



Licensing Committee

Agenda

Part One

Council Chamber - Town Hall

Tuesday, 13 January 2015 at 7.00 pm

Membership (Quorum – 3)

Councillors

Cllrs Barrett (Chair), Newberry (Vice-Chair), Mrs Cohen, Mrs Henwood, Mrs Hubbard, Lloyd, Mrs Murphy, Mynott, Dr Naylor, Reed, Russell and Tee

Committee Co-ordinator: Jean Sharp (01277 312655)

Additional Information:

Substitutes

The names of substitutes shall be announced at the start of the meeting by the Chair and the substitution shall cease at the end of the meeting.

Substitutes for quasi judicial Committees must be drawn from members who have received training in quasi-judicial decision making. If a casual vacancy occurs on a quasi judicial Committee it will not be filled until the nominated member has been trained.

Rights to attend and speak

Any Member may attend any body to which these Procedure Rules apply.

A Member who is not a member of the committee may speak at the meeting if they have given prior notification by no later than one working day before the meeting to the Chair and advised them of the substance of their proposed contribution.

The member may speak at the Chair's discretion, it being the expectation that a member will be allowed to speak on a ward matter.

Point of Order/Personal explanation/Point of Information

8.3.14 Point of order

A member may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Procedure Rules or the law. The Member must indicate the rule or law and the way in which they consider it has been broken. The ruling of the Chair on the point of order will be final.

8.3.15 Personal explanation

A member may make a personal explanation at any time. A personal explanation must relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate, or outside of the meeting. The ruling of the Chair on the admissibility of a personal explanation will be final.

8.3.16 Point of Information or clarification

A point of information or clarification must relate to the matter being debated. If a Member wishes to raise a point of information, he/she must first seek the permission of the Chair. The Member must specify the nature of the information he/she wishes to provide and its importance to the current debate. If the Chair gives his/her permission, the Member will give the additional information succinctly. Points of Information or clarification should be used in exceptional circumstances and should not be used to interrupt other speakers or to make a further speech when he/she has already spoken during the debate. The ruling of the Chair on the admissibility of a point of information or clarification will be final.

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There is wheelchair access to the Town Hall from the Main Entrance. There is an induction loop in the Council Chamber.

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Part I

(During consideration of these items the meeting is likely to be open to the press and public)

Contents

Agenda Item No.	Item	Wards(s) Affected	Page No.
1	Apologies for Absence		
2	Minutes of previous meetings - 11 November 2014 Licensing Committee and 31 October and 19 December 2014 Licensing Sub-Committee meetings		7 - 16
3	Review of Hackney Carriage Fare Setting Process	All Wards	17 - 20
4	Face to Face Direct Debit Charity Collectors	Brentwood North; Brentwood South; Brentwood West	21 - 28
5	Markets, including Specialist and Christmas Markets	All Wards	29 - 34
6	Urgent Business An item of business may only be considered where the Chair is of the opinion that, by reason of special circumstances, which shall be specified in the Minutes, the item should be considered as a matter of urgency.		

A handwritten signature in black ink, appearing to read "J. Kennedy". The signature is written in a cursive, flowing style.

Acting Chief Executive

Town Hall
Brentwood, Essex
05.01.2015



Minutes

Licensing Committee
Tuesday, 11 November, 2014

Attendance

Cllr Barrett (Chair)	Cllr Mynott
Cllr Newberry (Vice-Chair)	Cllr Dr Naylor
Cllr Mrs Cohen	Cllr Reed
Cllr Mrs Hubbard	Cllr Russell
Cllr Lloyd	Cllr Tee
Cllr Mrs Murphy	

Apologies

Cllr Mrs Henwood

Substitute Present

Cllr McCheyne (substituting for Mrs Henwood)

Officers Present

David Carter	Senior EHO (Team Leader)
Ashley Culverwell	Head of Borough Health, Safety and Localism
Christopher Leslie	Financial Services Manager
Gary O'Shea	Principal Licensing Officer
Jean Sharp	Governance and Member Support Officer

255. Apologies for Absence

Apologies were received from Cllr Mrs Henwood.

All present stood and observed a minute's silence for Armistice Day.

256. Minutes of previous meeting

The Committee **RESOLVED** to approve the minutes of the 13 October 2014 Licensing Committee meeting and they were signed by the Chair.

257. Mobile Homes Licensing

Members were advised that the Government had introduced a new scheme for licensing of mobile home sites which more closely aligned the licensing provisions under the Caravan Sites & Control of Development Act 1960 with other local authority licensing regimes in order to improve site conditions and ensure that residents' health and safety was better protected.

Mobile homes used for permanent residential accommodation with full planning permission in the Borough would require an annual license. The Council would be able to recover the costs of administration and inspection of sites under the new licensing arrangements. The report before Members sought to establish the licensing arrangements to be implemented for the Borough.

Cllr Barrett MOVED and Cllr Newberry SECONDED the recommendations in the report and following a discussion it was RESOLVED UNANIMOUSLY that:

- 1. Members agree to implement a scheme for Mobile Homes Licensing under the changes brought in under the Mobile Homes Act 2013 in the Brentwood Borough.**
- 2. Officers are authorised to establish and administer such a scheme.**
- 3. Members agree to adopt the Fee Policy in Appendix A of the report.**
- 4. The Head of Borough Health, Safety and Localism and any officers nominated by him are delegated authority to administer and enforce the powers brought in under the Mobile Homes Act 2013.**

258. Variation in the Order of the Agenda

Cllr Barrett MOVED, Cllr Newberry SECONDED and it was RESOLVED UNANIMOUSLY that, since members of the public were present, the order of the agenda be varied so that items 6 (Proposed Hackney Carriage and Private Hire Fees and Charges for 2015/16) and 7 (Hackney Carriage Proposed Tariff Charge) be considered next.

259. Proposed Hackney Carriage and Private Hire Fees and Charges for 2015/16

Members were reminded that the Local Government (Miscellaneous Provisions) Act 1976 permitted the Council to charge such fees for the grant of vehicle and operators licences as might be resolved by them from time to time as might be sufficient in aggregate to cover in whole or in part the reasonable costs associated with these licensing functions.

The report sought Members' agreement on the proposed budget and Schedule of fees and charges for 2015/16 in respect of the Hackney Carriage and Private Hire licensing functions and for publication of the agreed fees and charges in accordance with statutory requirements.

Cllr Barrett MOVED and Cllr Newberry SECONDED the recommendation in the report and following a discussion it was RESOLVED UNANIMOUSLY that Members agree to the budget and proposed schedule of fees and charges for 2015/16 as shown in Appendix A to the report and for advertisement of the same to appear in a local newspaper in January 2015.

260. Hackney Carriage Proposed Tariff Change

Members were reminded that the setting of fare tariffs in respect of Hackney Carriage Vehicles was legislated under provision of section 65 the Local Government (Miscellaneous Provisions) Act 1976 . There was no provision for the Council to set tariffs in respect of private hire vehicles.

From time to time the fare tariffs might be amended in accordance with the legislation, usually following a request from the Taxi trade and appropriate advertising of the proposals in accordance with the provisions of the Act.

The current fares had been in place since August 2011, meaning that there has been no increase in taxi fares within the Borough of Brentwood for three years.

The report before Members considered an application received via the Taxi Trade Consultative Group (TTCG) for an increase in the maximum fares permitted to be charged by licensed Hackney Carriage Vehicles within the Borough of Brentwood.

A previous request for an increase in tariff was submitted at the TTCG held on 4 August 2014 and this had been considered and rejected by Licensing Committee on 13 October 2014.

Following the Licensing Committee held on 13 October 2014, the trade submitted a revised proposal, which was attached to the agenda as Appendix A. This proposal was discussed and formally submitted at a TTCG meeting held on 3 November 2014 and three members of the Taxi Trade Consultative Group were in attendance at this Committee meeting to respond to Members' questions. Background details of their proposal for increased fare tariffs had been submitted prior to the meeting for Members' information and consideration. The Chair agreed to a Member's request that this additional information be made available on the Council's website as a supplementary document to the agenda.

The proposal before Members was a maximum fare/tariff only and it was therefore up to the individual hackney carriage proprietor as to whether they

wished to charge the maximum. There was no legal obligation to charge the maximum, although it was unlawful to charge more.

Members requested that the fare tariffs be considered on an annual basis in future.

Cllr Lloyd MOVED and Cllr Barrett SECONDED recommendation 2.1(a) in the report. Following a discussion a vote was taken on a show of hands and it was RESOLVED that the Committee agrees in principle the increase in the maximum fare/tariff attached at Appendix A to the report which was to be advertised in accordance with the relevant legislative requirements, and that the increased tariff should come into force at the end of a period of 14 days from the first date of advertisement if no objections are received, or be reported back to Licensing Committee for further determination in December 2014 if one or more objections were received.

261. Proposed Fee for Young Entrepreneurs Market

Members were advised that a two year license for Essex Farmers Markets to operate a weekly Friday and Saturday Market in Brentwood High Street was agreed at the 16.7.14 Business and Town Centres Committee meeting and a report on Alternative Markets for Brentwood was discussed at the 15.10.14 B&TC Committee meeting. Inter alia the Committee resolved to recommend to the Licensing Committee a concessionary license fee for teenage (or young peoples') market stalls of £5.00 and to review this after the market had been in operation for a period of 9 months. Officers considered that given the requirement to ensure cost recovery that this should be formally reviewed in 6 months and the fee be increased if it was appropriate. The current license fee for a market stall was £21 per day.

It was anticipated that the requirement for enforcement and compliance requirements in relation to young persons' stalls would be minimal when compared to commercial stalls.

No licence would be issued to any person under the age of 17, although those under 17 years would be permitted to work the stalls and operate under provision of a licence held by an adult.

Members were advised that Essex Farmers Markets had agreed to operate the young people's market in the High Street or Crown Street. They were looking to trial the market on a Sunday in the New Year after obtaining sufficient interest and commitment and would be approaching local schools, colleges, universities, clubs and groups to offer students a chance to engage directly with their town centre.

Cllr Barrett MOVED and Cllr Newberry SECONDED the recommendation in the report. Following the discussion a vote was taken on a show of

hands and it was **RESOLVED UNANIMOUSLY** that Members agree to a fee of £5 and that this be formally reviewed in 6 months' time.

262. Proposed General Licensing Fees and Charges for 2015/16

Members were advised that, whilst some of the General Licensing Fees and Charges were statutory and therefore determined through legislation, the Council must review its discretionary charges for all services to ensure that they reflected the current cost of providing the service, including reasonable and recoverable running costs for administration and in some cases enforcement.

The report sought Members' agreement on the proposed budget and schedule of fees and charges for 2015/16 in respect of the general licensing functions other than Hackney Carriage and Private Hire and any statutory or centrally set fees.

Cllr Barrett proposed that the revised fees and charges should be frozen pending a full review being undertaken and Members requested that in future further detail be given in regard to each proposed charge and an explanation of how costs were arrived at.

Cllr Lloyd MOVED and Cllr Barrett SECONDED the recommendations in the report and it was RESOLVED UNANIMOUSLY that:

1. Members agree to the proposed schedule of fees and charges as shown in Appendix A of this report to come into force on 1 April 2015.

2. A further report be presented to this Committee providing

details of the outcome of the planned review of the current charging policies, which will then inform the 2016/17 charging levels.



Minutes

Licensing/Appeals Sub-Committee Friday, 31 October, 2014

Attendance

Cllr Barrett
Cllr Mrs Henwood
Cllr Newberry

Officers Present

Dave Leonard	Licensing Officer
Gary O'Shea	Principal Licensing Officer
Chris Pickering	Principal Solicitor
Jean Sharp	Governance and Member Support Officer

231. Appointment of Chair

RESOLVED to appoint Cllr Barrett to chair this meeting of the Sub-Committee.

232. Quasi-Judicial Function

Members were respectfully reminded that, in determining the matter listed under Minute 233, they were exercising a quasi-judicial function with the civil burden of proof, that the matter would be determined on the facts before the Sub-Committee and the rules of natural justice applied.

233. Application for a Premises Licence - Licensing Act 2003 – Brave Nelson, 138 Woodman Road, Warley CM14 5AL

The report before Members provided information of an application for a new premises licence in respect of Brave Nelson, 138 Woodman Road, Warley, Brentwood CM14 5AL

Members were requested to determine the application having regard to the operating schedule, the representations received, the Council's Statement of Licensing Policy and the four Licensing objectives.

Each application must be considered on its individual merits and, therefore, no recommendations might be made. However, the available options were:

- i) To grant the application in full on the terms and conditions contained in the operating schedule along with any applicable mandatory conditions;

- ii) To grant the application, modified to such extent as considered appropriate in order to satisfy any relevant representations and to promote the licensing objectives; or
- iii) To reject the application in whole or in part

An authorisation was required in respect of any premises where it was intended to conduct one or more of the four licensable activities, these being:

- Sale of alcohol
- Supply of alcohol (in respect of a club)
- Regulated Entertainment
- Provision of Late Night Refreshment

An appropriate authorisation was either a premises licence, a club premises certificate or a Temporary Event Notice.

Licence holders were required, when offering any licensable activity, to ensure that they promoted the licensing objectives at all times. The operating schedule of the application contained details of the activities applied for and the control measures that the applicant would have in place in order to promote these objectives. Such measures would, where appropriate, be converted into enforceable conditions on any licence issued.

The four licensing objectives were;

- Prevention of crime and disorder
- Prevention of public nuisance
- Public safety
- Protection of children from harm

No objective carried any more weight than any other.

Any representation must be able to demonstrate that on the balance of probability the application in its current form would fail to adequately promote one or more of the licensing objectives. No other matters might be considered.

The Application

The application was received on 9 September 2014 from Mr Paul Duley in respect of Brave Nelson, 138 Woodman Road, Brentwood CM14 5AL.

This application is submitted following meetings between the licence holder, his agent, the licensing team and members of two responsible authorities, namely the Council noise team and the Police. The application was sought to agree conditions that would allow a more efficient promotion of licensing objectives.

The application did not seek to vary the current premises licence or extend the hours of any licensable activity. It sought a new premises licence, operating to its current hours, to include conditions that were appropriate and practical together with an operating schedule that promoted the licensing

objectives within the community. The conditions on the current licence were ambiguous and difficult to enforce.

The hours for the sale of alcohol for consumption on and off the premises were for the following hours;

10:00hrs-23:00hrs on Sunday to Thursday and
10:00hrs-23:30hrs on Friday and Saturday

The regulations of the Licensing Act 2003 outlined the requirements for the advertising of applications by the applicant.

Regulations also required that the applicant gave a copy of the application to each responsible authority on the same day upon which it was given to the licensing authority.

There were no other statutory requirements for advertising of any application, however, the relevant Ward Councillors were notified and details of all applications received along with the time limit for receipt of representations was posted on the Council website.

There had been one valid representation received from the Council's Environmental Health Officer relating to noise and public nuisance complaints received against the premises over an extended period of time supported by nine Service Request Reports.

The Police observations and agreed conditions were appended to the agenda together with the observations of a Senior Planning Officer.

Six representations had been received from local residents who lived in close proximity to the premises.

The Brave Nelson has been subject of several unsuccessful applications to redevelop the land for residential housing and the latest application, to redevelop the car park, was refused planning permission this summer.

The Sub-Committee's Decision

The Sub-Committee considered in detail the written objections from residents who raised concerns over the noise nuisance emanating from the premises and the Sub-Committee considered the submissions from the applicant in support of the application. It also considered the reports presented from Council officers. The Sub-Committee was concerned about the noise emanating from the garden in particular and in the interests of preventing public nuisance **RESOLVED** to grant the application as applied for subject to the following conditions:

1. An incident log will be kept in which staff will record any crimes, incidents, refusals and any complaints received.
2. Staff will be trained on their roles and responsibilities, records of training given will be retained and made available to the licensing authority or the Police for inspection upon reasonable request.

3. A comprehensive CCTV system is installed with full recording facilities covering both inside and outside parts of the premises.
 4. Any music provided will be closely monitored and controlled by the in house management team so as to minimise noise nuisance to the neighbours.
 5. All music will cease at 23:00hrs
 6. Smokers will be encouraged to use the garden smoking shelter in a quiet and noise friendly fashion
 7. Customers will not be permitted use of the garden after 22:00hrs except for the purpose of smoking. The number of smokers permitted to be outside smoking after 22:00hrs will be limited to 15.
 8. No drinks are to be consumed outside after 22:00hrs.
 9. Notices will be posted at entrance/exits requesting patrons to respect the neighbours and leave in a quiet & orderly fashion.
 10. The premises will adopt a Challenge 25 policy
 11. Children will only be admitted while in the company of a supervising adult and will be required to vacate the premises by 22:00hrs daily (except for a pre-booked family party/event
 12. The premises shall install and maintain a CCTV system. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.
 13. The CCTV system shall continually record whilst the premises is open to the public and during all times when customers remain on premises.
 14. All recordings shall be stored for a minimum of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer of a Responsible Authority.
 15. A staff member from the premises who is conversant with the operation of the CCTV system shall be available at all times when the premises are open to the public. This staff member must be able to show Police or authorised council officer recent data or footage with the absolute minimum of delay when requested.
 16. Self-closers shall be fitted on all doors that open to the front of the premises and into the garden and the doors shall not be fixed open whilst music is being played to avoid noise break-out from the premises.
 17. The children's play area will be closed to all patrons after 21:00hrs on any day.
 18. Ball games are to be banned from the children's play area.
 19. Music amplification is prohibited in the outside areas of the premises without prior permission from the Council's licensing department.
 20. Any special events planned at the premises shall be notified to the Council's licensing department at least 14 days before the event. The premises management will work with the licensing department so that the impact of such events is minimised.
 21. The hours of operation at New Year is limited to 02:00hrs, rather than the 08:00hrs applied for.
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13 January 2015

Licensing Committee

Review of the Hackney Carriage Fare Setting Process

Report of: Ashley Culverwell – Head of Borough Health, Safety and Localism

Wards Affected: All

This report is : Public

1. Executive Summary

- 1.1 This report asks Members to recommend to the Audit and Scrutiny committee that a cross party task and finish group be set up to review the process for setting of tariffs in respect of Hackney Carriage fares and to suggest a programme for future fare setting.
- 1.2 The report also seeks approval for Officers to work with the Taxi Trade Consultative Group as part of the review process.

2. Recommendation

2.1 Members are requested to:

- i) **Recommend to Audit and Scrutiny Committee that a cross party Task and Finish Group be established in order to review the process for setting of tariffs in respect of Hackney Carriage fares and advise on a future programme for tariff setting; and**
- ii) **Authorise officers to engage the Taxi Trade Consultative group in the review process reporting any findings and recommendations to a future meeting of the Licensing Committee.**

3. Introduction and Background

- 3.1 The setting of fare tariffs in respect of Hackney Carriage Vehicles is legislated under provision of section 65 of the Local Government (Miscellaneous Provisions) Act 1976 (the Act). There is no provision for the Council to set tariffs for Private Hire vehicles.

- 3.2 From time to time fare tariffs may be amended in accordance with the legislation, which must be advertised and usually follows a request from the trade.
- 3.3 The current table of fares was agreed by Members of the Licensing Committee subject to advertising on 11 November and came automatically into force on 5 December 2014 as no objections were received following publication of the new tariffs.
- 3.4 The fares tables are fairly complex and contain four different tariffs which are programmed into the meters to operate at different time e.g. tariff one is a day rate.

4. Issues Options and Analysis of Options

- 4.1 The process, as stated in paragraph 3.1, is set out in law and this must be followed at all times. However, the frequency of amendments to the tariff and the rates of any new tariff have traditionally been matters controlled by the trade i.e. a new tariff proposal will not normally be put to Committee unless requested.
- 4.2 There is no set framework that identifies either the number of tariffs used, the times that each tariff is in operation or indeed what each tariff relates to. This means that each authority area has an entirely different structure of fares.
- 4.3 Brentwood currently operates under four tariff levels. Only the restrictions of each electronic taximeter will govern the number of individual tariffs that are available, although it is not best practice to operate under too many different levels of fare as this can lead to the structure being far more complicated than necessary.
- 4.4 Notwithstanding the above, there is currently one area that is not covered by a dedicated tariff, this being vehicles that can accommodate five passengers or more. Conversely, whilst authority comparison is not relevant in the setting of fares, Brentwood is in a minority with the use of the current tariff two, which is used as a twilight rate, primarily between 8pm and 11pm.

5. Reason for Recommendations

- 5.1 The recent process for increasing tariffs highlighted the complexity of the tariffs themselves, which are affected by both time and distance and Members expressed concern as to the complexity. It is therefore considered that it may be appropriate to establish a task and finish group.

- 5.2 There may be ways of modernising the tariffs and simplifying them simultaneously, this could only be of benefit to both the trade and the public, whilst ensuring that the tariffs remain as cost effective as possible.
- 5.3 It is Members of the Licensing Committee that ultimately agree any changes to the tariff and it therefore makes sense that a task and finish group made up of a cross section of party Members should look at the process as a whole.
- 5.4 The recommendation of this report therefore, is that Members review the process as part of a task and finish group in conjunction with Officers, whilst Officers, with some Member involvement as appropriate should assess through the TTCG, the overall structure of fares and make a recommendation to the task and finish group on a future frequency or programme for review of the tariffs.

6. References to Corporate Plan

- 6.1 The proposals contained within this report link directly to the following priorities of the corporate plan:

A prosperous Borough – “Safeguarding public safety through a risk based regulation and licensing service.”

Street Scene and Environment – “Develop effective partnership arrangements so all issues affecting neighbourhoods are delivered in a timely and efficient way”

Localism – Encourage local businesses to invest directly in Brentwood’s communities”

7. Consultation

- 7.1 Consultation will initially be through the TTCG, although any future changes to tariffs will be consulted and advertised in accordance with the legislation.

8. Implications

Implications

Financial Implications

Name & Title: Jo-Anne Ireland, Acting Chief Executive

Tel & Email 01277 312712 / jo-anne.ireland@brentwood.gov.uk

The only costs involved in this process relate to officer time and this will be met from current budgets.

Legal Implications – Monitoring Officer Comment

Name & Title: Christopher Potter, Monitoring Officer and Head of Support Services

Tel & Email 01277 312 860 / christopher.potter@brentwood.gov.uk

There are no direct legal implications associated with this process, although any future proposals for increasing tariffs must be advertised in accordance with the Act.

9. Appendices to this report

None

Report Author Contact Details:

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13 January 2015

Licensing Committee

Face To Face Direct Debit Charity Collectors

Report of: *Ashley Culverwell – Head of Borough Health, Safety and Localism*

Wards Affected: *Brentwood North, South and West*

This report is : *Public*

1. Executive Summary

- 1.1 This report is to seek Member approval for officers to review a current agreement between Brentwood Borough Council and the Professional Fundraising Regulatory Association in respect of direct debit charity fundraising.
- 1.2 The report also requests that the Head of Borough Health Safety and Localism, in consultation with the chair of the Licensing Committee be authorised to amend the site management agreement on behalf of the Council.

2. Recommendation

- 2.1 **Members are requested to authorise officers to review the current site management agreement for face to face direct debit charity collectors and to bring the amended agreement before Members of this Committee for final authorisation.**

3. Introduction and Background

- 3.1 Charitable Collections in streets and public places are governed under statute by the Police, Factories, etc (Miscellaneous Provisions) Act 1916 (the Act).
- 3.2 The Act permits the Council to make regulations with respect to 'the places where and the conditions under which persons may be permitted in any street or public place, to collect money or sell articles for the benefit of charitable purposes...'

- 3.3 Whilst direct debit collectors are fundraising, they are not collecting cash in the sense of an immediate donation. A direct debit that an individual signs up to can be cancelled by them at any time and amounts of donation can vary. Therefore, the fundraiser has no way of knowing how much is collected at each collection. This means that this type of collecting activity is not within scope of the licensing requirements.
- 3.4 Whilst the majority of these types of fundraiser are responsible, there can be concerns raised from time to time over unregulated collections and practices. Therefore, bona fide collectors tend to belong to the Profession Fundraisers Regulatory Association (PFRA) who set and agree standards on behalf of such collectors.
- 3.5 In June 2008, the Council entered into an agreement with the PFRA which identifies certain conditions and requirements such as frequency, conduct and location of collections. The agreement is attached at **Appendix A**.

4. Issues Options and Analysis of Options

- 4.1 There have been some slight issues raised in respect of collections over the last six years. These relate in the main to a sometimes overenthusiastic individual or to the location of the collections; however, generally these have been minor. It would therefore be fair to state that the agreement has been beneficial to date. However, given the time that has elapsed since the agreement came into force it would appear sensible to undertake a review to ensure that it is both up to date and remains fit for purpose.
- 4.2 It is intended that the review process should be undertaken in discussion with the PFRA.
- 4.3 There is likely to be little or no impact on the collections processes and a review should be advantageous to both residents and visitors to the borough.
- 4.4 Currently the agreement identifies two distinct areas for street collections, these being outside of Iceland and Superdrug respectively. However, since the establishment of the Market in the High Street, these areas can at times become pinch points and therefore one reason for a review of the agreement is to consider whether there is an appropriate alternative collection point(s).
- 4.5 Further, it may be considered that an effective and regularly updated agreement would benefit collectors and charities as the agreement promotes good practice, which in turn improves and enhances the reputation of the collectors and charities involved.

5. Reason for Recommendations

- 5.1 The existing Member approved voluntary agreement follows a recognised legal framework, which is designed to safeguard the interests of the public, whilst protecting the interests of bona fide charity organisations. Reviewing this agreement will ensure that it remains fit for purpose.

6. References to Corporate Plan

- 6.1 The proposals contained within this report link directly to the following priorities of the corporate plan:

A prosperous Borough – “Safeguarding public safety through a risk based regulation and licensing service.”

Street Scene and Environment – “Develop effective partnership arrangements so all issues affecting neighbourhoods are delivered in a timely and efficient way”

Localism – Encourage local businesses to invest directly in Brentwood’s communities”

7. Consultation

- 7.1 There are no specific policies being introduced by way of this report and the collection for charity by way of direct debit is permitted in law, therefore there is no specific consultation involved in this process.
- 7.2 Notwithstanding the above, any complaints received in respect of any collection, would be assessed by officers and action taken as appropriate in each case.
- 7.3 As stated in paragraph 4.1, any amendment to the agreement will be undertaken in full association with the PFRA.

8. Implications

Implications

Financial Implications

Name & Title: Jo-Anne Ireland, Acting Chief Executive

Tel & Email 01277 312712 / jo-anne.ireland@brentwood.gov.uk

There will be a small cost by way of officer time in respect of reviewing the agreement; however, this will be met from the current budget. It is not anticipated that there will be any additional or hidden costs relating to any part of this process.

Legal Implications – Monitoring Officer Comment

Name & Title: Christopher Potter, Monitoring Officer and Head of Support Services

Tel & Email 01277 312 860 / christopher.potter@brentwood.gov.uk

None.

9. Appendices to this report

Appendix A – Current Site Management Agreement

Report Author Contact Details:

Name: Gary O'Shea – Principal Licensing Officer

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E-Mail: gary.oshea@brentwood.gov.uk

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London SE1 0NZ

Appendix A



Public Fundraising Regulatory Association

01 JUL 2008

Site Management Agreement between PFRA and Brentwood Borough Council

The aim of this Site Management Agreement (SMA) is to facilitate face-to-face fundraising within Brentwood and provide a balance between the right of the charity or not-for-profit organisation to fundraise and the right of the public to go about their business without undue inconvenience.

Once an agreement is in place it should minimise the administration for all concerned, providing just one channel for information and support, as nominated "gatekeepers" only have to deal with one organisation, the PFRA, instead of dealing with each individual charity and fundraising organisation separately.

The PFRA continually strives to work positively with each Local Authority to develop constructive and durable relationships which benefit both parties.

Statement of Conformity

1) All fundraisers will abide at all times by the PFRA / Institute of Fundraising code of practice. All fundraisers will carry a copy of the abridged code of practice.

Access Details

2) Site Locations & Delineations –

Fundraisers will only stand in two locations on Brentwood High Street i.e. outside Iceland and/or outside Superdrug.

3) Alternate Locations & Delineations –

There are no alternative locations if these two locations are not available.

4) Team Size(s) –

Teams will comprise of no more than two fundraisers at each location and one unbranded team leader.

5) Positioning –

Fundraisers should be positioned in such a way as to offer an adequate 'comfort zone' to those users of the town centre who do not wish to engage, and should not cause undue inconvenience or any obstruction.

6) Frequency of Visits –

1. Face-to-face fundraising will take place on a maximum of two non-consecutive days Monday-Friday per week, between the hours of **10am and 6pm**.
2. No activity will take place if another street collection is being held in the Town Centre on that day.
3. Fundraising activity will be undertaken by only one organisation per day and will be restricted to representation on behalf of one particular charitable organisation.

[continues →]

Unit 11 Europoint
5-11 Lavington Street
Southwark
London SE1 0NZ



4. During the whole of December face-to-face fundraising activity will be restricted to one visit per week.

7) Exclusion Dates etc – The Council will notify the PFRA not less than five days in advance of any dates on which face-to-face fundraising is to be excluded due to special events being held in the Town Centre.

Information Required

8) Nominated Gatekeeper –

The nominated gatekeeper for Brentwood Borough Council is the Licensing Co-ordinator who can be contacted by email to licensing@brentwood.gov.uk or by telephone on 01277 312520.

9) Required Information –

In the first instance **Gift Fundraising** will maintain and manage the activity diary / schedule on behalf of the PFRA – contact **Russell Peterken** via russ@gift-fundraising.com

The Diary will be delivered to the council on a weekly basis (via licensing@brentwood.gov.uk) and will include:

- Name & address of fundraising organisation
- Contact name & telephone number/email of responsible person at fundraising organisation
- Charity on behalf of whom fundraising activity is to be carried out
- Date (and times, where proposed to be different than those specified in para.6/1) of proposed activity

The PFRA will work with the Council to lengthen lead-times for delivery of the Diary to up to 10 days prior to anticipated activity, over the life-time of the first test phase of this agreement.

Copies of the diary are to be made available to the Council's Licensing Section (via licensing@brentwood.gov.uk) and Town Centre Manager, **Jane Ponder** (via jane.ponder@brentwood.gov.uk) on a regular basis (as agreed) and / or upon request.

Working Together

10) Promotion & Publicity –

The local authority agrees to work with the PFRA to publicize information regarding the SMA including explanations on what face-to-face is, the PFRA Code of Practice, facts about Direct Debit security, and how persons with concerns may make official complaints (see also "11" below). Specifically the "gatekeeper" undertakes to ensure that all relevant 'stakeholders' whether within the local authority / Town Centre Management / business consultation organisations or elsewhere are fully informed (and involved where relevant).

11) Complaints Management –

The PFRA will inform the Council's Licensing Section of any complaints it receives and any action taken. The Council's Licensing Section will advise the PFRA of any complaints received and will liaise with the PFRA to resolve issues relating to the conduct of fundraising activities where appropriate.



12) Quality Control –

The PFRA will police member organisations, through a programme of random spot-checks, to ensure fundraisers' adherence to the code of practice and this Site Management Agreement. Council Licensing Officers will also, from time to time, monitor collection activity to ensure that activities are being conducted in accordance with the code of practice and this Site Management Agreement. This may include 'mystery shopping' checks.

13) Sanctions & Penalties –

If there are breaches of the code of practice and/or the Site Management Agreement and it is considered appropriate, particular fundraising organisations may be excluded from undertaking further fundraising activities in the Town Centre for appropriate specified periods.

14) Public Liability & Public Safety –

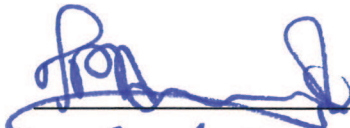
The PRFA will ensure that fundraising organisers are aware of the need for public liability insurance and risk assessments, and of their responsibilities regarding ensuring the suitability of individual fundraisers.

15) Periodic Reviews –

This SMA will initially be reviewed in **six** (6) months from the date of signature

Signed For and On Behalf Of PFRA:


Dated:



26/06/08

Signed For and On Behalf Of Brentwood
Borough Council

Dated:



24/06/08



Appendix 1

CODE OF PRACTICE

- 1 We always tell potential donors clearly that we are paid to speak with them, and that we are not volunteers - if this is the case - and we explain the basis on which we are paid.
- 2 We always carry and display ID so that any potential donor can verify who we are, whom we are working for and on whose behalf we are fundraising.
- 3 We always represent our charity or Not for Profit Organisation (NPO) at the time, in the place, and in the manner that has been previously agreed both with the charity / NPO and with the relevant site owner or Local Authority, and as directed by our team leader or other responsible agency personnel.
- 4 We always explain to a donor how the Charity or NPO will communicate with them after subscribing, and if they are likely to receive a follow up phone call we inform them of this.
- 5 We always ensure that forms with personal details provided by donors are handled at all stages in a secure manner.
- 6 We always end a conversation in a polite and respectful manner as soon as we are asked to.
- 7 We always ensure, wherever possible, that if a member of the public has a complaint, a full and accurate record of the complaint and the complainant's contact details are taken so that action can be taken promptly and appropriately. We will also offer the complainant contact details for a person in authority who can respond to their concerns.
- 8 We never say or do anything that could pressurise or harass people and we do not use manipulative techniques.
- 9 We never confuse or mislead the public and we never say, do or display anything for which we have not been given permission by the charity or NPO
- 10 We never behave whilst on duty in any way that might bring the charity / NPO or our employer into disrepute.

13 January 2015

Licensing Committee

Markets, Including Specialist and Christmas Markets

Report of: Ashley Culverwell – Head of Borough Health Safety and Localism

Wards Affected: All

This report is : Public

1. Executive Summary

- 1.1 This report is to seek Member approval to approach the various Parish Councils with a view to gauging whether there is an interest or a desire to have a Market in their parish area.

2. Recommendation

2.1 Members are requested to authorise officers to:

- i) write to all parish Councils to seek expressions of interest in having a general Market and/or a specialist or Christmas Market in their relevant parish areas; and**
- ii) to report back to a future meeting of the Licensing Committee with details of responses received and any relevant requirements for adoption of areas as 'licence' or 'consent' streets.**

3. Introduction and Background

- 3.1 Street trading (including markets and market stalls) is governed under provision of the Local Government (Miscellaneous Provisions) Act 1982 (the Act).
- 3.2 Section 2 (1) of the Act provides that a district council may by resolution designate any street in their district as either a prohibited street, a consent street or a licensed street. Designation as either a licensed or a consent street would be necessary in order to undertake any licensing of stalls or markets.

- 3.3 Where any street is owned by a relevant corporation and/or is maintained by the highways authority, their consent will be required prior to the passing of any resolution.
- 3.4 It is also necessary prior to the passing of a resolution to notify the Chief Officer of Police and to advertise the intention in a local newspaper.
- 3.5 The High Street in Brentwood was designated as a 'licence' street in August 2011. Since that time it has operated a successful weekly market, which has recently expanded from Saturday trading only to Friday and Saturday.
- 3.6 There are a number of smaller Towns and villages within the Borough and following the success of the Brentwood High Street market and given the unique character of some of these areas, there may be a desire amongst some of the various parishes to hold either a regular or a series of 'one off' specialist markets.

4. Issues Options and Analysis of Options

- 4.1 There is a set legal process required as highlighted in paragraphs 3.2 to 3.4 (above), however, it is advisable in the first instance to gauge any interest among the parishes and to identify the specific areas that could potentially be affected.
- 4.2 Any market that arose eventually from any process would be under the ownership and/or control of the individual parish, the organisation for which would remain their responsibility. However, the licensing process would be undertaken by the licensing authority in the same way as it is currently conducted for the High street Market.
- 4.3 The current Street Trading and Market Policy would be updated to include any additional areas or information as relevant having assessed any responses received relating to this proposal.

5. Reason for Recommendations

- 5.1 The appropriate licensing of any Market, particularly if it is a regularly run market, is essential on the basis that in so licensing the activity there will be a requirement to conform to the Street Trading and Market Policy and to comply with any conditions as may be attached to individual licences. This safeguards the public with particular regard to safety and nuisance caused by littering, smells etc.

- 5.2 The licensing or enforcement in relation to Street Trading is only possible if the trading area or street has been adopted in accordance with the provisions of section 2 (1) of the Act as indicated in 3.2 (above).
- 5.4 The process will only be necessary should there be a will among the Parishes to conduct a Market in their areas. Therefore this report recommends in the first instance that officers are authorised to write to the parishes, to collate any responses and to report back to Licensing Committee with a further recommendation at a future date.

6. References to Corporate Plan

- 6.1 The proposals contained within this report link directly to the following priorities of the corporate plan:

A prosperous Borough – “Safeguarding public safety through a risk based regulation and licensing service.”

Street Scene and Environment – “Develop effective partnership arrangements so all issues affecting neighbourhoods are delivered in a timely and efficient way”

Localism – Encourage local businesses to invest directly in Brentwood’s communities”

7. Consultation

- 7.1 If the recommendation of this report is agreed, Initial consultation will be with each Parish Council within the Borough by way of gauging interest in the proposal.
- 7.2 It is likely that if a market took place on a regular basis, planning permission would be required. Consultation would also be undertaken therefore with the Councils planning team to ensure that any such requirements were identified and fulfilled.
- 7.2 Further consultation is laid down in legislation and is required only if a proposal is intended to be put into place. These consultation requirements are laid down in paragraph 2 (3) of the Act where there is a requirement to:

- a) Publish a notice of intent to pass a resolution to designate an area as a licence, consent or prohibited street.
- b) Serve a copy of the notice of intent on the Chief Officer of Police... and on the relevant Highway authority

In addition, where the street is owned by a relevant corporation, the consent of that corporation is required. The relevant corporations listed in the Act are; the British Railways Board, the Commission for the New Towns (new Towns residuary body), a development corporation for a New Town or an urban development corporation established under the Local Government Planning and Land Act 1980.

- 7.3 Any representations received must be considered and the Council may pass the resolution if they think fit.
- 7.4 Should, following the above procedure, a resolution be passed, a further notice must be published to that effect on two consecutive weeks in a local newspaper. .

8. Implications

Implications

Financial Implications

Name & Title: Jo-Anne Ireland, Acting Chief Executive

Tel & Email 01277 312712 / jo-anne.ireland@brentwood.gov.uk

There are costs involved in advertising the proposals and in dealing with any other matters that may arise from the designation of any street. However, these costs are directly attributable to the street trading account and recovered by the Council through licence fees. It is not anticipated that there will be any additional or hidden costs relating to any increase in tariffs. Any associated cost relating to the operation of a market will fall to the relevant Parish Council or to each individual trader or market operator.

Legal Implications – Monitoring Officer Comment

Name & Title: Christopher Potter, Monitoring Officer and Head of Support Services

Tel & Email 01277 312 860 / christopher.potter@brentwood.gov.uk

It is essential that all procedures are conducted in full accordance with the provisions of section 2 (1) to 2 (13) of the Local Government (Miscellaneous provisions) Act 1982 as failure to do so may result in heavy cost implications in respect of any successful litigation, which may include Judicial Review of the process followed.

9. Appendices to this report

None

Report Author Contact Details:

Name: Gary O'Shea – Principal Licensing Officer

Telephone: 01277 312503

E-Mail: gary.oshea@brentwood.gov.uk

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Members Interests

Members of the Council must declare any pecuniary or non-pecuniary interests and the nature of the interest at the beginning of an agenda item and that, on declaring a pecuniary interest, they are required to leave the Chamber.

- **What are pecuniary interests?**

A person's pecuniary interests are their business interests (for example their employment trade, profession, contracts, or any company with which they are associated) and wider financial interests they might have (for example trust funds, investments, and asset including land and property).

- **Do I have any disclosable pecuniary interests?**

You have a disclosable pecuniary interest if you, your spouse or civil partner, or a person you are living with as a spouse or civil partner have a disclosable pecuniary interest set out in the Council's Members' Code of Conduct.

- **What does having a disclosable pecuniary interest stop me doing?**

If you are present at a meeting of your council or authority, of its executive or any committee of the executive, or any committee, sub-committee, joint committee, or joint sub-committee of your authority, and you have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, you must not :

- participate in any discussion of the business at the meeting, or if you become aware of your disclosable pecuniary interest during the meeting participate further in any discussion of the business or,
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

- **Other Pecuniary Interests**

Other Pecuniary Interests are also set out in the Members' Code of Conduct and apply only to you as a Member.

If you have an Other Pecuniary Interest in an item of business on the agenda then you must disclose that interest and withdraw from the room while that business is being considered

- **Non-Pecuniary Interests**

Non –pecuniary interests are set out in the Council's Code of Conduct and apply to you as a Member and also to relevant persons where the decision might reasonably be regarded as affecting their wellbeing.

A 'relevant person' is your spouse or civil partner, or a person you are living with as a spouse or civil partner

If you have a non-pecuniary interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.

Licensing Committee Terms of Reference

General Powers of Committees

This scheme of delegation sets out the functions of the Council to be discharged by its Committees and Sub- Committees and includes the terms of reference of statutory and non statutory bodies set up by the Council.

Each committee or sub committee will have the following general powers and duties:

- (a) To carry out the duties and powers of the Council within current legislation;
- (b) To comply with the Council's standing orders and financial regulations;
- (c) To operate within the budget allocated to the committee by the Council.
- (d) To guide the Council in setting its policy objectives and priorities including new initiatives, and where appropriate make recommendations to Council
- (e) To develop, approve and monitor the relevant policies and strategies relating to the Terms of Reference of the Committee;
- (f) To secure satisfactory standards of service provision and improvement, including monitoring of contracts, Service Level Agreements and partnership arrangements;
- (g) To consider and approve relevant service plans;
- (h) To determine fees and charges relevant to the Committee;

Licensing Committee

- (a) Except in relation to the statement of Licensing Policy, to discharge all functions conferred upon the council as licensing authority under the Licensing Act 2003.
- (b) Except in relation to the statement of Licensing Policy, to discharge all functions conferred upon the council as licensing authority under the Gambling Act 2005.
- (c) To determine all fees and charges relevant to matters disposed by the Licensing Committee.

- (d) To be responsible for all the Council's licensing and registration functions as detailed in Part B of Schedule 1 Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) in so far as they pertain to matters concerned with:
1. Trading Requirements
 2. All functions relating to hackney carriage drivers and vehicles and private hire drivers vehicles and operators
 3. Animal Welfare and Security
 4. Skin Piercing, Acupuncture, Electrolysis and Tattooing
 5. Sex establishments (including Sex Entertainment Venues (SEV))
 6. Pavement Permits
 7. Charitable Collections
 8. Camping, Caravan Sites and Mobile Homes
 9. Scrap Metal
 10. Game Dealers
- (e) Any other matters relating to licensing as may be referred to the committee for consideration.
- (f) To hear and determine licensing applications and appeals where objections and /or representations have been received in relation to any of the above functions.
- (g) To manage and monitor the budgets in respect of licensing and vehicle licensing