

**MEETING**

**LICENSING COMMITTEE**

**DATE AND TIME**

**MONDAY 21ST NOVEMBER, 2016**

**AT 7.00 PM**

**VENUE**

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

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

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

Maureen Braun  
Alison Cornelius  
Claire Farrier

Kitty Lyons  
Agnes Slocombe  
Jim Tierney

Wendy Prentice  
Zakia Zubari  
Jack Cohen

In line with the Constitution's Public Participation and Engagement Rules, requests to submit public questions or comments must be submitted by 10AM on the third working day before the date of the committee meeting. Therefore, the deadline for this meeting is on 16 November 2016 at 10AM. Requests must be submitted to Jan Natynczyk [jan.natynczyk@barnet.gov.uk](mailto:jan.natynczyk@barnet.gov.uk) 020 8359 5129

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

**Andrew Charlwood – Head of Governance**

Governance Service contact: Jan Natynczyk [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	5 - 6
2.	Absence of Members	
3.	Disclosable Pecuniary interests and Non Pecuniary interests	
4.	Report of the Monitoring Officer (if any)	
5.	Public Question and Comment (if any)	
6.	Members Item (if any)	7 - 10
7.	Fees and Charges	11 - 20
8.	Any item(s) that the Chairman decides is urgent	

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## Decisions of the Licensing Committee

7 July 2016

### AGENDA ITEM 1

Cllr John Hart (Chairman)  
Cllr Brian Salinger (Vice-Chairman)

\* Maureen Braun  
\* Alison Cornelius  
\* Claire Farrier

\* Kitty Lyons  
\* Hugh Rayner  
\* Agnes Slocombe

\* Zakia Zubairi

#### 1. **MINUTES (Agenda Item 1):**

The minutes of the meeting held on 23 November, 2015 were agreed as a correct record and signed by the Chairman.

#### 2. **ABSENCE OF MEMBERS (Agenda Item 2):**

An apology of absence was received from Councillor Wendy Prentice as she was not well, the Committee noted this and wished her a speedy recovery.

#### 3. **DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS (Agenda Item 3):**

None.

#### 4. **REPORT OF THE MONITORING OFFICER (IF ANY) (Agenda Item 4):**

None

#### 5. **PUBLIC QUESTION AND COMMENT (IF ANY) (Agenda Item 5):**

None.

#### 6. **STREET TRADING DESIGNATION (Agenda Item 6):**

The report was introduced by the Group Manager for Community Protection. She outlined the list of areas for consultation on street trading designation.

The Committee considered delegating authority to approve areas for designation to Licensing Sub-Committees or to the Commissioning Director for Environment. The Committee were encouraged to contact the Group Manager for Community Protection in order to include other premises on the list.

The Committee requested that Ward Members received a list of premises that had temporary licenses.

The Licensing Committee considered the report and resolved:

- That the Licensing Committee noted the list of premises that wish to be considered for designation and approved the commencement of the consultation with immediate effect.

- That the Licensing Committee approved delegation to the Commissioning Director for Environment subject to no objection received, authority to approve areas of designation.
- That the Licensing Committee agreed that where objections have been received a Licensing Sub-Committee be authorised to consider and determine the designation
- That the Licensing Committee agreed that the consultation included appropriate notices, appropriate engagement with Ward Members and where appropriate with other parties.

**7. ADVERTISING BOARD TRIAL REVIEW (Agenda Item 7):**

The report was introduced by the Group Manager for Community Protection. She gave an overview of the 6 month trial and the appropriateness of implanting A Board Licences within the Borough.

The Licensing Committee considered the report and resolved:

- That the Licensing Committee noted the findings from the trial
- That the Licensing Committee approved the Licensing Department to continue to license advertising boards on the street.

**8. LICENSING AUTHORITY - VOLUMES OF WORKFLOW (Agenda Item 8):**

The Licensing Committee considered the report and resolved:

- That the Licensing Committee noted the report.

**9. LICENSING COMMITTEE WORK PROGRAMME (Agenda Item 9):**

The Licensing Committee noted the work programme for 2016/17.

**10. ANY ITEM(S) THAT THE CHAIRMAN DECIDES IS URGENT (Agenda Item 10):**

There were no urgent items.

The meeting finished at 19:55

	<p><b>Licensing Committee</b></p> <p><b>21 November 2016</b></p>
<p><b>Title</b></p>	<p><b>Member's Items</b></p> <p><b>Councillor Salinger – Temporary Street Trading Licenses</b></p>
<p><b>Report of</b></p>	<p>Head of Governance</p>
<p><b>Wards</b></p>	<p>All</p>
<p><b>Status</b></p>	<p>Public</p>
<p><b>Enclosures</b></p>	<p>None</p>
<p><b>Officer Contact Details</b></p>	<p>Jan Natynczyk  <a href="mailto:jan.natynczyk@barnet.gov.uk">jan.natynczyk@barnet.gov.uk</a>,                  0208 359 5129</p>

### Summary

The report provides detail on the Member's Item submitted for the Licensing Committee to consider and for instructions to be provided to Officers.

### Recommendation

That the Licensing Committee's instructions are requested in relation to the Item submitted by a Member of the Committee highlighted at section 1.1.

**1. WHY THIS REPORT IS NEEDED**

1.1. THE FOLLOWING MEMBERS ITEMS HAVE BEEN RECEIVED:

<b>Cllr Brian Salinger</b>	<b>Temporary Street Trading Licenses</b>  “The Council have supported a policy of allowing temporary street trading licences to be issued. I would like to see the introduction of some form of public consultation to be introduced in to the system before licences are granted where the use of the licence is likely to lead to semi-permanent street trading as opposed to uses that might last for a day or a weekend.”
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**2. REASONS FOR RECOMMENDATIONS**

2.1 No recommendations have been made. The Licensing Committee is requested to give consideration and provide instruction.

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

3.1 Not applicable.

**4. POST DECISION IMPLEMENTATION**

4.1 Post decision implementation will depend on the decision taken by the Committee.

**5. IMPLICATIONS OF DECISION**

**5.1 Corporate Priorities and Performance**

5.1.1 When matters raised through a Member’s Item are progressed, they will need to be evaluated against the Corporate Plan and other relevant policies.

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

5.2.1 None in the context of this report.

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

5.3.1 The Council's Constitution Responsibility for Functions, section 6 illustrates that a Member, including appointed substitute Members of a Committee may have one item only on an agenda that he/she serves. Members items must be within the term of reference of the decision making body which will consider the item.

5.3.2 There are no legal references in the context of this report.

### **5.4 Risk Management**

5.4.1 None in the context of this report.

### **5.5 Equalities and Diversity**

5.5.1 Member's Items allow Members of a Committee to bring a wide range of issues to the attention of a Committee in accordance with the Council's Constitution. All of these issues must be considered for their equalities and diversity implications.

### **5.6 Consultation and Engagement**

5.6.1 None in the context of this report.

## **6. BACKGROUND PAPERS**

6.1 Email to Governance Service.

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	<p style="text-align: right;"><b>Licensing Committee</b> <b>21<sup>st</sup> November 2016</b></p>
<p><b>Title</b></p>	<p><b>Fees and Charges</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 – List of fees and charges</b></p>
<p><b>Officer Contact Details</b></p>	<p>Emma Phasey Trading Standards and Licensing Manager <a href="mailto:Emma.phasey@barnet.gov.uk">Emma.phasey@barnet.gov.uk</a></p>

## Summary

This report seeks to obtain approval for the proposed new and above inflation fees and charges for 2016/17 to support the Commissioning Business Plan, and delivery of Licensing services within the remit of the Licensing Committee.

## Recommendations

**That the Licensing Committee approves the changes to the fees and charges for 2017/18 and adopt the new fee for street trading designation as set out in Appendix 1.**

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

- 1.1 Fees and charges are reviewed on an annual basis to ensure that the costs of chargeable services are covered and the Council is achieving value for money. This report sets out the proposed above inflation fee increases as well as new fees and charges, or those where the make-up of the fee has changed, for services embedded within the remit of the Licensing Committee. Any fees and charges which are not being increased by more than the rate of inflation are not included in this report as their approval method is different.
- 1.2 A consultation has been undertaken on the proposed changes to street trading fees. A consultation was undertaken from 10<sup>th</sup> October 2016 to 10<sup>th</sup> November 2016. Details of this consultation were published in the Barnet and Hendon Press on 13<sup>th</sup> October 2016. Information on the consultation was also emailed to the police and the Highways Department. All affected street trading licence holders were advised in writing of the proposed changes.
- 1.3 No responses have been received in relation to this consultation.

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1 It is recommended that the Licensing Committee approves the proposed fees and charges for 2016/17, as it is considered good practice to review fees and charges annually to ensure that the costs of providing the services are recouped and identified income targets are achieved.

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

- 3.1 The alternative approach is not to review the fees and charges and adjust them (or add new ones if appropriate) but this is not considered good practice and will potentially expose the Council to the risk of not recovering the costs of the provision of the service, or indeed, over recover where the charge is set at a cost recovery level.
- 3.2 Given the financial pressures currently faced by the Council the only viable providing to continue providing the services is to levy an appropriate fee or charge

## **4. POST DECISION IMPLEMENTATION**

- 4.1 If the Committee is so minded to approve recommendation then the Fees and charges will be included within the Council wide budget consultation following Policy and Resources Committee in December 2016. Once the budget is approved by full Councils the fees and charges will be posted on the Council's website and, where a statutory duty requires it, advertised in the approved publication and appropriate location. The new fees and charges will be implemented from 1 April 2017.

## **5. IMPLICATIONS OF DECISION**

## **5.1 Corporate Priorities and Performance**

- 5.1.1 The Corporate Plan 2015-2020 is based on the core principles of fairness, responsibility and opportunity to make sure Barnet is a place:
- Of opportunity, where people can further their quality of life
  - Where people are helped to help themselves, recognising that prevention is better than cure
  - Where responsibility is shared, fairly
  - Where services are delivered efficiently to get value for money for the taxpayer
- 5.1.2 The Council's priorities include:
- High quality services maintained whilst reducing unit costs to the lowest amongst Barnet's statistical neighbours.
- 5.1.3 Fees and charges need to be reviewed to ensure value for money and cost recovery, thereby complying with the 2015-2020 Corporate Plan priority for Barnet to be in the lowest 25% of all Councils (Boroughs and County Councils) for expenditure per head of population as we keep our costs under control.
- 5.1.4 Licensing and street trading supports the objectives contained within the Corporate Plan. In particular; "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 Licensing and street trading also supports the Sustainable Community Strategy 2010-2020 in relation to helping create a successful London Suburb as this supports enterprise within the London Borough of Barnet.

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

### **5.2.1 Finance & Value for Money**

With public and members expectations increasing, the review of fees and charges ensures that sufficient resources are made available to manage and prioritise those expectations.

- 5.2.2 These fees and charges proposals will contribute to the income/savings targets included in the commissioning plan submitted to the Environment Committee and will enable the committee to meet its savings target.

- 5.2.3 All fees and charges will ensure effective cost recovery for delivering the service; prices listed do not include VAT, which will only be charged where indicated.

### **5.2.4 Procurement**

At this there are no implications.

### **5.2.5 Staffing**

At this there are no implications.

### **5.2.6 Property**

At this there are no implications.

#### 5.2.7 **Sustainability**

At this there are no implications.

### 5.3 **Social Value**

5.3.1 Public Services (Social Value) Act 2012 requires people who commission public services to think about how they can also secure wider social, economic and environmental benefits. The designation of streets to support and encourage street trading will help to underpin economic success. It will also help make the town centres more vibrant, and support community engagement.

### 5.4 **Legal and Constitutional References**

5.4.1 Local authorities have a variety of powers to charge for specific statutory services set out in statute. The Local Government Act 2003 also provides a power to trade and a power to charge for discretionary services, the latter on a cost recovery basis. Discretionary services are those that a local authority is permitted to provide under statute but is not obliged to do so. The power to charge for discretionary services is not available to local authorities if there is a statutory duty to provide the service or if there is a specific power to charge for it or if there is a prohibition on charging.

5.4.2 Additionally, the Localism Act 2011 provides local authorities with a general power of competence that confers on them the power to charge for services but again these are subject to conditions/limitations similar to those noted above.

5.4.3 Where a local authority has a duty to provide a statutory service free of charge to a certain standard, no charge can be made for delivery to that standard. However a request for delivery above and beyond that standard should be made, this may constitute a discretionary service for which a charge could be made.

5.4.4 There is a variety of legislation permitting charging for different services, some of which set prescribed fees and charges (or the range of charges for a given service), and others which allow discretion based on costs of providing the service.

5.4.5 The London Local Authorities Act 1990 provides for Authorities to license street trading. Scrap Metal Dealers Act 2013 provides for Authorities to licence scrap metal dealers and the Highways Act provides for authorities to licence advertising boards.

5.4.6 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 in relation to new fees.

5.4.7 A recent Court case (*R (on the application of Hemmings (t/a Simply Pleasure Ltd) and others) v Westminster City Council [2015] UKSC 25*, currently heard in the Supreme Court) has stated how fees and charges can be legally charged in relation to licensing functions. As a result of this decision, and legal advice obtained by HB Public Law, changes have been made to the structure of the licence fees.

- 5.4.8 Where applicable, when an application is made an initial application fee must be paid by all applicants. This covers the costs of the application and authorisation procedures.
- 5.4.9 A subsequent fee is then payable by successful applicants. This covers the cost of administering and enforcing the framework. Therefore the fee remains the same but is paid in two instalments. Furthermore unsuccessful applicants only need pay the initial fee.
- 5.4.10 The London Local Authorities Act 1990 as amended allows for any street to be designated for street trading.
- 5.4.11 The current approach is to issue a temporary licence to a trader for a period of 6 months for the pitch they wish to operate. This is then renewed every six months.
- 5.4.12 Moving forward all initial requests for a street trading licence will be offered a 6 month temporary licence for the trader to have the opportunity to show that they can trade in a lawful and compliant way.
- 5.4.13 Once the six month is up if the area is designated then a person can apply for a permanent street trading licence.
- 5.4.14 If the area is not designated then the trader would be offered the opportunity to designate their trading area. A second temporary licence would be offered for 6 months, to allow time for the designation process to be undertaken. At the end of this period no further temporary licences would be offered unless in exceptional circumstances. If the trader did not want to apply for a designation, then no further temporary licences would be offered unless in exceptional circumstances.
- 5.4.15 This initial designation has been undertaken on a pitch by pitch basis. In future if a premises wishes to designate their pitch the Licensing Team would offer the opportunity to be considered for designation to all appropriate businesses in that locality – i.e. parade/part of street.
- 5.4.16 Currently there is no fee set for designation of streets.
- 5.4.7 The Council's Constitution (Clause 15A, Responsibility for Functions, Annex A) sets out the terms of reference of the Licensing Committee. This includes
- To approve fees and charges for those areas under the remit of the Committee
  - To submit to the Policy and Resources Committee proposals relating to the Committee's budget for the following year in accordance with the budget timetable.
  - To make recommendations to Policy and Resources Committee on issues relating to the budget for the Committee, including and virements or underspends and overspends on the budget. No decisions which result in amendments to the agreed budget may be made by the Committee unless and until the amendment has been agreed by Policy and Resources Committee.

## **5.5 Risk Management**

5.5.1 The fees and charges proposed within this report are for a various discretionary services and are based on recovery of costs incurred by the Council. Efforts have been made to limit the charge increases and consideration has been given to the charges adversely affecting demand for the services as well the need to recoup the cost of providing the service. There will nonetheless remain an element of reputational risk and challenge..

## 5.6 Equalities and Diversity

5.6.1 The Corporate Plan 2015-2020 sets the Strategic Equalities Objective, which is: that citizens will be treated equally, with understanding and respect, and will have equal access to quality services which provide value to the tax payer. Changes to policies and services are analysed in order to assess the potential equalities impacts and risks and identify any mitigating action possible before final decisions are made.

5.6.2 The proposed fees and charges have been reviewed against the protective characteristics groups under the 2010 Equality Act namely age, disability, ethnicity, gender, gender reassignment, marriage and civil partnerships religion and belief, sexual orientation and transgender. No specific impact has been found.

## 5.7 Consultation and Engagement

5.7.1 Fees and charges will be included within the Council wide budget consultation following Policy and Resources Committee on 16th December 2016.

5.7.2 The final savings will be agreed by Policy and Resources Committee on 16th February 2017 and Full Council on the 3rd March 2017

5.7.3 In relation to the new street trading designation fee, a consultation took place in accordance with the Council's notice requirements under the London Local Authorities Act, which allows a period of 28 days for representations to be made, which the Council will consider.

## 6. BACKGROUND PAPERS

- Licensing Committee Report on 24<sup>th</sup> November 2014 adopting a new street trading regime
- Licensing Committee Report on 19<sup>th</sup> March 2015 agreeing to designate streets for street trading
- Licensing Committee Report on 20<sup>th</sup> July 2015 approving the current street trading policy
- Licensing Committee Report on July 2016 approving the consultation on the fees.

## Appendix 1 – Fees and charges

Area	Service	Description of Charge	UNIT	Subject to VAT	(a) Current charge excluding VAT	(b) Proposed charge excluding VAT	Percentage change from (a) to (b)
Regulatory Services							
Community (Protection) Regulation							

Street Trading							
Re	Community (Protection) Regulation	Street Trading – Permanent licences	Per application	VAT not applicable	£550 per annum	£550 per annum Fee 1. £100 Fee 2 £450 Discount of £6 if both fees paid at the same time.	0.00%
Re	Community (Protection) Regulation	Street Trading – Temporary Licences	Per application	VAT not applicable	£400 per 6 months / £180 up to 2 months	£400 per 6 months Fee1. £100 Fee £300  £6 discount if paid at the same time  £180 up to 2 months Fee 1. £100 Fee2. £80 £6 discount if paid at the same time	0.00%
Re	Community (Protection) Regulation	Casual temporary trader registration (12 months validity) £28.00	Per licence	VAT not applicable	£28.00	£28.00	0.00%
Re	Community (Protection) Regulation	Provisional trader registration (6 weeks at same market, only 1 can be applied for per applicant. Thereafter a 12 month registration is required)	Per licence	VAT not applicable	£10.00	£10.00	0.00%
Re	Community (Protection) Regulation	Permanent Street Market Traders Licence	Per month	VAT not applicable	£15.00	£15.00	0.00%
Re	Community (Protection) Regulation	Occasional Street Market Traders Licence - Band 1: Less than 30 traders. Per event up to 7 days	Per trader, per event	VAT not applicable	£18.00	£18.00	0.00%

Area	Service	Description of Charge	UNIT	Subject to VAT	(a) Current charge excluding VAT	(b) Proposed charge excluding VAT	Percentage change from (a) to (b)
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Advertising Boards

Re	Community (Protection) Regulation	Licence to place an Advertising or 'A' Board on the public highway	Per application	VAT not applicable	£140	£140 Fee 1 £100 Fee 2 £40  £6 discount if paid at the same time	0.00%
<b>Demarcation of Street Trading Pitches</b>							
Re	Community (Protection) Regulation	Demarcation of a street trading pitch by insertion of studs into the footway or road	Per stud	VAT not applicable	£20 per stud	£20 per stud	
<b>Scrap Metal</b>							
Re	Community (Protection) Regulation	Site Licence New	Per application	VAT not applicable	£570.00	£570 Fee1 £ 100  Fee 2 £470  £6 discount if paid at the same time	0.00%
Re	Community (Protection) Regulation	Site Licence variation	Per application	VAT not applicable	£230.00	£230  Fee 1 £100  Fee 2 £130  £6 discount if paid at the same time	0.00%
Re	Community (Protection) Regulation	Site Licence Renewal	Per application	VAT not applicable	£450.00	£450  Fee 1 £100  Fee 2 350  £6 discount if paid at the same time	0.00%
Re	Community (Protection) Regulation	Site Licence Duplicate licence	Per application	VAT not applicable	£20.00	£20.00	0.00%

Area	Service	Description of Charge	UNIT	Subject to VAT	(a) Current charge excluding VAT	(b) Proposed charge excluding VAT	Percentage change from (a) to (b)
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Re	Community (Protection) Regulation	Site Licence - Change of details	Per application	VAT not applicable	£30.00	£30.00	0.00%
Re	Community (Protection) Regulation	Collectors Licence New	Per application	VAT not applicable	£265.00	£265 Fee 1 £100 Fee 2 £165  £6 discount if paid at the same time	0.00%
Re	Community (Protection) Regulation	Collectors Licence Variation	Per application	VAT not applicable	£130.00	£130 Fee 1 £100 Fee 2 £40  £6 discount if paid at the same time	0.00%
Re	Community (Protection) Regulation	Collectors Licence renewal	Per application	VAT not applicable	£200.00	£200 Fee 1 £100 Fee 2 £100  £6 discount if paid at the same time	0.00%

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