |
| <p><b>Wards</b></p>   | <p>All</p>  |
| <p><b>Status</b></p>  | <p>Public</p>   |
| <p><b>Enclosures</b></p>  | <p><b>Appendix 1 – Draft Scrap Metal Dealers Policy</b></p>   |
| <p><b>Officer Contact Details</b></p>   | <p>Emma Phasey<br/>Trading Standards and Licensing Manager<br/><a href="mailto:Emma.phasey@barnet.gov.uk">Emma.phasey@barnet.gov.uk</a></p> |

|  |
|--|
| <p><b>Summary</b></p>  |
| <p>This report seeks approval from Members to consult on a draft policy in relation to licences issued under the Scrap Metal Dealers Act 2013.</p> |

|   |
|---|
| <p><b>Recommendations</b></p>   |
| <p>That the Committee approve the carrying out of a consultation on the Draft Scrap Metal Dealers Policy at Appendix 1.</p> |

**1. WHY THIS REPORT IS NEEDED**

- 1.1 The Scrap Metal Dealers Act 2013 revised the regulatory regime for the scrap metal recycling and vehicle dismantling industries.
- 1.2 The 2013 Act repeals the Scrap Metal Dealers Act 1964 and the Vehicle Crime Act 2001, replacing them with a more robust licensing regime that gives a local authority the powers to refuse the grant of a licence where the applicant is deemed unsuitable; and the powers to revoke a licence should a licence holder become unsuitable.
- 1.3 The 2013 Act aims to raise the standards across the scrap metal industry and to help achieve this, licensed operators will need to keep detailed records of their transactions; and verify the identity of those selling scrap metals to them.
- 1.4 In addition to replacing the Scrap Metal Dealers Act 1964 and the Vehicle Crime Act 2001, the 2013 Act revises the definition of a 'Scrap Metal Dealer' so as to take into account the modern way in which people collect and deal in scrap metal. The 2013 Act provides for two types of Scrap Metal Dealer licences, a 'Site Licence' and a 'Collector's Licence', both of which last for three years.

#### **1.4.1 Site Licence**

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

#### **1.4.2 Collector's Licence**

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

- 1.5 This report recommends the consultation on a draft policy for Scrap Metal Dealers that will ensure best practice in the London Borough of Barnet when dealing with the licensing of scrap metal dealers.

## **2. REASONS FOR RECOMMENDATIONS**

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

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

- 3.1 The Committee could consider not consulting on the proposed policy; however this would not accord with good governance, giving interested parties an opportunity to consider the proposed policy and make any representations where they consider that changes might be made before adoption.
- 3.2 The Council could choose not to introduce a policy on Scrap Metal Dealers, however to do so would be contrary to best practice and may lead to a lack of clarity on the application of the legislation.

#### **4. POST DECISION IMPLEMENTATION**

- 4.1 A 12 week consultation will take place in relation to the policy; the results of this will be presented to the Committee at the meeting on 23 November 2015.

#### **5. IMPLICATIONS OF DECISION**

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

5.1.1 The policy will support objectives contained within the corporate plan. In particular in relation to a “successful London suburb” by ensuring that only legal, well regulated scrap metal dealing takes place within the borough.

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

5.2.1 Administration and enforcement of the Scrap Metal Act will be carried out by the Licensing team within Re, together with support from HB Public Law and from Governance Services.

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

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

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

5.3.2 Constitution - Annex A Responsibility for Council Functions- Membership and Terms of Reference of Committees and Partnership Boards”, details the functions of the Licensing Committee .

##### **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 scrap metal in order to ensure fair trading, prevent crime and to protect consumers.

##### **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 scrap metal applications, only issues provided for in the Scrap Metal Act and the authority's statement of principles will be taken into account. This will ensure a consistent approach is adopted. Under the terms of the policy, every application will be considered on its own merits.

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

5.6.2 If approved by the Committee, the policy will be submitted for consultation with all relevant stakeholders for a period of 12 weeks. All replies will be taken into account and the policy revised as necessary and if appropriate to do so. The final policy will be submitted to the Licensing Committee for approval at its meeting in November 2015. The Committee will then be asked to recommend that the policy be adopted at the next meeting of the full Council.

## **6. BACKGROUND PAPERS**

None

# DRAFT SCRAP METAL POLICY

July 2015

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## **1. INTRODUCTION**

- 1.1 This document sets out the London Borough of Barnet Council's Policy on the regulation of Scrap Metal Dealers.
- 1.2 The Scrap Metal Dealers Act 2013 received Royal Assent on 28 February 2013 and came into force on 1 October 2013.
- 1.3 The Scrap Metal Dealers Act 2013, hereinafter named 'the Act' repeals the Scrap Metal Dealers Act 1964 and Part 1 of the Vehicle (Crime) Act 2001, Paragraph 1 of schedule 3 of the Vehicle Excise and Registration Act 1994, Paragraph 168 of schedule 17 to the Communications Act 2003 and section 145 to 147 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. The Act brings forward a new regulatory framework for scrap metal dealing and vehicle dismantling industries. The following regulations have also been made:
- The Scrap Metal Dealers Act 2013 (Prescribed Documents and Information for Verification of name and Address) Regulations 2013
  - The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013
- 1.4 The Act gives local authorities better powers to regulate these industries by allowing them to refuse to grant a licence to 'unsuitable' applicants and a power to revoke licences if the dealer becomes 'unsuitable'.
- 1.5 The London Borough of Barnet hereinafter called 'the Council' is the Licensing Authority under the Scrap Metal Dealers Act 2013 and is responsible for granting site licence and collector's licences in the London Borough of Barnet in respect of businesses that deal in scrap metal and vehicle dismantling.
- 1.6 When assessing applications, the Council must be satisfied that the applicant is a 'suitable' person to hold a licence. Unsuitability will be based on a number of factors including any relevant criminal convictions.
- 1.7 The Scrap Metal Dealers Act 2013 makes it a requirement for a scrap metal dealer to have a licence in order to carry on in business as a dealer. It is an offence to carry on a business without first obtaining a licence. The Act incorporates the separate regulatory scheme for motor salvage operators under the Vehicle (Crime) Act 2001 into this new regime. This is to replace the current overlapping regimes for vehicle salvage and scrap metal industries with a single regulatory scheme.

### **1.8 Definition of a Scrap Metal Dealer**

- 1.8.1 A person carries on business as a scrap metal dealer if:
- a) they wholly or partly buy or sell scrap metal (whether or not sold in the form it was bought in) or;

b) they carry on business as a motor salvage operator (see 1.10).

1.8.2 A person selling scrap metal as surplus materials or as a by-product of manufacturing articles is NOT regarded as a scrap metal dealer.

1.8.3 Motor salvage operation is defined in the Act as a business that consists wholly or mainly of:

a) recovering salvageable parts from motor vehicles for re-use or sale and selling the remainder of the vehicle for scrap;

b) buying written-off vehicles, repairing and reselling them;

c) buying or selling motor vehicles which are to be the subject of any of the activities mentioned in (a) or (b);

d) wholly or mainly in activities falling within paragraphs (b) and (c).

1.8.4 Scrap metal includes:

a) any old, waste or discarded metal or metallic material, and

b) any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last holder as having reached the end of its useful life.

1.8.5 Scrap Metal does not include:

a) Gold;

b) Silver; or

c) Any alloy of which 2% or more by weight is attributable to gold or silver.

## **2 CONSULTATION**

2.1 There is no requirement, in the Act, for a Council to have in place a formal policy for dealing with applications made under the Scrap Metal Dealers Act 2013. Despite this the London Borough of Barnet has chosen to adopt a formal policy so that 'Best Practice' can be assured to the trade and local residents.

2.2 In developing this policy statement, the Council consulted with existing scrap metal dealers/motor salvage operators, the Metropolitan Police, Environment Agency and Industry Associations.

## **3 TYPES OF LICENCES**

- 3.1 Anyone wishing to operate a business dealing in scrap metal will require a site licence or a collector's licence.
- 3.2 A licence is valid for three years and permits the holder of the licence to operate within the boundaries of the issuing authority. The types of licence are as follows:
- Site Licence – A licence will be issued by the Council in whose area a scrap metal site is situated. A site licence will require each of the sites at which the licensee carries on the business as a scrap metal dealer, within the local authority area, to be identified and a site manager to be named for each site. This type of licence will permit the holder to operate from those sites and will allow the transporting of scrap metal to and from those sites to any other licensed site within any local authority area.
  - Collector's Licence – A collector's licence authorises a licence holder to operate as a 'mobile collector' in the area of the issuing local authority. This licence will permit them to collect any scrap metal as defined within the legislation, including commercial and domestic scrap metal. It does not permit the collector to collect from any other local authority area. Separate licences should be obtained from each individual local authority that the collector's are collecting scrap metal from. A collector's licence issued by this authority does not permit the licensee to carry on a business as a site within this local authority. If a collector wishes to use a fixed site, they will need to obtain a site licence from the relevant local authority. There is no restriction as to the location where the collector can transport and sell their material.
- 3.3 A person may hold more than one licence issued by different authorities, but might **NOT** hold more than one licence issued by the same local authority.

#### **4 APPLICATION PROCESS**

- 4.1 When the Council considers an application, it will have regard to:
- The Scrap Metal Dealers Act 2013;
  - Guidance issued by the Home Office, including the Scrap Metal Dealers Act supplementary guidance and determining suitability to hold a scrap metal dealer's licence (Oct 2013);
  - Any supporting regulations
  - This statement of scrap metal licensing policy.
- 4.2 This does not undermine the rights of any person to apply for a licence under the 2013 Act and have their application considered on its individual merits.

- 4.3 A person carrying on, or proposing to carry on, a business as a scrap metal dealer may apply to the Council to be licensed. The application must be in writing and contain the appropriate mandatory particulars, as set out in **Appendix 1**.
- 4.4 A local authority may request that an applicant provide such other information, as it considers relevant, for the purpose of considering the suitability of an applicant. The additional information that any be required is set out in **Appendix 2**.
- 4.5 The application must be accompanied by the appropriate fee. The fees are set out in **Appendix 3**
- 4.6 If the applicant fails to complete the application form correctly, does not provide one or more piece of the mandatory supporting information/documents or one or more piece of the additional information/documents that have been requested by the local authority, the Council may deem the application invalid and return all documents to the applicant.

## **5 SUITABILITY OF APPLICANTS**

- 5.1 A local authority must determine whether the applicant is a suitable person to carry on a business as a Scrap Metal Dealer.
- 5.2 In determining this, the Council may have regard to any information it considers to be relevant, including whether any relevant enforcement action has been taken against the applicant or whether the applicant has been convicted of a relevant offence. A list of relevant offences is set out in **Appendix 4**.
- 5.3 Each application will be dealt with on its own merit and regard will be given to any information provided by the police or other agencies that are contacted by the local authority in relation to suitability of an applicant(s).
- 5.4 The Council must also have regard to any guidance issued by the Home Office in relation to determining an applicant's suitability.
- 5.5 The Council may consult other agencies regarding the suitability of an applicant, including:
- Any other local authority;
  - The Environment Agency;
  - The Natural Resources Body for Wales; and
  - An officer of a police force.

## **6 DETERMINATION OF APPLICATION/ISSUE OF LICENCE**

- 6.1 Where the Council is satisfied that an applicant is a 'suitable person' to hold a Scrap Metal Dealers Licence, it must issue a licence.

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

### **Right to Make Representations**

- 6.4 If the Council proposes to refuse a new/vary application or to revoke or vary a licence a notice must be issued to the applicant/licensee setting out what the authority proposes to do and the reasons for doing it. The notice must also state that within the period specified on the notice that the applicant/licensee can either:
- a) make representations about the proposal; or
  - b) inform the authority that the applicant/licensee wishes to do so.
- 6.5 The period specified in the notice must be not less than 14 days beginning with the date on which the notice is given to the applicant/licensee. Within this time the applicant/licensee must notify the Council that they do not wish to make representations. Should this period expire the applicant/licensee has not made representations, or informed the authority of their wish to do so the authority may refuse the application, or revoke or vary the licence.
- 6.6 If, within the 14 day period the applicant/licensee informs the authority that they wish to make a representation, the Council will allow a further period of 14 days for the applicant/licensee to make such representations. The Council may refuse the application or revoke or vary the licence if they fail to make representations within this period.
- 6.7 If the applicant/licensee notifies the authority that they wish to make oral representations, the authority must give them the opportunity of appearing before, and being heard by, a person appointed by the authority. This will be heard by the licensing sub-committee.
- 6.8 The Council may revoke a scrap metal dealer's licence in certain circumstances. Please refer to Section 8.

### **Notice of Decisions**

- 6.9 If the application is refused, or the licence is revoked or varied, the Council will give a notice to the applicant/licensee setting out the decision and the reasons for it.
- 6.10 The notice will state that the applicant/licensee may appeal against the decision within 21 days from date of notice of decision is given. (Please see **Appendix 5** for appeal process).

## **7 VARIATION OF LICENCE**

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

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

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

## **8 REVOCATION OF LICENCE AND IMPOSING CONDITIONS**

- 8.1 The Licensing Authority may revoke a scrap metal licence if is satisfied that the licensee does not carry on the business of scrap metal dealing at any of the sites identified within the licence.
- 8.2 The Licensing Authority may revoke a licence if it is satisfied that a site manager named on the licence does not act as the site manager at any of the sites identified in the licence.
- 8.3 The Licensing Authority may revoke a licence if it is no longer satisfied that the licensee is a suitable person to carry on a business as a scrap metal dealer.
- 8.4 If the licensee or any site manager named in a licence is convicted of a relevant offence (as shown in **Appendix 4**) the authority may vary the licence by adding one or both of the following conditions:
- That the dealer must not receive scrap metal except between 9 a.m. and 5 p.m. on any day

- That all scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72hours, beginning with the time when it was received.

8.5 If the authority considers that the licence should not continue in force without conditions, it may by notice provide:

- a) that, until a revocation under this section comes into effect, the licence is subject to one or both of the conditions set out in section 6.2 of this policy; or
- b) that a variation under this section comes into effect immediately.

## **9 REGISTER OF LICENCES**

9.1 The Environment Agency will maintain a register of scrap metal licences issued by authorities in England.

9.2 Each entry will record:

- a) the name of the authority which issued the licence;
- b) the name of the licensee;
- c) any trading name of the licensee;
- d) the address of the site identified in the licence;
- e) the type of licence; and
- f) the date on which the licence is due to expire.

9.3 The registers will to be open for inspection to the public a [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)

## **10 NOTIFICATION REQUIREMENTS**

10.1 An applicant for a scrap metal licence, or for the renewal or variation of a licence, must notify the authority to which the application was made of any changes which materially affect the accuracy of the information which the applicant has provided in connection with the application.

10.2 A licensee who is no longer carrying on business as a scrap metal dealer in the area of the authority which issued the licence must notify the authority within 28 days.



- 10.3 If a licence is issued to a business under a trading name the licensee must notify the authority which issued the licence of any change to that name within 28 days.
- 10.4 An authority will notify the Environment Agency, of –
- a) any notification given to the authority under section 11.2 or 11.3;
  - b) any variation made by the authority under section 8 (variation of type of licence or matters set out in licence); and
  - c) any revocation of the authority of a licence.
- 10.5 Notification under subsection 11.4 must be given within 28 days of the notification, variation or revocation in question.
- 10.6 Where the authority notifies the Environment Agency they will amend the register under section 10 accordingly.

## **11 DISPLAY OF LICENCE**

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

## **12 VERIFICATION OF SUPPLIER'S IDENTITY**

- 12.1 A Scrap Metal Dealer must not receive scrap metal from a person without verifying the person's full name and address.
- 12.2 Verification must be by reference to documents, data or other information obtained from a reliable and independent source. (Please refer to Appendix 2 which sets out the documents required for verification.)
- 12.3 A Scrap Metal Dealer must keep a copy of any document to verify the name and address of the supplier. A Scrap Metal Dealer can verify the name and address of repeat suppliers by referring to a copy of the document(s) retained in their records which were used to verify the name and address before the first transaction.

- 12.4 In the case of collecting door to door, it may not be possible for a mobile collector to verify the name and address of the supplier if the waste materials and old, broken, worn out or defaced articles have been left on the roadside. Therefore, the mobile collector must record the description of the metal, including its type (or types if mixed), form, condition, weight and any marks identifying previous owners or other distinguishing features and the date and time of its receipt.
- 12.5 If a mobile collector collects scrap from a person, they will need to verify the name and address of that person. It will be sufficient to record these details in the collector's record book.
- 12.6 Should verification not be gained then each of the following are guilty of an offence:
- a) the scrap metal dealer;
  - b) if metal is received at the site, the site manager; c) any person who, under arrangements made by a person within paragraph (a) or (b), has responsibility for verifying the name and address.

### **13 PAYMENT FOR SCRAP METAL**

- 13.1 From 1 October 2013, cash cannot be used by any scrap metal dealer to buy scrap metal. It is an offence to buy scrap metal for cash and there are no exemptions.
- 13.2 A scrap metal dealer must only pay for scrap metal by either:
- a) A non-transferable cheque; or
  - b) An electronic transfer of funds.

This will mean that the payment will be linked to a readily identifiable account, for both the payee and the payer

- 13.3 Payment includes payment in kind – with goods or services.

#### **Buying vehicles for cash**

- 13.4 There may be circumstances where vehicles can be bought for cash, this being where a vehicle is bought with the intention to repair and resell. If a Certificate of Destruction is issued, the vehicle is considered to be scrap and the buyer must not pay cash for it. Please see **Appendix 6** which should assist in deciding whether it may be permissible to pay cash.

### **14 RECORDS: RECEIPT OF METAL**

- 14.1 If any metal is received in the course of the dealer's business the dealer must record the following information:
- a) description of the metal, including its type (types if mixed), form, condition, weight and any marks identifying previous owners or other distinguishing features;
  - b) date and time of receipt;
  - c) the registration mark of the vehicle delivered by;
  - d) full name and address of person delivering it;
  - e) full name of the person making payment on behalf of the dealer.
- 14.2 The dealer must keep a copy of any documents used to verify the name and address of the person delivering the metal.
- 14.3 If payment is made via cheque, the dealer must retain a copy of the cheque.
- 14.4 If payment is made via electronic transfer, the dealer must keep a receipt identifying the transfer, or (if no receipt identifying the transfer) record particulars identifying the transfer.

## **15. RECORDS: DISPOSAL OF METAL**

- 15.1 The act regards the metal to be disposed of:
- a) whether or not in the same form it was purchased;
  - b) whether or not the disposal is to another person;
  - c) whether or not the metal is despatched from a site.
- 15.2 Where the disposal is in the course of business under a site licence, the following must be recorded:
- a) description of the metal, including its type (or types is mixed), form and weight;
  - b) date and time of disposal;
  - c) if to another person, their full name and address;
  - d) if payment is received for the metal (by sale or exchange) the price or other consideration received.
- 15.3 If disposal is in the course of business under a collector's licence, the dealer must record the following information:
- a) the date and time of the disposal;
  - b) if to another person, their full name and address.

## **16. RECORDS: SUPPLEMENTARY**

- 16.1 The information in sections 15 and 16 must be recorded in a manner which allows the information and the scrap metal to which it relates to be readily identified by reference to each other.

- 16.2 The records mentioned in section 15 must be marked so as to identify the scrap metal to which they relate.
- 16.3 Records must be kept for a period of 3 years beginning with the day on which the metal is received or (as may be the case) disposed of.
- 16.4 If a scrap metal dealer fails to fulfil a requirement under section 15 and 16 or this section each of the following is guilty of an offence:
- a) the scrap metal dealer;
  - b) if the metal is received at or (as the case may be) despatched from a site, the site manager;
  - c) any person who, under arrangements made by a person within paragraph (a) or (b) has responsibility for fulfilling the requirement.
- 16.5 It is a defence for a person within subsection 17.4 (a) or (b) who is charged with an offence under this section to prove that the person a) made arrangements to ensure that the requirement was fulfilled, and b) took all reasonable steps to ensure that those arrangements were complied with.

## 17. FEES

- 17.1 The power to set fees has been passed to individual authorities so that any fees levied in each local area is set by reference to the actual costs to each authority. The fee charged cannot exceed the costs of providing the service.
- 17.2 London Borough of Barnet has set its fees and these are set out in **Appendix 3**.

## 18. COMPLIANCE

- 18.1 The Act provides a Police Constable and an Officer from the Council with a right to enter and inspect the premises of licensed and unlicensed scrap metal dealers. The full provisions of the powers are set out in **Appendix 7**.
- 18.2 The Act does not provide an Officer of the Council with the power to inspect premises of licensed and unlicensed scrap metal dealers outside the area of the authority.
- 18.3 The Council delivers a wide range of compliance services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade.
- 18.4 The administration and compliance of the licensing regime is one of these services.
- 18.5 Compliance will be based on the principles that businesses should:

- Receive clear explanations from regulators of what they need to do and by when;
- Have an opportunity to resolve differences before compliance action is taken, unless immediate action is needed;
- Receive an explanation of their right of appeal.

18.6 The council recognises the interest of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law. However, proportionate but firm action will be taken against those who commit serious offences or consistently break the law. The council has set clear standards of service and performance that the public and businesses can expect.

## **19. DELEGATED AUTHORITY**

20.1 Decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision making.

The Scrap Metal Dealers Act 2013 and relevant Guidance issued by the Home Office can be found at [www.gov.uk](http://www.gov.uk).

If you wish to discuss the application process with an officer of the Licensing Authority, please contact:

The Licensing Team  
Building 4 North London Business Park  
Oakleigh Road South  
London  
N11 1NP  
Tel: 020 8359 7443 or Email: [licensingadmin@barnet.gov.uk](mailto:licensingadmin@barnet.gov.uk)

## APPENDIX 1 – APPLICATION PROCESS

An application for a licence should be made to the following address:

The Licensing Authority  
London Borough of Barnet  
Building 4 North London Business Park  
Oakleigh Road South  
London  
N11 1NP

Or any other address that the Council shall otherwise notify.

To apply for a Scrap Metal Dealers Licence, applicants must be over 18 years of age and will need to complete an application form and send it to the Council together with:-

- a) Full name of applicant (if an individual), date of birth and usual place of residence;
- b) Name and registered number of the applicant (if a company) and registered office;
- c) If a partnership – full name of each partner, date of birth and usual place of residence;
- d) Proposed trading name;
- e) Telephone number and email address (if any) of applicant;
- f) Address of any site within any other local authority at which carry on business as a scrap metal dealer or propose to do so;
- g) Any relevant environmental permit or registration in relation to the applicant;
- h) Details of any other scrap metal licence issued to the applicant within a period of 3 years ending with the date of the application;
- i) Details of the bank account which is proposed to be used in order to comply with section 15;
- j) Details of any relevant conviction or enforcement action taken against the applicant.

For site licence, must also provide:

- a) Address of each site proposed to be identified in the licence (or if renewal, each site identified for which renewal is sought);

- b) Full name, date of birth and usual place of residence of each individual proposed to be named in the licence as a site manager (other than the applicant);
- c) Site manager details to be included for g), h) and j) above. Please note the collector's licence allows a business or individual to operate within that authority's area, therefore individuals wishing to collect across the boundary of the local authority will be required to obtain a collector's licence from the relevant local authority where they wish to collect and sell.

When applying for either a collector's or a site licence you are required to provide a basic disclosure of criminal convictions with your application. This can be obtained direct from [www.disclosurescotland.co.uk](http://www.disclosurescotland.co.uk) or by telephoning the Disclosure Scotland Helpline on 0870 609 6006. Please note that the disclosure is valid for one month from the date it was issued.

### **Fee**

The application must be accompanied by the fee set by London Borough of Barnet, under guidance from the Secretary of State with the approval of the Treasury.

### **Renewal**

When a licence is renewed the three year validity period commences on the day of receipt. Should a renewal application be withdrawn, the licence expires at the end of the day on which the application is withdrawn. Refusal of application – licence expires when no appeal under 9 is possible in relation to the refusal or any such appeal is finally determined or withdrawn.

### **Making a false statement**

An applicant who, in an application or in response to a request, makes a statement knowing it to be false in a material particular or recklessly makes a false statement is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## **APPENDIX 2 - FURTHER INFORMATION THAT MAY BE REQUESTED OF APPLICANTS**

London Borough of Barnet may request (at the time of the application or later) an applicant to supply such further information as is considered relevant for the purpose of considering the application.

London Borough of Barnet may require the following additional evidence:

- Photographic evidence (Current valid Passport, driving licence photo ID and counterpart);
- Birth Certificate;
- Utility bill or other recent document which confirms the address of the applicant (must be less than 3 months old);
- Certificate of good conduct for applicants that have been out of the country for long periods, from the age of 10 years;
- Document showing a right to work (Residents Permit) where applicable;
- National Insurance Number.

The council may have regard to the following information, when considering the suitability of an applicant:

- Whether the applicant or any site manager has been convicted of any relevant offence;
- Whether the applicant or any site manager has been subject of any relevant enforcement action;
- Any previous refusal of an application for the issue or renewal of a scrap metal licence (and the reasons for refusal);
- Any previous refusal of an application for a relevant environmental permit or registration (and the reasons for the refusal);
- Any previous revocation of a scrap metal licence (and the reasons for the revocation); and
- Whether the applicant has demonstrated that there will be in place adequate procedures to ensure that the provisions of this Act are complied with.

All of the above will apply to any director or any secretary of a company if the applicant is not an individual.



### APPENDIX 3 - FEES

|                                | <b>Site Licence</b> | <b>Collector's Licence</b> |
|--------------------------------|---------------------|----------------------------|
| <b>New Application</b>         | <b>£570</b>         | <b>£265</b>                |
| <b>Variation Application</b>   | <b>£230</b>         | <b>£130</b>                |
| <b>Minor Change of Details</b> | <b>£30</b>          | <b>n/a</b>                 |
| <b>Renewal Application</b>     | <b>£450</b>         | <b>£200</b>                |
| <b>Duplicate of licence</b>    | <b>£20</b>          | <b>£20</b>                 |

Each licence lasts for three years, so the renewal will be subject to further review by the time the first licence renewal is required.

Levels of fees are annually reviewed.

## APPENDIX 4 – RELEVANT OFFENCES AND PENALTIES

When considering the suitability of an applicant, London Borough of Barnet will take into consideration relevant offences, these include:

- Environmental Offences
- Customs and Excise Management Act 1979 (section 170)
- Fraud Act 2006 (section 1)
- Proceeds of Crime Act 2002 (sections 329, 330, 331 and 332)
- Theft Act 1968 (sections 1,8,9,10,11,17,18,22 & 25)
- Scrap Metal Dealers Act 1964
- Scrap Metal Dealers Act 2013
- Legal Aid, Sentencing and Punishment of Offenders Act 2012 (section 146)
- Vehicle (Crime) Act 2001 (as motor salvage operators)

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

Offences relating to scrap metal dealing and motor salvage are described below under the relevant statute.

In relation to the maximum penalties specified, the levels of fine are currently as follows (Information correct at the time of writing this Policy and are subject to change):-

- Level 1 - £200
- Level 2 - £500
- Level 3 - £1,000
- Level 4 - £2,500
- Level 5 - £5,000

### Scrap Metal Dealers Act 2013

| Section | Offence  | Max Penalty |
|---------|--|-------------|
| 1       | Carry on business as a scrap metal dealer without a licence                    | Level 5     |
| 8       | Failure to notify authority of any changes to details given within application | Level 3     |
| 10      | Failure to display site licence or collector's licence                         | Level 3     |
| 11 (6)  | Receiving scrap metal without verifying the persons full name and address      | Level 3     |
| 11 (7)  | Delivering scrap metal to dealer and giving false details                      | Level 3     |

|        |   |         |
|--------|---|---------|
| 12 (6) | Buying scrap metal for cash   | Level 5 |
| 13     | Failure to keep records regarding receipt of metal  | Level 5 |
| 14     | Failure to keep records regarding disposal of metal   | Level 5 |
| 15 (1) | Failure to keep records which allow the information and the scrap metal to be identified by reference to one another                    | Level 5 |
| 15 (2) | Failure to keep copy of document used to verify name and address of person bringing metal, or failure to keep a copy of a cheque issued | Level 5 |
| 15 (3) | Failure to keep information and record for three years  | Level 5 |
| 16     | Obstruction to right of entry and failure to produce records  | Level 3 |

### 3.1 OFFENCES BY BODIES CORPORATE

1. Where an offence under the Act is committed by a body corporate and is proved:

- a) to have been committed with the consent of connivance of a director, manager, secretary or other similar officer; or
- b) to be attributable to any neglect on the part of any such individual.

The individual as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

2. Where the affairs of a body corporate are managed by its members, section 1 applies in relation to the acts and omissions of a member in connection with that management as if the member were a director of the body corporate.

## **APPENDIX 5 - APPEALS**

An applicant may appeal to the Magistrates' Court against the refusal of an application or a variation. The licensee may appeal to a Magistrates' Court against the inclusion in a licence of a condition under section 7.2 or the revocation or variation of a licence under section 9.

An appeal must be made within 21 days beginning on the day the notice to refuse the application, to include the condition or to revoke or vary the licence under section 7 was given.

The procedure on an appeal under this paragraph is to be by way of complaint for an order and in accordance with the Magistrates' Court Act 1980.

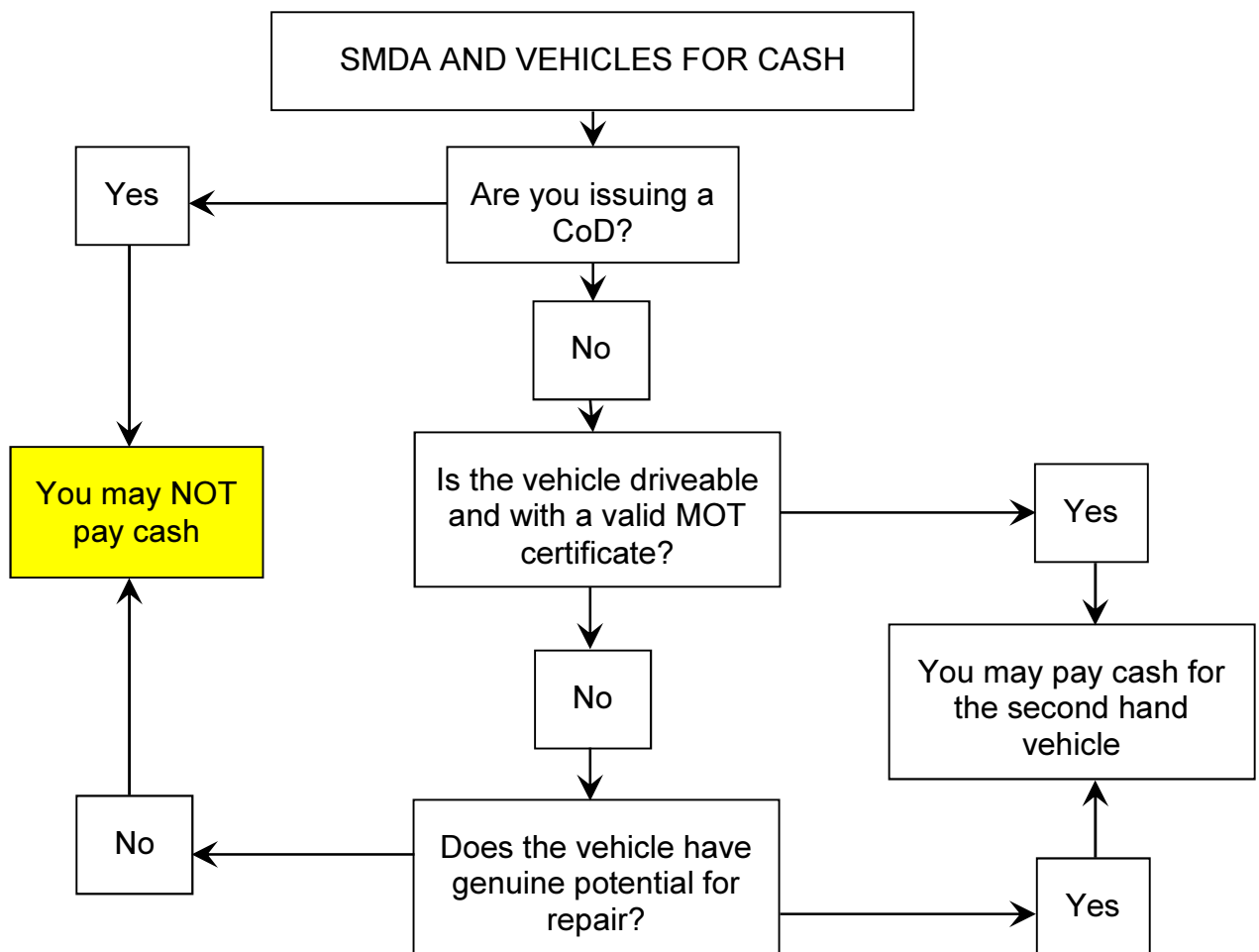
For the purposes of the time limit for making an appeal, the making of the complaint is to be treated as the making of the appeal.

On appeal, the Magistrates' Court may confirm, vary or reverse the authority's decision, and give such directions as it considers appropriate having regard to the provisions of the Act. The authority must comply with any directions given by the Magistrates' Court. Although the authority need not comply with such directions until the time for making an application under section 111 of the Magistrates' Courts Act 1980 has passed or if such an application is made, until the application is finally determined or withdrawn.

## APPENDIX 6 – BUYING VEHICLES FOR CASH

Whether a vehicle will be considered to be scrap (and may not therefore be bought with cash) depends on all the circumstances of the case, and may not always be clear-cut. If a certificate of destruction (CoD) is issued, the car is considered to be scrap and a buyer must not pay cash for it. If a certificate of destruction is not issued, then it will depend on a number of other factors. For example, it may be argued that a car with a valid MOT certificate and that is drivable without repair is not scrap (therefore, a buyer may pay cash for it) regardless of the way in which the vehicle is subsequently handled by the buyer.

It is not possible to set out a precise checklist that can in every case guarantee to predict the decision a court may make where illegal payment of cash for scrap is alleged. However, the flowchart below should assist in deciding whether it may be permissible to pay cash. Potential buyers should note that, if they elect to pay cash for an un-driveable vehicle that has no valid MOT certificate, they may have to justify their assessment of reparability in court. There needs to be a genuine potential for repair and re-sale in order for cash to be used. Cash cannot simply be paid for everything on the basis the buyer might repair and resell it if they have no facilities for repairing vehicles and no history of selling vehicles. Similar issues may arise for the purchase of other items and appliances.



## APPENDIX 7 – COMPLIANCE

### RIGHT OF ENTRY

1. An officer of the Police or an officer of London Borough of Barnet may enter and inspect a licensed site at any reasonable time on notice to the site manager.
2. An officer of the Police or an officer of London Borough of Barnet may enter and inspect a licensed site at any reasonable time, otherwise than on notice to the site manager, if
  - a) reasonable attempts to give notice have been made and failed,
  - or
  - b) entry to the site is reasonably required for the purpose of ascertaining whether the provisions of this Act are being complied with or investigating offences under it and (in either case) the giving of the notice would defeat that purpose.
3. (1) and (2) above do not apply to residential premises.
4. An officer of the Police or an officer of London Borough of Barnet is not entitled to use force to enter premises in the exercise of the powers under sections (1) and (2) above.
5. A justice of the peace may issue a warrant authorising entry (in accordance with section 7 below) to any premises within section 6 below if the justice is satisfied by information on oath that there are reasonable grounds for believing that entry to the premises is reasonably required for the purpose of:
  - a) securing compliance with the provisions of the Act, or
  - b) ascertaining whether those provisions are being complied with.
6. Premises are within this section if:
  - a) the premises are a licensed site, or
  - b) the premises are not a licensed site but there are reasonable grounds for believing that the premises are being used by a scrap metal dealer in the course of business
7. The warrant is a warrant signed by the justice which:
  - a) specifies the premises concerned, and
  - b) authorises a constable or an officer of a local authority to enter and inspect the premises at any time within one month from the date of the warrant.
8. An officer of the Police or an officer of London Borough of Barnet may, if necessary, use reasonable force in the exercise of the powers under a warrant under section 5.
9. An officer of the Police or an officer of London Borough of Barnet may:
  - a) require production of, and inspect, any scrap metal kept at any premises mentioned in section 1 or 2 or in a warrant under section 5;

b) require production of, and inspect, any records kept in accordance with section 15 or 16 and any other records relating to payment for scrap metal;

c) take copies of or extracts from any such records.

10. Section 14 below applies if an officer of the Police or an officer of London Borough of Barnet seeks to exercise powers under this section in relation to any premises.

11. If the owner, occupier or other person in charge of the premises requires the officer to produce

a) evidence of the officer's identity, or

b) evidence of the officer's authority to exercise those powers the officer must produce that evidence.

12. In the case of an officer of London Borough of Barnet, the powers under this section are exercisable only in relation to premises in the area of the authority.

## APPENDIX 8 – DELEGATION OF POWERS

The Council's Constitution can be found at [www.barnet.gov.uk](http://www.barnet.gov.uk). Part 3 covers Responsibility for Functions. The determination of applications under the Scrap Metal Dealers Act 2013 for a scrap metal dealer's licence or collector's licence is delegated to the Commissioning Director for Place Shaping and Futures who may delegate this authority to other officers in writing.

The Licensing sub-committee is the 'appointed person', authorised to consider any representations, and hear any oral representations, that an applicant/licensee wishes to make where they have been notified that officers propose to refuse their application for a site licence or collector's licence, revoke their existing licence or vary their existing licence to add conditions.

Should the licensing sub-committee not agree with officers' intended action, having considered the representations of the applicant/ licensee, they are authorised to determine that the application for a licence be granted or that the existing licence shall continue without revocation or variation.



|                                       |   |
|---------------------------------------|---|
|                                       | <p><b>Licensing Committee</b><br/><b>20<sup>th</sup> July 2015</b></p>  |
| <p><b>Title</b></p>                   | <p><b>Street Trading Strategy</b></p>   |
| <p><b>Report of</b></p>               | <p>Commissioning Director for Environment</p>   |
| <p><b>Wards</b></p>                   | <p>All</p>  |
| <p><b>Status</b></p>                  | <p>Public</p>   |
| <p><b>Enclosures</b></p>              | <p><b>Appendix 1 – Current Conditions</b><br/><b>Appendix 2 – Proposed new conditions</b><br/><b>Appendix 3 - Proposed new policy</b><br/><b>Appendix 4 - Current and proposed fees</b><br/><b>Appendix 5 – Summary of consultation responses</b></p> |
| <p><b>Officer Contact Details</b></p> | <p>Emma Phasey<br/>Trading Standards and Licensing Manager<br/><a href="mailto:Emma.phasey@barnet.gov.uk">Emma.phasey@barnet.gov.uk</a></p>   |

|   |
|---|
| <p><b>Summary</b></p>   |
| <p>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.</p> |

|  |
|--|
| <p><b>Recommendations</b></p>  |
| <p><b>That the Committee note and consider the responses to the consultation on the Street Trading strategy and approve the implementation of the Policy at Appendix 3, along with the Conditions at Appendix 2 and Fees at Appendix 4, subject to any amendments that the Committee may wish to make in response to any comments in Appendix 6.</b></p> |

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

- 1.1 At the Licensing Committee on 19th March 2015 the committee resolved to consult for a period of at least 28 days on proposed changes to the street trading policy, the street trading standard conditions and the fees charged for street trading.
- 1.2 This report provides the committee with a summary of the responses to the consultation. Due to a timing issue with the end of the consultation and the date of this Committee meeting, the final summary of the consultation responses (Appendix 6) will be tabled on at the meeting on the 20th July 2015. However an interim summary of responses is included with this report at Appendix 5.
- 1.3 The consultation commenced on 1 June 2015, ending on 15th July 2015. The London Local Authorities Act 1990 (as amended) at Section 27 (4) and 32(8) specifically states that the consultation must be advertised in a local newspaper and that the consultation must be for 28 days following publication of this notice.
- 1.4 A letter has been sent to all current street trading licence holders in relation to this consultation.
- 1.5 The information relating to the consultation has been displayed on the Council website and this has been publicised using the Councils Twitter account.
- 1.6 No formal responses were received in relation to this consultation up to the date of publication of this report. However there have been a number of informal responses and enquiries relating to the proposed changes. The feedback from these enquiries has mostly been positive.
- 1.7 The proposed new licence conditions, policy, and fees are attached as appendices 2, 3 and 4 respectively. Other than minor grammatical amendments, clarifications and addition of a definition of "Licensed Street", these documents are unchanged from the drafts that were submitted to the Committee on the 19<sup>th</sup> March 2015.
- 1.8 The standards conditions, policy and fees can be changed at any time after adoption, and will be subject to review as necessary.

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1 The existing arrangements for street trading are confusing and out-dated. The proposals included in this report are consistent with current good practice and will provide for a fair and easily understood street trading licensing system.

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

3.1 To not make any changes to the existing arrangements would mean that the existing confusion and out-dated procedures would continue and this would be to the detriment of traders, Barnet residents and businesses and the Council.

#### **4. POST DECISION IMPLEMENTATION**

4.1 The policy and licence conditions, once approved by the Committee will be applied to all new street trading licences immediately. However the licence conditions for existing licences will only come into force at the time the licence is due for renewal.

4.2 The fees, if accepted for adoption, will be submitted to the next Policy and Resources Committee for adoption.

#### **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 wellbeing 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 in Re, together with support from HB Public Law 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. Section 27(4) and 32(8) sets out how a local authority should consult.

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 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. 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**

Updated July 2015

## DEFINITIONS

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

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

- 1.10 **"Licensed Street Trader"** means any person who is licensed by the London Borough of Barnet for Street Trading under Part III of the Act.
- 1.11 **"Licensed Street Trading Pitch"** The area in any street authorised as a place at which street trading may be engaged in by a street trader, and includes any temporary alternative place approved by the London Borough of Barnet or a duly authorised officer of the London Borough of Barnet and for which a Licence has been granted.
- 1.12 **"Premises"** means any land, building or part of a building and includes any commercial premises adjacent to a Licensed Street Trading Pitch.
- 1.13 **"Receptacle"** includes a box, vessel, table, chair or stand, vehicle or thing which is used (whether or not constructed or adapted for such use) as a container for the display of any article or thing or equipment used in the provision of any service or sale or offer or display of goods for sale.
- 1.14 **"Refuse"** means waste which has been generated in the course of a Licensed Street Trader's business activity including, but not limited to; fruit and vegetable waste, cardboard, paper, small plastic items and other non-perishable waste.
- 1.15 **"Regulations"** means the contents of this document.
- 1.16 **"Shop Front Trading Licence"** means a licence which permits the display of shop goods or the placing of tables and chairs on the street ancillary to the existing business and in a manner permitted by the Act.
- 1.17 **"Special conditions"** are such conditions as it is deemed reasonable by the London Borough of Barnet to apply / not to apply to any Street Trading Licence in addition to the standard conditions.
- 1.18 **"Standard conditions"** means those matters set out in Section 27 (7) of the London Local Authorities Act 1990 (as amended) and as stated on a Street Trading Licence together with the conditions set out in these Regulations.
- 1.19 **"Street Trading"** shall have the meaning described in Section 21 (1) of the Act.

- 1.20 **“Street Trading Licence”** A licence given by The London Borough of Barnet to trade on a licensed street (valid for a period of not less than 6 months and no more than 3 years).
- 1.21 **“Temporary Street Trading Licence”** A short term/provisional licence given by The London Borough of Barnet to trade on a street (valid for a period up to 6 months).
- 1.22 **“Street Trading Pitch”** The area in any street authorised as a place at which street trading may be engaged in by a street trader, and includes any temporary alternative place approved by the London Borough of Barnet or a duly authorised officer of the London Borough of Barnet.
- 1.23 **“The London Borough of Barnet”** means the council of the London Borough of Barnet.
- 1.24 **“Trader”** A trader granted permission by The London Borough of Barnet Council to trade from a specified position.



# General Conditions Applicable To All Street Trading Licences

## 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 (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 "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 an 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 and the Food Information Regulations 2014.
- 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

- 3.1 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**

- 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 RECEPTACLES

- 6.1 Receptacles shall be easily and immediately assembled and removed. The London Borough of Barnet reserves the right to inspect receptacles for health and safety compliance and to ensure that they are fit for purpose. Any receptacle deemed to present a risk or hazard shall be immediately removed at the request of an authorised officer of the London Borough of Barnet. It shall be and shall remain the responsibility and liability of the Trader to ensure that any receptacle is safe in its construction, siting, erection and use and will not cause injury to any person.
- 6.2 Traders or their assistants shall remove the receptacles and commodities for so long as may be necessary in the event of extreme circumstances and when required to do so by a police officer or an authorised officer of the London Borough of Barnet.

- 6.3 All receptacles shall be of an approved type and shall be kept in clean condition and good repair. A receptacle shall be repaired or repainted within one month of a written request from an authorised officer of the London Borough of Barnet.
- 6.4 A Trader shall ensure that until such time as a receptacle that is unsafe or becomes unfit for purpose or beyond repair in the opinion of an authorised officer of the London Borough of Barnet is replaced with one fit for purpose.
- 6.5 Only those receptacles and containers which are suitable and fit for purpose and approved by the London Borough of Barnet shall be used by the licence holder and assistants for trading. Displays shall not be formed by the use of unsuitable items such as milk crates.
- 6.6 A display, receptacle, table or chair shall not be used if it is likely to damage the street.
- 6.7 The display/stand must be of a construction that will cause minimal damage if there is a collision. There must be no sharp edges or protruding parts.
- 6.8 Well-designed high quality finish styled appropriately for the street they are placed on

## 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 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.

## **16 SHOP FRONT LICENCES**

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

- 16.1 Only those items sold in the shop premises to which the street trading area is adjacent to can be sold under the 'shop front licence'.
- 16.2 Only those services provided within the premises can be provided in the licensed area where a licence permits tables and chairs to be placed on the street.

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

## Appendix 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 or as part of a street market with a relevant authorisation for alcohol sales)
- 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 20<sup>th</sup> July 2015.
- 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 wishes 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 20<sup>th</sup> July 2015, 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) Complementing the location and hours of neighbouring 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:

**Licensing Team, London Borough of Barnet,**

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

**Oakleigh Road South**

**London N11 1NP**

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

- 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 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 week trial licence will only be granted on one occasion and for one market. The market holder must be in agreement to a provisional trial. In these circumstances there will be no requirement to complete an application form and the market organisers will be deemed to be sponsoring the individual and must certify they have valid public liability and if applicable, food registration.
- 3.12 A person trading for no more than 2 consecutive days a year and trading from the same market which has a predominantly community/charitable purpose e.g. Barnet Christmas Market, is exempt from application for a casual market registration. The market organiser must certify all traders have valid public liability and if applicable, food registration.

## **4. DETERMINING APPLICATIONS**

### **Designation of Licensed Streets, Areas and Pitches**

- 4.1 Before deciding whether to designate a pitch/street/area the London Borough of Barnet will carry out a consultation with interested parties. In particular, the following will be consulted:
- London Borough of Barnet (Highways Authority)
  - London Borough of Barnet (Environmental Health Service)
  - The Metropolitan Police Service
  - London Fire & 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 comments.

- 4.4 Consultation will last for a period of 28 days within which interested parties may submit comments.

### **Street Trading licence**

- 4.5 Before a street trading licence is granted, the London Borough of Barnet will carry out a consultation with interested parties. In particular, the following will be consulted, as appropriate:

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

- 4.6 Within 14 days of the application the site will be assessed by an authorised officer of the London Borough of Barnet for its suitability for a street trading licence.

### **Renewal Applications**

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

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

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

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

### **Street Market – Casual Market Trader registration**

- 4.10 A street market trader registration will not require a period of consultation.

- 4.11 The names and addresses of persons and associated premises making an application for a licence will be provided to:

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

## 5 REPRESENTATIONS ABOUT LICENCE APPLICATIONS

- 5.1 Interested parties may make a representation about a Licence application to the London Borough of Barnet during the consultation period in relation to matters that they consider to be relevant to the decision to grant a Licence.
- 5.2 A representation will not be relevant if it is considered by the London Borough of Barnet to be frivolous, vexatious or repetitive or unrelated to the application.
- 5.3 If a relevant representation is received the London Borough of Barnet will make efforts to consult with the applicant and the person or body making the representation in an attempt to resolve any issues.

## 6 DETERMINATION OF THE APPLICATION

- 6.1 The decision to designate a street shall be determined by a Licensing Sub-Committee or under delegated powers.
- 6.2 The decision to grant or renew a permanent licence will be made by an authorised officer under delegated powers. However if the officer is unable to make a decision due to exceptional or other circumstances, the application may be determined by a Licensing Sub-Committee.
- 6.3 The decision to grant a temporary licence or a street market (for a period up to 6 months) shall be determined by an authorised officer under delegated powers. However, if the officer is unable to make a decision due to exceptional or other circumstances the application may be determined by a Licensing Sub-Committee.
- 6.4 The London Borough of Barnet will have regard to any relevant representations received and will assess the impact of the application on the following when deciding whether to grant or refuse an application:
  - (a) Prevention of crime, disorder and anti-social behaviour
  - (b) Avoidance of public nuisance
  - (c) Protecting public safety
  - (d) Prevention of obstruction of the highway
  - (e) Complementing the location and hours of neighbouring business activity
- 6.5 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 unsuitable to hold a licence on the grounds of misconduct or other sufficient reason and may consider imposing penalty points on any existing licence
  - has previously failed to obtain a street trading licence
  - has previously held a licence that was revoked
  - has previously failed to pay fees or other charges in respect of a licence

## **7 GRANTING THE APPLICATION**

- 7.1 Upon approving an application the London Borough of Barnet may issue a permanent street trading licence or a 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 must apply for and hold a casual street market registration for the London Borough of Barnet. It will be the responsibility of 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 REFUSAL OF AN APPLICATION**

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

2.0 metres of clear unobstructed passage must be maintained from the roadside kerb to the outermost point of the pitch. In areas of high pedestrian use or high levels of traffic a larger clearance may be required, as determined by the London Borough of Barnet.

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

## **9 EXPIRY OF THE LICENCE**

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

### **Lapse**

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

### **Succession**

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

## **10 REVOCATION OR VARIATION**

- 10.1 The licensing authority may, subject to the appropriate consultation and notification procedures, de-designate streets or street trading pitches where, in the opinion of the licensing authority, they are no longer suitable for street trading. The circumstances under which a location may be considered no longer suitable include:
- (a) It has not been used for trading for a period of greater than six months;
  - (b) There are altered circumstances due to increased pedestrian footfall resulting from altered highway layouts, public realm improvements or construction projects;

(c) Where new development and the siting and operation of the trading pitch would adversely affect local pedestrian flow or cause congestion, including close to transport stops and stations.

### **Permanent street trading licence**

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

- 11.1 The London Borough of Barnet will set the fees for all street trading licences to recover its reasonable administrative and compliance costs. The cost of street

cleaning and other appropriate costs will also be considered when setting the fees.

- 11.2 The fees will be reviewed annually and before any changes are made the London Borough of Barnet will consult with all licence holders and publish a notice of the proposed fees in a local newspaper.
- 11.3 The consultation will last for a period of 28 days from the publication of the notice in the newspaper.
- 11.3 Before a final decision is made, the London Borough of Barnet will consider any representations received during the consultation period.
- 11.4 After a final decision is made, the London Borough of Barnet will inform all licence holders and publish a notice of the fees in a local newspaper.
- 11.5 The fees will take effect no less than 28 days after the publication of the notice.
- 11.6 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 The area of all licensed pitches on a designated street will be permanently demarcated.
- 14.2 Application of the demarcation will be carried out by the Highways authority or their appointed agent on their behalf.



- 14.3 The cost of the permanent demarcation will be borne by the applicant. The cost will be published by the London Borough of Barnet.
- 14.4 If an application is made to vary the licensed area then the cost of removing and replacing the demarcation must be borne by the applicant.
- 14.5 A licence holder must not trade outside of the demarcated area.

## **15 ENFORCEMENT**

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

## **16 UNLICENSED STREET TRADING**

- 16.1 Unlicensed street trading can have a negative impact on legitimate street traders and the community as a whole and will not be tolerated by the London Borough of Barnet.
- 16.2 If an authorised officer suspects that a person has committed an offence of unlawful street trading he may take appropriate action in line with the current enforcement policy which may also involve the seizure of any article or thing deemed necessary.
- 16.3 Before taking any formal action the authorised officer will identify him/herself by showing their identification and authorisation.

## **17 MOTOR VEHICLES**

- 17.1 The sale or exposure for sale of a motor vehicle or motorcycle in a street is prohibited.
- 17.2 Offering a vehicle for sale on the internet by a motor trade business at the same time as keeping the same vehicle on the public highway will be deemed to be street trading and is prohibited.
- 17.3 If an authorised officer identifies a vehicle that is exposed or advertised for sale on the street he may affix a notice to the windscreen or other part of the vehicle requiring the registered owner to remove the vehicle within 24 hours.

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

- 18.1 The London Borough of Barnet 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– Street Trading 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)

**Appendix 5**

As of 9<sup>th</sup> July 2015 there has been no formal responses to the consultation.