

**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.
- 7.1 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.
- 11.1 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.

## **13 DEMARCATION**

- 13.1 The area of all licensed pitches on a designated street will be permanently demarcated.
- 13.2 Application of the demarcation will be carried out by the Highways authority or their appointed agent on their behalf.

- 13.3 The cost of the permanent demarcation will be borne by the applicant. The cost will be published by the London Borough of Barnet.
- 13.4 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.
- 13.5 A licence holder must not trade outside of the demarcated area.

## **14 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 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.