

# STATEMENT OF LICENSING POLICY

**DRAFT**

6<sup>th</sup> January 2021 until 5<sup>th</sup> January 2026

**Licensing Act 2003**

**ALL applications will be considered on their merits, as well as against the relevant policy and statutory framework**

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# STATEMENT OF LICENSING POLICY

## INTRODUCTION

**Maidstone Borough Council is a member of a Licensing Partnership which includes Sevenoaks District Council Tunbridge Wells Borough Council and the London Borough of Bexley. However this policy relates solely to Maidstone Borough Council and its area.**

**This is the Statement of Licensing Policy as determined by the Council in respect of its licensing functions under the Licensing Act 2003. This document sets out the position and view of the Licensing Authority in respect of matters in connection with the discharge of its licensing function.**

**This Statement of Licensing Policy commences on 6 January 2021 and continues for a five year period. During the five year period the Policy will be kept under review and the authority will make such revisions to it at such times as it considers appropriate. Further licensing statements will be published every five years thereafter or earlier as necessary.**

**All references to the 'Guidance' refer to the latest version of the Home Office Guidance to Licensing Authorities issued under section 182 of the Licensing Act 2003.**

The 2003 Act requires the Council to carry out its various licensing functions with a view to promoting the following four licensing objectives:

- **the prevention of crime and disorder;**
- **public safety;**
- **the prevention of public nuisance;**
- **the protection of children from harm.**

The aims of this Statement of Licensing Policy, in line with the four licensing objectives, are to:

- help build a fair and prosperous society that properly balances the rights of people and their communities with the needs of business.
- minimise any nuisance or disturbance to the public through the licensing process;
- integrate its aims and objectives with other initiatives, policies and strategies that will:
  - (1) reduce crime and disorder;
  - (2) encourage tourism;
  - (3) encourage an early evening and night time economy which is viable, sustainable and socially responsible;
  - (4) reduce alcohol misuse;
  - (5) encourage employment;
  - (6) encourage the self sufficiency of local communities;

- (7) reduce the burden of unnecessary regulation on business;
- (8) encourage and promote live music, dancing and theatre for the wider cultural benefit of communities generally.

The Council will endeavour to work with other Local Authorities to ensure that a consistent approach is taken in licensing matters, whilst respecting the differing needs of individual communities throughout the local authority area.

In the preparation of this policy the Licensing Authority will have given proper regard to the local strategies on crime prevention, planning, transport, culture, tourism and economic development to ensure proper coordination and integration of the aims and actions of these policies.

The Licensing Act is part of a wider Government strategy to tackle crime, disorder and anti-social behaviour and reduce alcohol harm. The Licensing Authority will continue to develop strategies with the police, and the other enforcement agencies, as appropriate, for the management of the night-time economy. Central to this is the enforcement of the law relating to the sales of alcohol to drunk and underage people and drunkenness or disorder on, or in the immediate vicinity of licensed premises.

This policy covers a wide variety of premises and activities carried on within them. For this reason, this policy cannot detail all the factors that influence the achievement of the licensing objectives nor can this policy detail all the control measures that may be appropriate. However, there will be zero tolerance of dealing in or using controlled drugs (as defined by the Misuse of Drugs Act 1971) on licensed premises.

#### **Highly Contagious Communicable Diseases**

The impact of Covid-19 has been unprecedented across many areas of work, with licensed premises specifically impacted by a long period of Central Government led lockdown. As a Licensing Authority, we have had to respond to the pandemic and have implemented changes such as virtual licensing hearings, implementing short term changes to procedures to enable social distancing and considering the policy implications for Maidstone Borough Council. At the time of reviewing this document, the Government announced plans to re-open pubs, clubs and other licensed premises with additional social distancing guidance to be published. We are committed to supporting local licensed premises to re-open safely and with new requirements in place. Whilst, we cannot specify the requirements that may be needed – and we recognise that the response to highly contagious communicable diseases changes regularly, it is our intention to ensure that we fully comply as a Licensing Authority with any new regimes and requirements. Licensed premises/holders will also be required to comply fully with any new regulations or requirements placed upon them at a national level. We encourage all licensed premises to talk to the Licensing Authority, Police and other relevant Responsible Authorities at the earliest opportunity if they are uncertain regarding any compliance with any conditions or they wish to seek a temporary and/or informal relaxation of conditions.

We recognise that policy frameworks change, new or emerging issues arise at both a local and national level which may need to be taken into account when applying this Licensing Policy. We may therefore, from time to time, make new applicants

and existing licence holders/operators aware of these changes so that they can ensure they meet any future challenges.

## **1 CONSULTATION**

1.1 The Statement of Licensing Policy will be kept under review and where any significant amendments are considered necessary these will only be made after consultations have taken place in accordance with Section 5 of the Act. Amendments required due to a change in legislation that do not impact on the aims and objectives of the Policy or the promotion of the Licensing Objectives will be made with the approval of the Licensing Manager in order for the policy to remain legislatively current.

1.2 Proper weight, in accordance with the Guidance, has been given to the views of all those consulted. Those consulted in the preparation of this Policy included:

- the Chief Officer of Police for Kent
- the fire and rescue authority for Kent
- the Director of Public Health for all areas within Maidstone Borough
- persons/bodies representative of local premises licence holders
- persons/bodies representative of club premises certificate holders
- persons/bodies representative of local personal licence holders; and
- persons/bodies representative of businesses and residents in the MB area

1.3 In accordance with the guidance the following persons have also been consulted on this revised statement:

- Kent Police Licensing Team
- the Superintendent of Police for Maidstone Borough Council area
- all Council members
- all parish councils
- all bordering local authorities
- all other responsible authorities under the Licensing Act 2003
- members of the public who requested to be consulted and have responded previously.
- British Beer & Pub Association

## THE POLICY

### 2. BACKGROUND

#### 2.1 When administering licensing matters the council as the Licensing Authority will promote of the four Licensing Objectives set out in section 4 of Part 2 of the Licensing Act 2003.

*The four licensing objectives are the:*

- ***Prevention of Crime and Disorder***
- ***Prevention of Public Nuisance***
- ***Public Safety***
- ***Protection of Children from Harm***

The Licensing Authority gives equal weight to each of these objectives.

2.2 The 2003 Act requires Licensing Authorities to publish a 'Statement of Licensing Policy' (the Policy) that sets out the approach the Licensing Authority will take when administering applications and other processes under the Licensing Act 2003 to ensure the promotion of the licensing objectives.

2.3 This Statement of Licensing Policy has been prepared in accordance with the provisions of the 2003 Act having regard to the amended guidance issued under section 182 of the Act the Police Reform and Social Responsibility Act 2012 and the Live Music Act 2012.

2.4 Maidstone Borough Council is the Licensing Authority pursuant to the Licensing Act 2003 (the Act) and is responsible for considering a range of licence applications and variations to licences for a number of activities detailed below. The purpose of licensing is to regulate the carrying on of licensable activities on licensed premises, at qualifying clubs and under temporary event notices,(TENs). The activities as defined by the Act are:

- Sale by retail of alcohol
- supply of alcohol (club)
- The provision of regulated entertainment which includes:
  - the performance of a play
  - an exhibition of a film
  - an indoor sporting event
  - boxing or wrestling entertainment
  - a performance of live music
  - playing of recorded music
  - performance of dance
  - entertainment of a similar description to the above 3.  
(where they take place in the presence of an audience for the purpose of entertaining them)
- Provision of late night refreshment

It should be noted that following the introduction of the Live Music Act 2012, a licence is not required to stage a performance of live music, or the playing of recorded music if:

- it takes place between 8AM and 11PM; and
- it takes place at an alcohol on-licensed premises; and
- the audience is no more than 500 people

You also don't need a licence:

- to put on unamplified live music at any place between the same hours; or
- to put on amplified live music at a workplace between the same hours and provided the audience is no more than 500 people.

2.6 The types of premises likely to be included within the licensing regime include:

- Pubs and night clubs
- Off licences (includes supermarkets/shops selling alcohol)
- Restaurants serving alcohol
- Restaurants serving hot food and drink after 11pm
- Private members clubs/social clubs
- Hotels/guest houses selling alcohol
- Cinemas/theatres
- Community premises and village halls
- Providers of temporary events involving licensable activities

and any other premises at which licensable activities are to be provided.

2.7 The Policy will apply across a range of applications which include the following:

- New Premises Licences and Club Premises Certificates
- Variations to Premises Licences and Club Premises Certificates
- Provisional Statements for proposed premises yet to be built
- Transfer of Premises Licences
- Disapplication of mandatory condition in respect of alcohol sales at village halls and community premises
- Variations of licences to change the Designated Premises Supervisor
- Reviews of Premises Licences and Club Premises Certificates
- Personal Licences
- Temporary Events Notices

2.8 The Licensing Authority also regulates other activities at licensed premises which include sexual entertainment events and gambling

### 3. LICENSING AUTHORITY GENERAL POLICY CONSIDERATIONS

- 3.1 The Licensing Authority encourages the development of premises which are not alcohol-led and which are aimed at different sectors of the population, including all ages and genders. Premises that promote the arts, a food offer, or other cultural activities are particularly encouraged.
- 3.2 Where premises such as pubs are alcohol-based, they are encouraged to consider diversifying their provisions so as to encourage a mixed customer-base and wider attractions, including community uses, soft refreshments, snacks and live entertainment. Diversification is important in the promotion of the licensing objectives as well as ensuring a sustainable economic future for premises.
- 3.3 The Licensing Authority recognises the need to promote and encourage live and recorded music, dancing, theatre and other forms of entertainment for the wider cultural benefit of communities generally. The potential for limited disturbance in neighbourhoods will be carefully balanced with the wider benefits.
- 3.4 The Licensing Authority offers a pre-application advice service. This advisory service is chargeable. The advice is a bespoke service for licensing applications. The aim is to help applicants and respond to challenges that may arise during the process. However advice given cannot pre-determine the outcome of any licensing application, particularly if representations are received and brought before the Licensing Sub-Committee.. The Licensing Authority expects that applicants will have in advance researched and understood the relevant Law in relation to their application and their particular business plans as well as this Policy. It is not for licensing officers to determine the business needs and capabilities of an applicant but advice can be offered in relation to the licensing objectives. In addition guidance notes are available on the licensing pages of Council's website – [www.maidstone.gov.uk/business/licensing-and-permits](http://www.maidstone.gov.uk/business/licensing-and-permits) and at <http://www.maidstone.gov.uk/business/environmental-health/health-and-safety/event-planning>
- 3.5 Licensing officers will also provide advice to other parties on the licensing process where needed in relation to objecting to or supporting applications that may affect them. However, MBC cannot provide legal advice to applicants or other parties.
- 3.6 *Supermarkets and other 'off' licensed premises selling alcohol.* The Licensing Authority will generally consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises throughout their opening times. However where there are reasons for restricting or amending hours, for example, where premises become the focus of disorder and disturbance, such restrictions or amendments will be considered where relevant representations have been made.
- 3.7 All 'off' licensed premises must comply with the Licensing Act 2003 Mandatory Conditions Order in relation to age related sales. The Licensing Authority also expects such premises to consider any appropriate and proportionate additional measures to prevent and deter proxy sales on behalf of under 18's.
- 3.8 Licensees should also carefully consider alcohol sales to customers who have or appear to have alcohol related health issues, and whether those customers already appear under the influence of alcohol when attempting to make purchases.



- 3.9 The Licensing Authority expects adequate checks to be made and all reasonable steps taken to ensure alcohol delivered by way of online shopping services (as provided by most large supermarket chains) is not delivered to minors to prevent a risk of underage consumption. Therefore the authority requests as part of the application the Operating Schedule should include the procedures the applicant is intending to operate to ensure the following:
- The person they are selling alcohol to is over the age of 18
  - That alcohol is only delivered to a person over the age of 18
  - That a clear document trail of the order process from order, despatch from the licensed premises and delivery to the customer is maintained (with times and signatures) and available for inspection by an authorised officer.
  - The time that alcohol is sold on the website/over the phone at the time the alcohol is delivered is within the hours stated on the licence for the sale of alcohol.
- 3.10 Where self-pay till points are made available in stores selling alcohol, provision must be considered for alcohol sales to be identified and approved prior to completion of the purchase.
- 3.11 *Designated Premises Supervisor (DPS) at alcohol licensed premises.* Whilst this role has a limited definition under the Licensing Act 2003, it is expected that this person nominated on a licence will normally have overall responsibility for the day to day management and control of the licensed premises and in particular be responsible for the safe receipt, storage and sale of alcohol.
- 3.12 The Licensing Authority would normally expect the DPS to be onsite at the licensed premises for the majority of time when alcohol is being sold subject to working hours' legislation and absence for sickness and holidays. The Licensing Authority expects the DPS to provide training to staff in relation to alcohol sales and to authorise the employees the DPS considers competent to sell alcohol on their behalf in writing.
- 3.13 The Licensing Authority expects that a DPS should usually have responsibility for only one licensed premises at a time to ensure good management of the premises and the licensable activities. Where the same person is a nominated DPS on more than one premises licence and representations are made, the Licensing Authority will wish to satisfy itself that the premises in question can properly be managed by that person whilst responsibly promoting the licensing objectives.
- 3.14 *Film Exhibitions*<sup>14</sup>, the licensing authority expects licence holders or clubs to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the licensing authority itself.
- 3.15 *Live Music.* It is acknowledged the implementation of the Live Music Act in 2012 has resulted in a lighter touch regulation of live music up to 11pm on alcohol licensed premises, and this is seen as a positive approach for premises wishing to provide live music. However, the Licensing Authority does not see this as an opportunity for licensees to provide live music events that cause nuisance and disturbance to local residents or businesses.
- 3.16 The Licensing Authority expects that where unregulated live music is proposed at licensed premises, all due care and consideration is taken to prevent disturbance. The

council will consider using its powers under the Environmental Protection Act 1990 to prevent and control public nuisance caused by poorly managed live music at licensed premises.

- 3.17 *Deregulated Entertainment.* Where the further deregulation of schedule 1 of the Licensing Act has reduced the regulatory controls on some regulated entertainment activities, the Licensing Authority will expect licensees to ensure that no nuisance or disturbance is caused to local residents and businesses when providing the deregulated activities. The Licensing Authority will consider using alternative powers as per para 3.15.
- 3.18 *Late Night Levy (LNL).* Whilst it is acknowledged that the provisions for implementing a late night levy arise from the Police Reform and Social Responsibility Act 2011, any levy will potentially have a direct impact on all licensed premises within the Borough. The Licensing Authority has considered the options around the imposition of a LNL and has no plans at the time of drafting this policy to consider an imposition of the levy. Should evidence arise to support implementing a levy the statutory consultation process will be followed and the authority will use its discretion very carefully in relation to design and impact of a levy.
- 3.19 In advance of any decision to implement a LNL, this authority will enter into discussions with the Police with a view to agreeing the allocation of the Police share of the levy to support the policing of the night time economy within this Borough .
- 3.20 *Early Morning Alcohol Restriction Order (EMARO).* The Licensing Authority has considered the options around the imposition of an early morning alcohol restriction order and has no plans at the time of developing this policy to consider such an Order. There is currently evidence of low levels of alcohol related crime and disorder, nuisance and anti-social behaviour within the Borough which is decreasing. Should evidence arise to support implementing an EMARO, the statutory consultation process will be followed and the matter referred to the Full Council for determination.
- 3.21 *Licensing and planning permission.* The use of a licensed premises or place may be subject to planning controls. This is a separate regulatory regime outside the scope of the Licensing Act 2003. The Licensing Authority recognises that there is no legal basis for refusing a licence application in the absence of any planning permission for the business to which the licence application relates. However, all applicants should be in possession of the necessary planning authorisation for their activities or planning enforcement may be considered.
- 3.22 *Need for licensed premises and Cumulative Impact.* ‘Need’ concerns the commercial demand for particular licensed premises such as a pub, club or hotel. This is a ‘market forces’ matter and is not of concern to the Licensing Authority. ‘Cumulative Impact’ means the potential impact on the promotion of the licensing objectives by a significant or excessive number of licensed premises concentrated in one locality. This is a matter for consideration by the Licensing Authority.
- 3.23 The Licensing Authority acknowledges that a concentration of some types of licensed premises in a locality can result in increased footfall, congregation of the public in the streets and potential for increased crime and disorder, litter and anti-social behaviour, as well as noise nuisance to local residents. This would be a result of the presence of the number of premises and not attributable to individual businesses. The licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore,

beyond the direct control of the individual, club or business holding the licence, certificate or authorisation

- 3.24 The Licensing Authority, having regard to the evidence available, considers that currently there is no particular part of the Borough where there is a negative cumulative impact of licensed premises on any of the licensing objectives. If residents or a Responsible Authority (in particular the Police) provide relevant evidence through a representation in the future that supports the imposition of a Policy that restricts the number of new and/or later opening premises, this will be considered and consulted on.
- 3.25 The absence of an existing cumulative impact or saturation policy does not, however, prevent any responsible authority or other person making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. The Licensing Authority will also take into account the effect on resources, including police resources, to cope with any influx of visitors to an area, particularly late at night.

#### **4. RESPONSIBLE AUTHORITIES AND OTHER PERSONS**

- 4.1 Responsible authorities are public bodies that are statutory consultees that must be notified of applications by the applicant. The full list and contact details can be found at Appendix A and are contained on the Maidstone Borough Council web-site at Responsible Authorities.
- 4.2 When dealing with applications and variations for licences and reviews of premises licences, the Licensing Authority is obliged to consider representations from two categories of persons, referred to as 'Responsible Authorities' and 'Other Persons'. This allows for a broad range of persons to comment both for and against applications for premises licences and club premises certificates and for reviews.
- 4.3 The Licensing Authority may only consider representations that are relevant to the promotion of the licensing objectives.
- 4.4 The Licensing Authority will take care to ensure that concerns raised by Responsible Authorities in relation to their own legislative functions are not taken into account if they are not relevant to the application for a premises licence under the Act, or the promotion of the licensing objectives. It would expect those authorities to use their powers and duties within their statutory roles to control such matters. Any representation made by a Responsible Authority that relates to the promotion of the licensing objectives will be accepted.
- 4.5 The Licensing Authority must give the appropriate amount of weight to representations made by the Police on crime and disorder matters. The Police are the Licensing Authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. The Licensing Authority will accept all reasonable and proportionate representations made by the Police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives.
- 4.6 Where an 'Other Person or Persons' request to be represented when seeking to make a representation, the Licensing Authority will require written evidence from the person/s being represented that they have authorised a third party to speak or write on their behalf.

- 4.7 The Licensing Authority will examine closely all representations to ensure that they are not frivolous, repetitive or vexatious. Matters that this authority will look at are likely to include:
- whether there is a history of making representations that are not relevant or which have been previously considered vexatious or frivolous and are intended to cause aggravation or annoyance
  - whether the representation raises a 'relevant' issue
  - whether the representation raises issues specifically to do with the premises and/or the licensable activities that are the subject of the application.
- 4.8 The above considerations are not exhaustive, and the Licensing Authority will have regard to anything a person making a representation, or persons representing them, say about his or her status to make representations. Nothing in this Policy should be taken to undermine the right of any person to make a representation on an application or to seek a review of a licence where provision to do so exists.
- 4.9 The Health Authority is now included on the list of Responsible Authorities. It is acknowledged that they may be useful in providing evidence of alcohol related crime and disorder or public nuisance etc. that are directly linked to premises or a cluster of premises. It may also be able to provide relevant information on alcohol related admissions that relate to specific licensed premises.
- 4.10 *The Licensing Authority as a Responsible Authority.* The Licensing Authority has carefully considered its role as a Responsible Authority under the Act. It will achieve a separation of responsibilities through procedures and approved delegations within the authority to ensure procedural fairness and eliminate conflicts of interest. A separation is achieved by allocating distinct functions (i.e. those of Licensing Authority and Responsible Authority) to different officers within the licensing team.
- 4.11 The Licensing Authority does not expect to act as a Responsible Authority on behalf of third parties but accepts that there may be rare circumstances where this approach may be required. An example may be where matters arise at premises of which the licensing authority is aware of the negative impact on the promotion of the licensing objectives and residents, and other third parties have failed to take action by either requesting a review or making representation.

## **5. EXCHANGE OF INFORMATION**

- 5.1 The Licensing Authority will act in accordance with the provisions of the Licensing Act 2003, the General Data Protection Regulation (GDPR), and the Data Protection Act 2018 in its exchange of information. Where a protocol is established to set out the mechanism for exchange of information with other regulatory bodies, any such protocol will be made publicly available.

## **6. HUMAN RIGHTS AND EQUAL OPPORTUNITIES**

- 6.1 The Human Rights Act 1998 makes it unlawful for a local authority to act in a way which is incompatible with the European Convention on Human Rights. In making decisions and determining appropriate action the council will have due regard to the Convention. The Licensing Authority will interpret the LA2003 in a manner consistent with the Human Rights Act 1998.

- 6.2 The Licensing Authority will consider the effect upon people's human rights and adopt a principle of proportionality and the need to balance the rights of the individual with the rights of the community as a whole. Action taken by the council which affects another's rights must be no more onerous than is necessary in a democratic society.
- 6.3 The Equality Act 2010 requires public bodies to consider all individuals when carrying out their day to day work – in shaping Policy, in delivering services and in relation to their own employees. It requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different people when carrying out their activities.
- 6.4 Equality Duty supports good decision making – it encourages public bodies to understand how different people will be affected by their activities, so that their policies and services are appropriate and accessible to all and meet different people's needs. By understanding the effect of their activities on different people, and how inclusive public services can support and open up people's opportunities, public bodies can be more efficient and effective. The Equality Duty therefore helps public bodies to deliver the Government's overall objectives for public services.
- 6.5 Immigration Act 2016 and the Modern Slavery Act 2015.  
The Licensing Authority has responsibilities that relate to the prevention of immigration crime, specifically the prevention of illegal working in licensed premises. Licences must not be issued to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from doing work relating to the carrying on of a licensable activity.

These provisions apply to premises licences for alcohol and late night refreshment, (but not entertainment only licences) and personal licences. Other types of authorisation under the Licensing Act 2003 (Club premises certificates and temporary event notice (TEN) are not covered. This is due to there being little evidence of immigration abuse in respect of premises authorised under a club premises certificate and it would have been disproportionate to apply the requirements to a TEN.

## **7. COMPLIANCE AND ENFORCEMENT**

- 7.1 There are a range of offences detailed under Part 7 of the Licensing Act 2003. The Licensing Authority will liaise with the Responsible Authorities to determine enforcement of specific offences on a case by case basis. Offences related to sales of alcohol to minors will be enforced by the Police or Trading Standards Authority unless they form part of a range of offences identified by the Licensing Authority.
- 7.2 The Licensing Authority has an approved Licensing Enforcement Policy which complies with the Regulators' Code and it has also adopted the Kent and Medway Enforcement Protocol.
- 7.3 A risk-based inspection programme is in place, which includes the targeting of high risk premises which require greater attention, whilst operating a lighter touch in respect of low risk and well managed premises. The risk-based approach is based on Home Office Guidance; the activities authorised and premises compliance history.
- 7.4 Annual fees and suspension of licences for non-payment.- The Licensing Authority is required under section 55A of the Licensing Act to suspend premises licenses where the annual fee has not been paid. The Licensing Authority will invoice each licensee when the

annual fee is due setting out the fee that is due and the consequences for non-payment. Where the fee has not been paid or there has been no claim of administrative error by the end of 21 days of the due date, the Licensing Authority will serve the required 2 working day notice to suspend the licence.

- 7.5 Where a licence is suspended this means that no licensable activities will be authorised to be provided at the premises until the suspension is lifted on receipt of payment of the overdue fee. Officers will conduct enforcement visits to premises where a licence has been suspended and will take the appropriate action in accordance with the council's enforcement policy.
- 7.6 If an operator does not wish to carry on the activities that require the premises licence or certificate anymore it is important the licence or certificate is surrendered to prevent maintenance fees being accrued.

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## **CONSIDERATION OF APPLICATIONS**

### **8 NEW PREMISES LICENCES**

8.1 In making decisions about applications for licences the Licensing Authority will have regard to:

- The Licensing Act 2003
- the Statutory Guidance issued under section 182 of the Licensing Act 2003,
- The Statement of Licensing Policy made under section 5 of the Licensing Act

that any decisions made that depart from guidance or policy only do so for reasons set out in the decision.

8.2 Where elements of applications are unclear or unspecific, particularly in relation to operating schedules and trading hours, the Licensing Authority will expect the applicants to provide additional information for clarity on a request from the licensing team.

8.3 Licensing officers will routinely check that the Public Notices at the premises and the Public Notices in newspapers are displayed in accordance with the regulations as part of the validation process.

8.4 Licensing officers will also notify ward councillors to whose ward the application relates, and the parish council for the relevant parish of receipt of an application via the weekly premises tracker.

8.5 Where there are no representations about an application the licence will be automatically granted after 28 days under the terms and conditions applied for. Licensing officers will interpret the detail of the operating schedule and convert that into consistent enforceable licence conditions.

8.6 Where relevant representations are received the application will be referred to the Licensing Sub-committee for determination at hearing, unless all parties agree that a hearing is not necessary. Where applications result in the need for a hearing the process at section 16 of this policy will apply.

### **9 VARIATIONS TO LICENCES**

9.1 From time to time licensees may wish to change the nature of the business, vary the trading hours or the licensable activities on offer. These can range from minor changes having little or no impact such as minor changes to the premises plan to more significant changes that will affect the promotion of the licensing objectives. These could include for example; the provision of additional activities, increasing capacities or longer and later trading hours. However where a variation is so substantial that it significantly changes the nature of the business and layout of the premises it is likely that a new premises licence application will be required rather than a variation.

9.2 The relevant parts of this Policy to be applied to significant variation applications is the same as for new premises licence applications at section 8 above.

- 9.3 Where applications are made for minor variations officers will consider whether there are any impacts on any of the Licensing Objectives. Where the variation proposed creates a significant impact on any of the Licensing Objectives the application will be rejected and the applicant advised to seek a standard variation.
- 9.4 Where minor impact or no impact is considered Officers will consult with the relevant (if any) responsible authorities.

## **10. VARIATIONS TO SPECIFY A NEW DESIGNATED PREMISES SUPERVISOR (DPS)**

- 10.1 The Licensing Authority expects that usually the nominated DPS on a licence will be involved in and supervising the day to day operation of licensed premises that sell alcohol. Where the person nominated as DPS ceases to undertake that role the Licensing Authority would expect the licensee to replace that person as soon as is reasonably practicable to maintain adequate control of the premises.
- 10.2 Where a DPS notifies the Licensing Authority that he or she has resigned, the licensing officers will enter into immediate discussion with the licensee in relation to the mandatory conditions concerning the sale of alcohol, and provide appropriate advice to prevent unauthorised alcohol sales.
- 10.3 All applications to specify a new DPS must be made by the licence holder or by a person/body authorised in writing to act on the licensee's behalf.
- 10.4 Where there are no representations the default position is to grant the variation.
- 10.5 The Licensing Authority will give the appropriate weight to relevant representations received from the Police about a proposed DPS. Applications that receive relevant representations will be referred for a hearing at which point the Sub Committee may approve or reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so..

## **11. TRANSFERS OF PREMISES LICENCES**

- 11.1 Before a licence transfer can be administered, the Licensing Authority usually expects consent to have been obtained from the previous premises licence holder. If this is not possible the applicant will be expected to demonstrate that he or she has taken all reasonable steps to secure consent to transfer the licence.
- 11.2 It is acknowledged that in some cases licensees leave premises and do not provide any forwarding contact details, or there has been a death or incapacity of the licence holder. In such cases where a licensee cannot reasonably be contacted to give approval, a licence will be transferred in accordance with the requirements of the Act.
- 11.3 Where a relevant Police objection to the transfer is received the application will be determined through the hearings process unless it is agreed by the applicant and Police as unnecessary..

## **12. PROVISIONAL STATEMENTS FOR PREMISES**

- 12.1 A provisional statement may be applied for, by a person interested in a premises, where a proposed licensed premises has yet to be built or altered for the purpose of becoming a licensed premises. This option allows potential applicants advance notice of whether



a premises licence is likely to be granted on completion of its construction or conversion.

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

12.3 The holder of a provisional statement may apply for a premises licence once the premises are constructed, altered or acquired. The Licensing Authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, where the application is for a licence in the same form as the provisional statement and the work described in the schedule of works has been satisfactorily completed. Representations are excluded where:

Where the relevant person could have made the same or substantially the same representations about the provisional statement application but failed to do so without reasonable excuse and there has been no material change in circumstances of the premises or area in the vicinity of the premises since the provisional statement.

### **13. CLUB PREMISES CERTIFICATES**

13.1 The Licensing Authority acknowledges the importance and history of members clubs and the privileged position held by clubs historically in relation to alcohol licensing.

13.2 Members clubs are able to obtain a club premises certificate to authorise licensable activities for their members and their guests. There is no requirement for any members to hold a personal licence under the Licensing Act 2003, and there is no requirement to specify a designated premises supervisor. It is acknowledged that alcohol is supplied by and for the members through their membership of the club.

13.3 In order to apply for a club premises certificate the Licensing Authority must be satisfied that the club is a qualifying club and satisfies the legal conditions set out in the Act. Applicants for a club premises certificate will be required to complete a club declaration form setting out how the club will meet the conditions and definitions stated in the Act. Licensing officers will have delegated authority to make additional enquiries where appropriate in order to satisfy that a proposed club meets the criteria laid out in the Act.

13.4 The fundamental principles for premises licence applications set out at section 15 of this Policy will apply to applications for club premises certificates subject to exemptions in respect of the DPS and the requirement for evidence of the club's status.

13.5 Any qualifying club wishing to offer licensable activities at events to which non-members will attend will be required to authorise such activities by way of a Temporary Event Notice or by ensuring compliance with the club rules to allow the public to enjoy the clubs facilities and activities without jeopardising the validity of the club premises certificate.

13.6 The Licensing Authority expects 'public' events on club premises to be authorised by a Temporary Event Notice. It is expected that club committee members will seek advice from the Licensing Authority prior to providing such activities for non-members to prevent any unauthorised activities.

- 13.7 Where the Licensing Authority identifies that a club no longer meets the conditions set out in section 62 of the Licensing Act 2003 or where the Licensing Authority obtains evidence to demonstrate that a club no longer acts in good faith as a qualifying club, it will give the club a notice withdrawing the club premises certificate.
- 13.8 Suspension of Club Premises Certificates may also occur under section 92A of the LA2003, failure to pay annual fee.

#### **14. REVIEW OF A PREMISES LICENCE OR CLUB PREMISES CERTIFICATE**

- 14.1 The Licensing Authority acknowledges that matters can arise at premises that raise concern as to the continued promotion of the licensing objectives at licensed premises.
- 14.2 The Act allows a licence to be **reviewed** where such matters arise. It is expected that most reviews will be applied for by Responsible Authorities.
- 14.3 Although this Licensing Authority is also a Responsible Authority and may bring about a review application, it is not expected that it will act as a Responsible Authority on behalf of other parties (for example, local residents, local councillors or community groups).
- 14.4 Such parties can make relevant representations to the Licensing Authority in their own right, and it is reasonable for the Licensing Authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and the Licensing Authority is aware of relevant grounds to make a representation, it may consider acting in its capacity as Responsible Authority.
- 14.5 The Licensing Authority will determine whether a review application is relevant and the validity of a review application will be determined by a licensing officer. This will be on the basis of whether the request for the review is relevant to the matters listed below:
- relevant to one or more of the licensing objectives
  - Not frivolous, vexatious or repetitious.
- 14.6 The Licensing Authority would expect grounds for a review to be evidence based but will consider each application on its merits.
- 14.7 Where a review application is accepted the Licensing Authority will encourage the parties to enter into mediation during the consultation period to help resolve or narrow issues arising. The Council would be happy to assist in these meetings being chaired by a member of their team but all parties may choose to have a different third party as a mediation chairperson.
- 14.8 All reviews, save where agreed by all parties as unnecessary, will lead to a hearing before a sub-committee. This may be a full hearing or a condensed hearing to consider the outcome of mediation. However other parties who have made representation but not been involved in mediation will be permitted to voice their representations at the hearing in accordance with the Hearings Regulations. The Policy applied to hearings can be found in section 16.
- 14.9 The authority considers that where reviews are raised as a result of serious crime and disorder causing that licensing objective to be undermined, then it is likely that the a revocation of the licence will be considered.

## **15. APPLICATION TO VARY PREMISES LICENCE AT COMMUNITY PREMISES TO REMOVE THE MANDATORY REQUIREMENT FOR A DPS.**

- 15.1 The Licensing Authority acknowledges the value that local community premises bring to their localities and that most are operated and managed by volunteers. The mandatory requirement for a nominated DPS to be in place at alcohol licensed community premises can be burdensome and difficult for an individual to manage at such premises.
- 15.2 The Act allows management committees at community premises to take over the responsibility of the alcohol sales by applying to the Licensing Authority to remove the requirement to have a nominated DPS at the premises to authorise sales of alcohol. The Licensing Authority will, subject to strong evidence that a community premises is well managed by an experienced committee, support applications to remove the mandatory condition requiring all alcohol sales to be authorised by a personal licence holder.
- 15.3 Before considering an application the Licensing Authority will satisfy itself that a premises meets the definition of a community premises. Enquiries will be made as to the regular use of the premises and whether it is in the main 'community' based. Where there is a regular 'commercial' or 'non-community based' use or a membership requirement to use the premises it is unlikely that such a premises would meet the definition of a community premises and permission to remove the requirement for a DPS is likely to be refused.
- 15.4 In general it is expected that premises that form part of a church hall or chapel hall or are a village, parish or community hall or other similar building would in most cases meet the definition of a community premises, although each will be considered on its individual merits and the evidence provided or obtained.
- 15.5 The licensing officers will consider, on a case by case basis, all applications to remove the mandatory condition and will ask such questions or seek the necessary evidence to confirm the suitability of the management committee to collectively authorise the supply of alcohol the premises .
- 15.6 Committees that make an application will be expected to have members who are aware of the law relating to the sale of alcohol, contain steps within their operating schedule to prevent offences relating to alcohol sales and also to include appropriate rules in hiring agreements where the premises is hired out to the public for events that will involve the sale of alcohol.

## **16 HEARINGS**

- 16.1 Any application that has resulted in the submission of relevant representation from any party will be referred to the Licensing Sub-Committee for a hearing and determination in accordance with the 2003 Act and the Licensing Act 2003 (Hearings) Regulations 2005.
- 16.2 A sub-committee will consist of 3 suitably trained members of the Licensing Committee. The sub-committee will be advised on the law by a member of the Council's Legal Services Team. That legal team member will not be involved in the application process to prevent a conflict of interest by ensuring a clear separation of roles.
- 16.3 This Policy will play a key role in achieving consistency in decision making.

- 16.4 Where representations are made only by Responsible Authorities, the Licensing Authority would expect applicants and Responsible Authorities to enter into negotiation or mediation prior to a hearing in an attempt to resolve or narrow issues before attending the licensing hearing and to achieve an outcome satisfactory to all parties.
- 16.5 Parties will be advised of the hearing date and procedure in advance and in accordance with the statutory process. At all hearings the sub-committee will have regard to the Guidance issued under section 182 of the Act. This authority may use its discretion where there are strong and defensible reasons for departing from the Guidance and where it considers it right to do so. In any such case this authority will clearly express and explain its reasons for doing so.
- 16.6 The Licensing Authority must give the appropriate amount of weight to representations made by the Police on crime and disorder matters. It will give appropriate weight to all representations made by all parties based on the content and relevance to the promotion of all licensing objectives.
- 16.7 All decision notices will be in writing and will include clearly stated reasons to explain a decision on an application.

## **17. LICENCE CONDITIONS**

- 17.1 A key concept in the Licensing Act is that conditions that are attached to licences or certificates are tailored to suit the individual style and characteristics of the premises and its activities and the impact of those activities. Those conditions must be appropriate and proportionate in order to promote the licensing objectives at that premises.
- 17.2 All licences that authorise the sale of alcohol will be subject to the mandatory conditions set out in the Act and Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 as amended (and any subsequent Mandatory Conditions that are introduced).
- 17.3 Applicants will be expected to include appropriate steps to promote the licensing objectives within their operating schedule which will be converted to conditions on a premises licence or club premises certificate. Those steps will be expected to be proportionate, achievable, enforceable and relevant to the business in question and will ensure the promotion of each of the four licensing objectives.
- 17.4 Deterrence of knife crime measures

Maidstone experienced a disturbing knife crime incident in August 2019 which led to the death of a young man. It is important that this Licensing Policy recognises this and sets out proportionate measures to deter the carrying of knives into licensed premises in Maidstone. The Licensing Authority must carry out its functions under the Licensing Act 2003 with a view to promoting the licensing objectives, which of course include public safety and the prevention of crime and disorder. This Authority has considered how best this duty can be carried out in the context of current risks to the public arising from the carrying of knives and has decided that to introduce measures to prevent knife crime in licensed premises. The Licensing Authority would expect all applications for licences/certificates authorising the sale or supply of alcohol to consider when preparing their operating schedule the steps which the applicant intends to prevent, so far as reasonably practicable, customers on their premises becoming at risk of knife crime and to deter customers from carrying out acts of knife crime. These steps may be either in the form of specific suggested conditions to be attached to the premises licence / certificate if granted or a condition committing the

applicant to have in place during the currency of the licence / certificate a documented risk assessment, which specifically addresses the risks of knife crime on the premises which is kept under regular review.

The following list may be of assistance to applicants when considering their application:

- The customer profile and likelihood of persons being attracted to the premises also being persons who are prepared to carry bladed articles
- What steps are reasonably practicable to implement at the premises which will be effective in deterring the carrying of a bladed articles into the premises in the first instances – such steps may include screening persons wishing to enter the premises by the installation of walk through metal detecting portals or the use of hand-held metal detecting devices and/or through rub-down searching of persons wishing enter the premises by properly trained staff.
- What steps are required to check that all metal detecting devices in use at the premises are fully operational and are regularly maintained and replaced as appropriate and what contingencies are required in the event of any such device developing malfunction.
- The documenting of training of all staff engaged in using any metal detecting devices.
- The documenting of training of all staff engaged in carrying out searches of customers.
- The training of staff to know what procedure to follow in the event of an incident of knife crime on the premises and to ensure that is a First Aider, with specific knowledge of giving first aid to a stabbing victim, on the premises whenever licensable activities are taking place.
- The facilities of safe storage of any bladed article found secreted on the premises and the procedure to be followed in promptly notifying Kent Police.
- The procedure to be followed in the event that any customer is found in the possession of a bladed article on the premises.
- Effective waste management including the prompt removal and safe storage of empty bottles.

The above matters are not intended to be exhaustive, applicants are expected to demonstrate that they have thought very carefully about the risk of knife crime occurring on their premises and the appropriate procedures needed to minimise or mitigate the risk. Applicants are strongly recommended to work closely with Kent Police, the Licensing Authority and Responsible Authorities before submitting their application. When carrying out the required risk assessment applicants are encouraged to take full cognisance of local crime patterns and trends with particular reference to the profile of victims, offenders, key locations and key times of knife related incidents. Kent Police can assist the applicant in this regard.

As far as those premises are concerned which are currently licenced to sell/supply alcohol, the Licensing Authority expects them to have the same degree of consideration as to the risks of knife crime as new applicants. The Licensing Authority would encourage all existing premises licence holders to note the contents within this policy and also consider steps they intend to take to prevent, so far as reasonably practicable, customers on their premises becoming at risk of knife crime and to deter customers from carrying out acts of knife crime.



- 17.5 Where applications receive valid representations and are subject to a hearing, the sub-committee will consider the evidence provided within representations, the detail of the application, the nature of the premises and business and only where appropriate and proportionate will attach conditions to a licence to secure the promotion of the licensing objectives in light of the evidence provided.
- 17.6 Decisions on individual licence conditions will be made on a case by case basis, and where there are concerns over the effective promotion of the licensing objectives, the applicant will be given the opportunity to offer suggestions on how the objectives can be met. This authority will work closely with all parties and the applicant in establishing workable, enforceable and reasonable conditions for new and variation applications.
- 17.7 In all cases the Licensing Authority will have regard to the Guidance when considering the implementation of licence conditions.
- 17.8 In all cases conditions will aim to promote the licensing objectives, be unambiguous and enforceable, appropriate to the activities and the business, achievable and applicable to the premises and the areas around the premises which is within the licensees control.
- 17.9 The Licensing Authority recognises the need to avoid, so far as possible, duplication with other regulatory systems including Health and Safety at Work, Fire Safety, Food Hygiene and Nuisance Control. However these regulations may not cover the unique circumstances of some activities and entertainment. In these circumstances, the council may therefore, where necessary, attach conditions to premises licenses for the promotion of the licensing objectives.

#### **CONDITIONS TO PROMOTE THE PREVENTION OF CRIME AND DISORDER.**

- 17.10 Under the Act the Licensing Authority has a duty to promote the licensing objectives, and, a further duty under the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the borough.
- 17.11 Wholesale of alcohol. Since 1 April 2017, businesses which sell alcohol (for example, retailers of alcohol and trade buyers) need to ensure that the UK wholesalers that they buy alcohol from have been approved by HMRC under the Alcohol Wholesaler Registration Scheme (AWRS). They will need to check their wholesalers Unique Registration Number (URN) against the HMRC online database. This is an ongoing obligation and if a business is found to have bought alcohol from an unapproved wholesaler, they may be liable to a penalty or could even face a criminal prosecution and their alcohol stock may be seized. Any trader who buys alcohol from a wholesaler for onward sale to the general public (known as a 'trade buyer') does not need to register unless they sell alcohol to other businesses.
- 17.12 Examples of trade buyers would be pubs, clubs, restaurants, cafes, retailers and hotels. However, they will need to check that the wholesaler they purchase alcohol from is registered with HMRC.
- 17.13 The applicant will be expected to detail in their operating schedule how they will prevent crime and disorder on and close to the premises. Such detail should reflect the licensable activities on offer, location and character of the area, the nature of the premises use and the range of customers likely to use the premises.

These may include, but are not limited to, the following:

- Prevention of disorderly conduct and anti-social behaviour
- Prevention of underage drinking
- Prevention of sales of alcohol to intoxicated customers
- Prevention of drunkenness both on and in the vicinity of the premises
- Prevention of drug use and drug dealing
- Restriction to responsible drinks promotions
- Use of safety glass
- Inclusion of a wind-down time following alcohol sales period
- Adequate seating to discourage “vertical drinking”
- The offer of food and snacks or other entertainment or occupation to discourage persistent drinking

17.14 In busier premises the Licensing Authority would usually expect to see a short (e.g.30 mins) ‘wind down’ or ‘drinking up’ period allowed for after the cessation time of entertainment and alcohol sales as this is effective in assisting in a reduction in noise and exuberance of customers before leaving the premises.

17.15 Applicants will be expected to seek advice from the Police and the Licensing Authority will give appropriate weight to requests by the Police for premises to be protected by SIA registered door staff subject to the provision of relevant evidence. Where the Licensing Authority determines after consultation with the police that a premises is one that warrants additional security and monitoring it would expect applicants to include the provision of SIA approved door staff at the premises at appropriate times. Relevant premises are usually those used mainly for drinking alcohol, have later opening hours and are situated within the Town Centre night time economy area.

17.16 Where appropriate, applicants for licences in the Town Centre areas providing mainly alcohol, music and dancing would be expected to consider inclusion of a provision of safety glasses to prevent a risk of injury on the rare occasion that a glass may be used as a weapon.

17.17 The use of CCTV should be considered where appropriate or on the advice and recommendations of the Police and to a quality and standard approved by the Police for evidential purposes. Licensees will be expected to fully comply with the requirements of the Information Commissioners Office and the Data Protection Act 1998 in respect of any surveillance equipment installed at a premises.

17.18 In any application resulting in hearing the sub-committee will consider each application on its individual merits and determine the imposition of conditions that are appropriate to promotion of the licensing objectives.

#### **CONDITIONS TO PROMOTE PUBLIC SAFETY.**

- 17.19 The applicant will be expected to show how the physical safety of persons attending the premises will be protected and to offer any appropriate steps in the operating schedule to promote this.
- 17.20 Such steps will not replace the statutory obligation on the applicant to comply with all relevant legislation under the Health and Safety at Work etc. Act 1973 or under the Regulatory Reform (Fire Safety) Order 2004.
- 17.21 Applicants will be expected to have carried out the necessary risk assessments to ensure safe occupancy levels for the premises. Where a representation from the Fire Authority suggests that for the promotion of the Public Safety objective a maximum occupancy should be applied, the Licensing Authority will consider adding such a limit as a licence condition.

Where appropriate an operating schedule should specify occupancy limits for the following types of licensed premises:

- (i) High Volume Vertical Drinking e.g. premises that provide mainly stand up drinking facilities with limited seating/table space and the primary activity is the sale of alcohol
- (ii) Nightclubs
- (iii) Cinemas
- (iv) Theatres
- (v) Other premises where regulated entertainment is likely to attract a large number of people.
- (vi) Where conditions of occupancy have arisen due to representations received.

#### **CONDITIONS TO PROMOTE THE PREVENTION OF PUBLIC NUISANCE.**

- 17.22 The applicant will be expected to detail any appropriate and proportionate steps to prevent nuisance and disturbance arising from the licensable activities at the premises and from the customers using the premises.
- 17.23 The applicant will be expected to demonstrate that they have considered the following and included steps to prevent public nuisance:
- (i) Proximity of local residents to the premises
  - (ii) Licensable activities proposed and customer base
  - (iii) Hours and nature of operation
  - (iv) Risk and Prevention of noise leakage from the premises from equipment, customers and machinery
  - (v) Prevention of noise from customers leaving the premises and customer pick up points outside premises and from the Car Park.
  - (vi) Availability of public transport to and from the premises



- (vii) Delivery and collection times and locations.
- (viii) Impact of external security or general lighting on residents.
- (ix) History of management of and complaints about the premises.
- (x) Applicant's previous success in preventing Public Nuisance.
- (xi) Outcomes of discussions with the relevant Responsible Authorities.
- (xii) Impact of location, noise and contamination from outside smoking areas on neighbours and other customers
- (xiii) Collection of litter arising from the premises

17.24 Steps to prevent public nuisance may include a range of options including noise limiting devices, sound insulation, wind down periods, acoustic lobbies, management of smoking areas etc.

17.25 Steps will differ depending on the individual premises and activities and it is for the applicant to ensure that reasonable, effective and appropriate steps are included within the operating schedule.

#### **CONDITIONS TO PROMOTE THE PROTECTION OF CHILDREN FROM HARM.**

17.26 Applicants will be expected to detail any appropriate and proportionate steps to protect children at the premises from any harm. The Licensing Authority recognises the right of licensees (serving alcohol) to allow accompanied children into their premises. The Licensing Authority would not seek to restrict access by children (above that specified in the Act) unless it is necessary for the prevention of physical, moral or psychological harm.

17.27 Steps to protect children from harm must be carefully considered for inclusion where:

- (i) There is entertainment or services of an adult nature provided.
- (ii) There have been previous convictions for under age sales of alcohol.
- (iii) There has been a known association with drug taking or dealing.
- (iv) There is a significant element of gambling on the premises.
- (v) There is a presumption that children under 18 should not be permitted entry such as to nightclubs (apart from when specific events are held for under 18's).
- (vi) Outcomes of discussions with relevant Responsible Authorities suggest such steps are applicable.

17.28 Nothing in the Licensing Act prevents licensees from excluding children from a licensed premises and no condition can be added to require the admission of children.

17.29 Where there are no matters that give rise to concern in respect of children at premises the Licensing Authority would expect to see the relevant box on an application form completed to specify NONE.

## **18. PERSONAL LICENCES**

- 18.13 Any person who wishes to act as a DPS at licensed premises must be in possession of a personal licence issued under the Licensing Act 2003. Any other person may also apply for a personal licence subject to meeting the necessary criteria. The Licensing Authority acknowledges the default grant position for applicants who meet the statutory criteria under the Licensing Act 2003.
- 18.14 The Police will only be consulted where the applicant declares a previous conviction for a relevant offence. A relevant conviction is one that is listed in Schedule 4 of the Licensing Act 2003.
- 18.15 Where a representation is received from the Police the Licensing Authority must hold a hearing unless the Police and the authority agree that it is unnecessary..The application must be rejected if it is considered appropriate for the promotion of the crime prevention objective and granted in any other case.
- 18.16 The Police must give a notice of objection to the Licensing Authority within the statutory 14 day consultation period. The Licensing Authority accepts that there is no discretion to accept a late notification from the Police even if the objection provided evidence that to grant the licence would undermine the crime prevention objective.
- 18.17 The Licensing Authority requires all personal licence holders to advise if there is a change of their name or address in accordance with the Act. All licence holders are advised of this requirement when a licence is granted. Any changes will be updated and an amended licence will be issued within 20 working days of a notification of change.
- 18.18 The Licensing Authority anticipates that the Magistrates' and Crown Courts will take appropriate action in relation to a personal licence where licence holders are convicted of relevant offences in those courts after the grant of a personal licence and notify the Licensing Authority of any action taken in respect of a personal licence.
- 18.19 The Licensing Authority requires personal licence holders to undertake their duty to disclose any convictions for a relevant offence after a personal licence has been granted. The Licensing Authority and/or the Police will take appropriate formal action against the licence holder where subsequent relevant convictions are not declared under that duty.

## **19. TEMPORARY EVENT NOTICES**

- 19.13 The Licensing Act 2003 makes provision for the authorisation of a person (known as a premises user) to provide licensable activities on a temporary basis at unlicensed premises, or to add activities and/or extend the hours of existing activities at a licensed premises. The activities are authorised by the serving of a Temporary Event Notice (TEN) on the Licensing Authority, subject to the notice meeting the proper criteria as detailed under the Act.
- 19.14 Comprehensive planning of events is essential and where there are likely to be impacts on neighbouring residents or businesses as a result of the activities to be authorised by a TEN, the Licensing Authority expects the premises user to have considered any potential impacts and how they may be mitigated.

- 19.15 The Licensing Authority welcomes requests for advice from applicants who wish to provide temporary events to ensure they understand the law relating to such events and to reduce the likelihood of objections being made.
- 19.16 There are two types of TEN, Standard or Late. Both are subject to a numerical limit on the number of each type of TEN that can be served by personal licence holders and non-personal licence holders in a calendar year. There is also a numerical limitation on the number of TENS that may be served in respect of individual premises or place.
- 19.17 **Standard TEN.** A standard TEN must be served at least 10 working days (Monday to Friday excluding Bank Holidays) before the event commences. The 10 working days excludes the day of service and the day on which the event starts. Copies of the TEN must be served on the Licensing Authority, The Environmental Health (EH) Department, and the Police. The fee is payable only to the Licensing Authority. Applicants are encouraged to serve TENS at least 28 days before the proposed events to allow greater time for an event to be planned.
- 19.18 Where numerical limits are exceeded the Licensing Authority will serve a counter notice and the proposed licensable activities will not be authorised.
- 19.19 Where objections are received from the Police and/or EH and not withdrawn, the notice will be referred for a hearing before the Licensing Sub-Committee. The Sub-Committee may approve the TEN as applied for, add appropriate conditions (if the TEN takes place on a premises with an existing premises licence) or reject a TEN by serving a counter notice.
- 19.20 **Late TEN.** A late TEN may be served between 9 and 5 working days before a proposed event commences. The same limitations apply to the day the notice was served and the day of the event. Where numerical limits are exceeded a counter notice will be served and the proposed licensable activities will not be authorised.
- 19.21 If the late TEN is served with fewer than 5 working days' notice it is deemed invalid and would be rejected. The proposed activities would not be authorised. The Licensing Authority has no discretion to accept TENS outside the permitted statutory deadlines.
- 19.22 Where valid representations are received from the Police or EH in respect of a late TEN, the TEN will be rejected and proposed activities will be unauthorised. A refund of the fee will not be made.
- 19.23 The Licensing Authority will take the appropriate action where there is evidence that licensable activities have been provided without the authorisation of a TEN.
- 19.24 It should be noted that if a TEN has been processed and is no longer required the fee will not be refunded as the Licensing Authority has already carried out its obligations.

## **20. OTHER RELEVANT MATTERS**

- 20.13 **Adult entertainment.** The Licensing Authority has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and premises offering regular entertainment of a sexual nature must be licensed as a sex establishment under those provisions.
- 20.14 The Licensing Authority acknowledges that exemptions under the above legislation do allow sexual entertainment to be provided at premises licensed under the Licensing Act

2003, as long as it is provided on no more than 11 occasions within 12 months and with at least 1 month between each occasion. Those infrequent events will be regulated by the licence granted under the Licensing Act 2003 where that licence authorises performances of dance and where the original application specified that such adult entertainment was proposed to be provided.

20.15 **Gaming machines in licensed premises - Automatic entitlement.** There is provision in the Gambling Act 2005 (GA2005) for premises licensed to sell alcohol for consumption on the premises to automatically have two gaming machines of category C and/or D. The premises licence holder merely needs to notify this Licensing Authority and pay the prescribed fee.

20.16 This authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives (under the GA2005);
- gaming has taken place on the premises that breaches a condition of section 282 of the GA2005 (for example, the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines);
- the premises are mainly used for gaming; or
- an offence under the GA2005 has been committed on the premises.

20.4 **Gaming Machine Permit** – If a premises wishes to have more than 2 machines of categories C and/or D, then it needs to apply for a permit and this authority will consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission under section 25 of the Act, and such matters as officers consider relevant.

20.17 In determining such matters, consideration will be given to all the objectives but particularly the need to protect children from harm and to the need to protect vulnerable persons from harm or being exploited by gambling. The applicant will be required to satisfy the authority that there will be sufficient measures to ensure that minors do not have access to the adult only gaming machines.

20.18 Measures to satisfy the authority relate to restricting access to age restricted machines and adult machines being in sight of the bar, or in sight of staff who will monitor that the machines are not being used by minors. Notices and signage should also be displayed to this effect. Applicants may consider the provision of information leaflets and helpline numbers for organisations such as GamCare to demonstrate their responsibility in the protection of vulnerable persons and compliance with Codes of Practice issued by the Gambling Commission.

20.19 **Gambling in alcohol 'On' licensed premises.** Exempt gaming is equal chance gaming that is generally permissible in any club or alcohol licensed premises. Equal chance gaming includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker. Such gaming should be ancillary to the purposes of the premises.

20.20 This exemption is automatically available to all clubs or alcohol licensed premises, but is subject to statutory stakes and prize limits determined by the Secretary of State. Licensees are encouraged to seek advice from the Gambling Commission at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk) or this Licensing Authority before providing any forms of gambling at alcohol licensed premises.

20.21 Licensees should consider appropriate arrangements for customers who wish to smoke outside the premises in an effort to ensure that any unlicensed pavement area are not also used as allocated smoking area. This is to prevent nuisance and potential health harms to any non-smokers who may use the area.

## **21. INFORMATION**

21.1 In order to ensure that applicants and persons who make representations have the necessary information to be able to do so, information is available on the Maidstone Borough Council website [www.maidstone.gov.uk](http://www.maidstone.gov.uk) or by contacting the licensing team by email ([licensing@maidstone.gov.uk](mailto:licensing@maidstone.gov.uk)), or by telephone on 01622 602028

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## APPENDIX A

Maidstone is the County Town of Kent situated in the heart of the “Garden of England”. Maidstone Borough includes a variety of picturesque rural villages. Maidstone town has a vibrant retail centre, historic attractions and is a popular visitor destination with a busy day, evening and night time economy, and many cultural and leisure activities.

### SOUTH EAST ENGLAND



There are 507 premises licences and 33 club premises certificate issued to businesses associated with the Licensing Act provisions. There are 461 licences that allow the sale of alcohol, 98 are on sales only, 142 are off sales only and 222 that allow both on and off sales. There are 321 premises licensed for late night refreshment. This premises includes Leeds Castle which holds cultural events and evening concerts during the summer months, the Lockmeadow Leisure Complex providing multi-screen cinema, restaurants and a night club, the Hazlitt Theatre and Exchange Complex, the County Agricultural Showground at Detling, Mote Park which has staged many popular music events and many premises such as restaurants, hotels, public houses, village halls and community centres in the rural area. There were also 386 Temporary Event notices dealt with in 2014/15

Tourism along with economic development works to deliver the Council’s key priority of prosperity, by attracting visitor expenditure to the local economy, by the promotion of Maidstone as an attractive location for inward investment and through support for existing and start-up tourism businesses. This works in partnership with the Council’s priority of Quality Living by engendering community pride in Maidstone and improving the quality of life.

Maidstone has a population of 155,143 people (2011 census) comprised of the following:

<b>Maidstone</b>	no	%
Under 16	29667	19.1
16 to 19	7385	4.8
20 to 29	18274	11.8
30 to 59	63102	40.6
60 to 74	24470	15.8
75 and over	12245	7.9

In Maidstone, violence against the person increased from 1,889 offences in 2012/13 to 2,349 offences in 2013/14 (+24.4%). This rate of increase is below the county increase and shows a peak during the summer months. Maidstone is ranked 6th in the county, the same ranking as 2012/13.

For community safety it is important to state that its aim is to create safer communities in the Borough by reducing crime and disorder in a cost effective way, through involving the community and partnership working. In December 2006 the Council made Designation Orders under the provisions of the Criminal Justice and Police Act 2001 (as amended by the Licensing Act 2003) in relation to alcohol consumption in public places.

The Council were satisfied that nuisance or annoyance had been caused to the public or disorder caused, associated with the consumption of alcohol. The Orders provide the Police with the power to require consumption to cease and confiscate containers. The areas covered by the Orders included:-

- Area 1 – Town Centre Maidstone
- Area 2 – Snowdon Parade, Vinters Park
- Area 3 – Mote Park, Maidstone
- Area 4 – Northumberland Court, Maidstone
- Area 5 – Cumberland Green, Maidstone
- Area 6 – Barming Recreation Ground (also known as Barming Heath)
- Area 7 – Parkwood Green, Maidstone

These will be reviewed and consideration given to Public Spaces Protection Orders (PSPOs) under new legislation as appropriate.

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## Appendix B

### Contact details of Local Authority Licensing Department as at 11.06.2015

<p>Lorraine Neale Senior Licensing Officer Email: <a href="mailto:lorryneneale@maidstone.gov.uk">lorryneneale@maidstone.gov.uk</a> Telephone: 01622 602028</p>	<p>Louise Davis Licensing Officer <a href="mailto:louisedavis@maidstone.gov.uk">louisedavis@maidstone.gov.uk</a> Telephone: 01622 602727</p>
<p>Licensing Department Maidstone Borough Council Maidstone House King Street Maidstone Kent ME15 6JQ</p> <p>Licensing Partnership Sevenoaks District Council Council Offices PO Box 182 Argyle Road Sevenoaks Kent TN13 1GP</p> <p>Web; <a href="http://www.maidstone.gov.uk/business/licencesandpermits">www.maidstone.gov.uk/business/licencesandpermits</a> Email: <a href="mailto:licensing@maidstone.gov.uk">licensing@maidstone.gov.uk</a> Telephone: 01622 602028</p>	

See the Maidstone Borough Council Website [www.maidstone.gov.uk](http://www.maidstone.gov.uk) for details of the Town and Parish Councils within the Borough. Details of your local Councillors may also be obtained from the website.

Information on licensing applications being processed is available on the licensing pages of Maidstone Borough Council's website [www.maidstone.gov.uk](http://www.maidstone.gov.uk) or the Licensing Partnership website at Sevenoaks District Council website [www.sevenoaks.gov.uk](http://www.sevenoaks.gov.uk)



**Appendix C**  
**Responsible Authorities**

<p><b>Kent Fire &amp; Rescue Service</b> Asst Divisional Officer Maidstone Fire Safety Loose Road Maidstone Kent ME15 6QD</p> <p>Tel: 01622 774126 Email: <a href="mailto:maidstone.firesafety@kent.fire-uk.org">maidstone.firesafety@kent.fire-uk.org</a></p>	<p><b>Maidstone &amp; Malling Police</b> Divisional Licensing Coordinator Community Safety Unit Tonbridge and Malling Borough Council Gibson Drive Kings Hill West Malling ME19 4LZ</p> <p>Tel: 01622 604296 Email: <a href="mailto:west.division.licensing@kent.pnn.police.uk">west.division.licensing@kent.pnn.police.uk</a></p>
<p><b>Trading Standards</b> Kent County Council 1<sup>st</sup> Floor, Invicta House County Hall Maidstone Kent. ME14 1XX</p> <p>Tel: 03000 412000 <a href="mailto:TSwest@kent.gov.uk">TSwest@kent.gov.uk</a></p>	<p><b>Social Services</b> Kent County Council Social Services Mid Kent Area, District Office Maidstone House King Street Maidstone Kent ME15 6JQ</p> <p>Tel: 01622 691640 Fax: 01622 691135</p>
<p><b>Local Planning Authority</b> Maidstone Borough Council Maidstone House King Street Maidstone Kent ME15 6JQ</p> <p>Tel: 01622 602736 or 602737 Email: <a href="mailto:DevelopmentControl2@maidstone.gov.uk">DevelopmentControl2@maidstone.gov.uk</a></p>	<p><b>Public Health Kent</b> Kent Public Health Department Room 3.45, Sessions House, County Hall, County Road Maidstone Kent ME14 1XQ</p> <p>Tel: 0300 333 6379 <a href="mailto:Gillian.Montgomery@kent.gov.uk">Gillian.Montgomery@kent.gov.uk</a></p>
<p><b>Director of Regeneration and Prosperity</b> Maidstone Borough Council Maidstone House King Street Maidstone Kent ME15 6JQ</p> <p>Tel: 01622 602364</p>	<p><b>Environmental Health</b> Maidstone Borough Council Maidstone House King Street Maidstone Kent ME15 6JQ</p> <p>Tel: 01622 602111 Email: <a href="mailto:Enforcementoperations@maidstone.gov.uk">Enforcementoperations@maidstone.gov.uk</a></p>
<p><b>FOR VESSELS ONLY – ALSO SEND TO:</b> <b>Environment Agency</b></p>	

<p>Kent Area Office Orchard House Endeavour Park London Road Addington West Malling Kent ME19 5SH Tel: 08708 506506 Website: <a href="http://www.environment-agency.gov.uk">www.environment-agency.gov.uk</a> Email: <a href="mailto:enquiries@environment-agency.gov.uk">enquiries@environment-agency.gov.uk</a></p>	
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## Appendix D

### References to guides of best practice

Revised guidance issued under section 182 of Licensing Act 2003

[www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003](http://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003)

Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics

[www.ioa.org.uk](http://www.ioa.org.uk)

Good Practice Guide: Licensing published jointly by the Justices' Clerks' Society and the Magistrates' Association (April 1999)

[www.magistrates-association.org.uk](http://www.magistrates-association.org.uk)

Code Of Practice And Guidance Notes On Noise Control For Concerts And Outdoor Events

[www.cieh.org/policy/noise\\_council\\_environmental\\_noise.html](http://www.cieh.org/policy/noise_council_environmental_noise.html)

Maidstone Borough Council Event Planning (SAG)

[www.maidstone.gov.uk/residents/events/event-planning](http://www.maidstone.gov.uk/residents/events/event-planning)

The National Alcohol Harm Reduction Strategy Toolkit

[www.alcoholconcern.org.uk](http://www.alcoholconcern.org.uk)

The Point of Sale Promotions published by BBPA

[www.beerandpub.com](http://www.beerandpub.com)

Public Places Charter

[www.ash.org.uk](http://www.ash.org.uk)

National Pubwatch

[www.nationalpubwatch.org.uk](http://www.nationalpubwatch.org.uk)

## Appendix E

### Contact details and useful addresses (e.g. Chamber of Trade, BBPA, BII, SIA etc.)

Maidstone Chamber of Commerce Innovation Centre Medway Maidstone Road Chatham Kent ME5 9FD Phone: 01634 565 162	Disclosure and Barring Service (DBS) Customer services PO Box 165 Liverpool L69 3JD Information line: 0870 90 90 811 Website: <a href="https://www.gov.uk/disclosure-barring-service">https://www.gov.uk/disclosure-barring-service</a>
British Beer & Pub Association Ground Floor Brewers' Hall Aldermanbury Square London EC2V 7HR Tel: 020 7627 9191 Fax: 020 7627 9123 contact@beerandpub.com Press Office: 020 7627 9199	British Institute of Inn keeping (BII) Wessex House 80 Park Street Camberley Surrey. GU15 3PT Tel: 01276 684 449 Fax: 01276 23045 <a href="http://www.bii.org">www.bii.org</a> Email: <a href="mailto:reception@bii.org">reception@bii.org</a>
SIA PO Box 49768 London. WC1 V6WY Website: <a href="http://www.the-sia.org.uk">www.the-sia.org.uk</a> Tel: 0844 892 1025 Fax: 0844 892 0975	

**Appendix F - Recommended delegation of functions as per S182 of the guidance**

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence		If a police objection	If no objection made
Application for a personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	If no objection made
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	If no objection made
Applications for interim authorities		If a police objection	If no objection made
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc.			All cases
Decision to object when Local Authority is a consultee and not the relevant authority considering the application		All cases	
Determination of an objection to a temporary event notice		All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition		If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination for a minor variation			All cases