

LICENSING COMMITTEE MEETING

Date: Wednesday 27 November 2019
Time: 6.30 pm
Venue: Town Hall, High Street, Maidstone

Membership:

Councillors Fissenden, Fort, Garten, Mrs Grigg, Hinder, Mrs Hinder, Joy (Chairman), McLoughlin, Naghi, Mrs Robertson, M Rose (Vice-Chairman), J Sams and Springett

The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.

AGENDA

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Urgent Items
4. Disclosures by Members and Officers
5. Visiting Members
6. Disclosures of Lobbying
7. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
8. Minutes of the Meeting Held on 19 September 2019 1 - 5
9. Minutes (Part I) of the Licensing Act 2003 Sub-Committee held on 6 September 2019 6 - 9
10. Minutes of the Licensing Act 2003 Sub-Committee Meeting held on 30 September 2019 10 - 25
11. Minutes of the Licensing Act 2003 Sub-Committee Meeting held on 23 October 2019 26 - 34
12. Minutes of the Licensing Act 2003 Sub-Committee Meeting held on 6 November 2019 35 - 45
13. Presentation of Petitions (If Any)

Issued on Tuesday 19 November 2019

Continued Over/:

Alison Broom

Alison Broom, Chief Executive

14. Question and Answer Session for Members of the Public	
15. Committee Work Programme	46
16. Reference from Communities, Housing and the Environment Committee acting as the Crime and Disorder Committee	47
17. Licence Fees and Charges 2020/2021	48 - 59
18. Update on Animal Licensing Activities	60 - 74

PART II

To move that the public be excluded for the items set out in Part II of the Agenda because of the likely disclosure of exempt information for the reasons specified having applied the Public Interest Test.

Head of Schedule 12 A and Brief Description

19. Minutes (Part II) of the Licensing Sub-Committee held on 6 September 2019	Paragraph 1 - Info re an individual	75 - 78
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PUBLIC SPEAKING AND ALTERNATIVE FORMATS

If you require this information in an alternative format please contact us, call **01622 602899** or email committee@maidstone.gov.uk.

In order to speak at this meeting, please contact Democratic Services using the contact details above, by 5 p.m. one clear working day before the meeting, i.e. by 5 p.m. on 25 November 2019. If asking a question, you will need to provide the full text in writing. If making a statement, you will need to tell us which agenda item you wish to speak on. Please note that slots will be allocated on a first come, first served basis.

To find out more about the work of the Committee, please visit www.maidstone.gov.uk.

MAIDSTONE BOROUGH COUNCIL

LICENSING COMMITTEE

MINUTES OF THE MEETING HELD ON THURSDAY 19 SEPTEMBER 2019

Present: Councillor Mrs Joy (Chairman), and
Councillors Fissenden, Garten, Mrs Grigg, Hinder,
Mrs Hinder, McLoughlin, Mrs Robertson, M Rose,
J Sams and Springett

21. **APOLOGIES FOR ABSENCE**

There were no apologies for absence.

22. **NOTIFICATION OF SUBSTITUTE MEMBERS**

It was noted that there were no Substitute Members.

23. **URGENT ITEMS**

There were no urgent items.

24. **CHANGE OF THE ORDER OF BUSINESS**

The Chairman indicated her wish to move the Committee Work Programme to the end of the agenda as this item was likely to stimulate a lot of debate and a member of the taxi trade was present for one of the main agenda items.

25. **DISCLOSURES BY MEMBERS AND OFFICERS**

There were no disclosures by Members or Officers.

26. **VISITING MEMBERS**

There were no Visiting Members.

27. **DISCLOSURES OF LOBBYING**

There were no disclosures of lobbying.

28. **EXEMPT ITEMS**

RESOLVED: That all items be taken in public as proposed.

29. MINUTES OF THE MEETING HELD ON 11 JULY 2019

RESOLVED: That the Minutes of the meeting held on 11 July 2019 be approved as a correct record and signed.

30. PRESENTATION OF PETITIONS

There were no petitions.

31. QUESTIONS AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC

There were no questions from members of the public.

32. MEMBER TRAINING FOR LICENSING - ORAL UPATE

The Head of Housing and Community Services provided an oral update to the Committee on Licensing Training and advised that all the Members of the Committee had completed their training.

However, it was noted that the Substitute Members for some of the political parties had not completed their training and would therefore not be able to sit on the Committee as a Substitute Member until properly trained. The Head of Housing and Community Services advised that he would be writing to the relevant Group Leaders to advise them.

RESOLVED: That the update be noted.

Following the meeting it was established that Councillor Purle had completed all his licensing training and would therefore be able to sit as a Substitute Member for the Conservative Party.

33. HACKNEY CARRIAGE LICENCE - UNMET DEMAND SURVEY 2019

The Senior Licensing Officer presented a report on the Hackney Carriage Licence – Unmet Demand Survey.

The Committee noted the results of the Unmet Demand Survey carried out by the Licensed Vehicle Surveys and Assessment (LVSA), part of the Vector Transport Consultancy, and considered the options open to the Council with regard to maintaining, partially maintaining or removing a limit on the number of hackney carriage licences that are issued.

The Committee noted that:-

- The current limit was 48 and that there was a discretion for that to continue provided that the Council were satisfied there was no significant demand for hackney services in the Borough which was unmet.
- Previous and present survey results, as well as feedback from the trade had shown that there was no significant unmet demand.

- The survey highlighted that out of the 12 recognised ranks (10 official), 75% of all hirings were made from the High Street rank.

In response to questions from Members, the Senior Licensing Officer responded:-

- That if the limit was removed
 - a) There would be more vehicles available to flag down in the High Street.
 - b) There would be limited taxi ranks in the Town Centre which could lead to some congestion.
 - c) The Council would not be able to stipulate the high calibre of vehicle.
 - d) The trading value for the existing licences would be diminished.

The Committee made the following comments:-

- The limit should not be taken away, it worked well as it was.
- That should the limit be increased, this would result in more pollution.

RESOLVED: That in view of the evidence put forward by the Licensed Vehicle Surveys and Assessment (LVSA), part of the Vector Transport Consultancy, the current limit on numbers of hackney carriages be maintained.

34. MAIDSTONE PRE-APP ADVICE IN PRINCIPLE

The Head of Licensing Partnership presented a report on the introduction in principle of Licensing pre-application advice.

The Committee noted that:-

- Although the report sought agreement in principle to charging for licensing pre-application advice, the actual fees would not be considered by Members until their meeting in November.
- There were two types of pre-application advice for licensing matters:-
 - a) Advice given by a member of the licensing staff on licensing matters such as premises licences, which could involve a telephone call, assessing plans, attending meetings, site visits and the possibility of providing advice on draft conditions.
 - b) A Check and Send Service – which related to applications

defined under the Licensing Act 2003, mainly for transfers and variations of designated premises supervisors as there was a higher instance of applications being submitted which were invalid upon receipt.

In response to questions from Members, the Head of Licensing Partnership said that:-

- Although a fee would be charged, it would not guarantee that the application would be successful as the licensing team would not be able to predict if there would be any objections. She added that the advice would be based on the team's knowledge and experience.
- That if an application was refused after pre-application advice then the applicant would be charged again if the licensing officer had to provide further advice.
- The hourly rate for the pre-application advice had yet to be calculated and if the service generated a lot of demand then the surplus could be used to offset current costs and could be used to employ more resource or reduce other charges across the licensing spectrum.

Members expressed their concerns about charging for pre-application advice for Animal Licensing.

RESOLVED: That the Committee agrees in principle to the introduction of charging for pre-application advice for certain types of licence applications.

Councillor Garten asked for his dissent to be noted.

35. COMMITTEE WORK PROGRAMME 2019-20

The Committee considered the Work Programme and discussed the options open to them for revisiting premises which had been considered through the Licensing Act 2003 Sub-Committee.

The Democratic Services Officer was asked to collate the preferences of those Members present on the premises to be visited and would circulate the results by email and arrange a day-time visit to the establishments within the next couple of months.

RESOLVED: That

- 1) The Committee Work Programme be noted.
- 2) The Democratic Services Officer circulate to the Committee the outcome from the selection process by Members of the licensed premises that they would like to visit.

36. DURATION OF MEETING

6.30 p.m. to 7.52 p.m.

Agenda Item 9

MAIDSTONE BOROUGH COUNCIL

LICENSING ACT 2003 SUB COMMITTEE

MINUTES (PART 1) OF THE MEETING HELD ON FRIDAY 6 SEPTEMBER 2019

Present: Councillors Mrs Hinder (Chairman), Hinder and Joy

5. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

6. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

7. TO CONSIDER WHETHER ANY ITEMS SHOULD BE TAKEN IN PRIVATE
BECAUSE OF THE POSSIBLE DISCLOSURE OF EXEMPT INFORMATION

RESOLVED: That the public be excluded from the meeting for the following item of business because of the likely disclosure of exempt information for the reason specified having applied the Public Interest Test:

**Head of Schedule 12 A
and Brief Description**

Expedited Review of a Premises Licence
under Section 53A of the Licensing Act 2003

Paragraph 1 –
Information relating
to any individual

8. EXPEDITED REVIEW OF A PREMISES LICENCE UNDER SECTION 53A OF
THE LICENSING ACT 2003

The meeting commenced at 11.07 a.m.

The Chairman requested that all those participating in the hearing identified themselves as follows:-

Councillor Mrs Wendy Hinder – Chairman
Councillor Bob Hinder – Committee Member
Councillor Mrs Denise Joy – Committee Member

Robin Harris – Legal Officer
Lorraine Neale – Senior Licensing Officer
Mike Nash – Democratic Services Officer

For the Applicant:

Mr James Williams – Kent Police
Mr Mark Beresford – Kent Police
Mr Chris Hall – Kent Police

For the Objector:

Mr David Fuller – freeholder of the property and license holder of the premises

The Chairman asked all parties to confirm that they were aware of the hearing procedure.

The Committee Members confirmed that they had pre-read all the agenda papers and any other documents regarding the hearing.

The applicant was invited to give his opening remarks.

Mr James Williams outlined the nature of the serious disorder that took place in Jubilee Square on 25 August 2019 at 3.00 a.m. and explained that the security procedures adopted by The Gallery nightclub were relevant to the ongoing investigation.

Mr Chris Hall, Mr Mark Beresford and Mr James Williams responded to questions from the Committee relating to the incident and the security procedures at The Gallery nightclub.

The objector was invited to give his opening remarks.

Mr Fuller confirmed details relating to the ownership and leasing of the premises license and explained the day-to-day management arrangements for the venue.

In response to questions from the Committee, Mr Fuller outlined the nature of the future events that had been booked at the venue and clarified that all events to be held on a Saturday had been cancelled.

Mr Harris asked Kent Police to comment on the Objectors counterproposal.

Mr Beresford and Mr Hall reasserted the reasons why the original proposal had been submitted.

The Chairman advised that the Committee would retire for deliberation.

The meeting closed at 11.58 a.m.

9. NOTICE OF DETERMINATION



RECORD OF CONSIDERATION OF INTERIM STEPS LICENSING ACT 2003 SS53A –C

Applicant Summary Review: Superintendent Warren Franklin, Kent Police

Premises: The Gallery Bank Street Maidstone Kent ME14 1SD

Licence Holders: Mr Dave Fuller

Date of Consideration: 6th September 2019

Licensing Sub Committee Members: Cllr Wendy Hinder (Chairman)

Cllr Denise Joy

Cllr Bob Hinder

Legal Advisor in attendance: Robin Harris, Interim Team Leader
(Contentious), MKLS

Licensing Officer in attendance: Lorraine Neale

DECISION AND REASONS

The Sub Committee have considered whether interim steps are necessary in this case. They have considered the grounds set out in the application for summary review and the oral representations made by Kent Police and the Licence holder. This included the evidence in the summary review application. Also, conditions offered by the Licence holder as appropriate and proportionate to promote the relevant Licensing objectives were considered.

The Sub-Committee considered the options available to them, in particular the interim step of suspension of the Licence requested by Kent Police. Having heard representations from all parties the Sub-Committee were of the view that only the suspension of the licence would properly promote the licensing objectives and that this interim step was necessary for the prevention of crime and disorder and the protection of children from harm.

The Sub-Committee considered that there were no conditions that could be imposed as interim steps in lieu of suspension and that the premises should use the suspension period

as an opportunity to pause, consider its operating schedule and work with the Police in order to propose an updated operating schedule at the impending full review hearing.

The 'distraction' created by trying to dynamically risk assess and manage events in the interim period would hamper that process and there would be a very real danger that adequate risk assessments for events would be impossible in the short term due to the community tension around this premises.

For all the above reasons the interim step of suspension of the licence pending the full review hearing was appropriate, proportionate and necessary to promote the licensing objectives.

There is no right of appeal against this interim steps decision.

Dated: 6th September 2019

Signed: Signed copy kept on file

Agenda Item 10

MAIDSTONE BOROUGH COUNCIL

LICENSING ACT 2003 SUB COMMITTEE

MINUTES OF THE MEETING HELD ON MONDAY 30 SEPTEMBER 2019

Present: Councillor Mrs Grigg (Chairman), and
Councillors Mrs Joy and Springett

1. **APOLOGIES FOR ABSENCE**

It was noted that apologies for absence were received from Councillor McLoughlin.

2. **NOTIFICATION OF SUBSTITUTE MEMBERS**

It was noted that Councillor Springett was present as a Substitute for Councillor McLoughlin.

3. **ELECTION OF CHAIRMAN**

RESOLVED: That Councillor Mrs Grigg be elected Chairman for the duration of the meeting.

4. **URGENT ITEMS**

The Chairman referred to the items already circulated to the Sub-Committee and stated that these would be taken as urgent updates and would form part of the evidence for the hearing.

5. **DISCLOSURES BY MEMBERS AND OFFICERS**

There were no disclosures by Members or Officers.

6. **DISCLOSURES OF LOBBYING**

There were no disclosures of lobbying.

7. **EXEMPT ITEMS**

The Legal Officer advised the Sub-Committee that both the Police and the Legal Representative for the Applicant had requested that Agenda Item 9 be taken in private due to the sensitive nature of the live criminal investigation by the Police.

RESOLVED: That Agenda Item 11 be taken in private due to the sensitive nature of the live criminal investigation by the Police which may prejudice the case if sensitive information were to be disclosed in the public domain.

8. **EXCLUSION OF THE PUBLIC AND PRESS FROM THE MEETING**

RESOLVED: That the public and the press be excluded from the meeting for the following item of business because of the likely disclosure of exempt information for the reason specified having applied the Public Interest Test:

**Head of Schedule 12 A
and Brief Description**

Application for Summary Review Full
Hearing and Review of Interim Steps –
The Gallery, 87-88 Bank Street,
Maidstone, Kent ME14 1SD

Paragraph 7 – Information
relating to any action
taken or to be taken in
connection with the
prevention, investigation
or prosecution of crime.

9. APPLICATION FOR SUMMARY REVIEW FULL HEARING AND REVIEW OF
INTERIM STEPS – THE GALLERY, 87 - 88 BANK STREET, MAIDSTONE,
KENT, ME14 1SD

The meeting commenced at 2.05 p.m.

The Chairman requested that all those participating in the hearing
identified themselves as follows:-

Councillor Mrs Susan Grigg – Chairman
Councillor Mrs Val Springett – Committee Member
Councillor Mrs Denise Joy – Committee Member

Robin Harris – Legal Officer
Lorraine Neale – Senior Licensing Officer
Caroline Matthews – Democratic Services Officer

For the Applicant –

PC James Williams – Kent Police
PSE Ellen Shaw – Kent Police

For the Licence Holder –

Leo Charalambides – Legal Representative
Luke Elford – Century Buildings (Rochester) Limited

Witnesses and legal representatives in support of the licence holder –

Mr David Fuller
Mr Trevor Modell
Miss Carla Helyar

The Chairman asked all parties to confirm that they were aware of the
hearing procedure.

The Committee Members confirmed that they had pre-read all the agenda papers and any other documents regarding the hearing.

The Legal Officer advised that the Kent Police and the Applicant had agreed to modify the conditions and therefore the Legal Advisor for the Licence Holder would read out the conditions agreed:-

1. The Premises Licence Holder will install and maintain a knife arch/metal detecting arch at the customer entrance to the Premises. All customers entering or re-entering the Premises shall pass through the knife arch/metal detecting arch and be searched in accordance with the Premises' search policy.
2. The Premises Licence Holder shall ensure that all performers and their pre-registered entourages attending the Premises are searched with a metal detecting wand and follow-up searches conducted in accordance with the Premises' search policy.
3. The Licence holder shall erect and maintain clear and prominent notices on the exterior of their premises advising patrons that those attending:
 - a. It is a condition of entry that customers agree to be searched;
 - b. Police will be informed if anyone is found in possession of controlled substances or weapons
4. Door supervisors will undertake body searches, at least one male and one female door supervisor must be available to undertake the body searches of the same customer gender before gaining entry to the premises.
5. Door Supervisors shall be responsible for the lawful searching and / or exclusion of those suspected of carrying illegal drugs, offensive weapons who attempt to gain entry into the premises.
6. There will be a door control policy that outlines clear instruction and understanding of the door supervisor's responsibilities at the premises. This policy will contain:
 - a. How door staff prevent overcrowding
 - b. Supervise the queue to ensure that it is managed in a way that avoids rowdy, unpleasant behaviour and to keep customers quiet as to not disturb neighbours in the vicinity
 - c. A procedure for door staff engaged in searching persons as a condition of entry
 - d. To ensure the dispersal of patrons from the curtilage and grounds of the licensed premise immediately after the end of licensable activities
 - e. Prevent patrons from leaving the premises with open containers and bottles

- f. To provide evidence by written statement to police in any criminal investigation as and when required.
 - g. The toilets shall be regularly monitored.
- 7. When the Premises are used for the sale of alcohol to the public, a minimum of 4 door staff will be employed from 20:00 hours or when licensable activity is taking place. In addition to this a further one door supervisor per 100 customers. CCTV Control Room will be manned by a suitably licensed Operative controlling and viewing the CCTV.
- 8. CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition.
 - a. Cameras shall encompass ingress and egress to the premises, emergency routes, fire exits and all public areas including where the sale and supply of alcohol occurs.
 - b. Equipment must be maintained in good working order, be correctly time and date stamped, recordings MUST be kept on the hard drive and kept for a period of 31 days and handed to Police upon reasonable request.
 - c. The premises licence holder must ensure at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in a recordable format to the Police and Local Authority upon reasonable request.
 - d. In the event of technical failure of the CCTV equipment the premises licence holder or DPS must report the failure to the Police Licensing Officer within 24 hours unless the CCTV will be repaired before that time
(west.division.licensing@kent.police.uk)
- 9. The premises shall have a written drug policy, this will detail the strategies to minimise the use and supply of illegal drugs within the premises. This will entail an agreed procedure for the handling and retention of any article seized. Where premises consider a drug's safe to deposit drugs found, there will be a clear policy for the handling and packaging of seized items. For premises with a suitable 'drug safe' the items secured within the safe would not be considered as being in possession. For premises that do not have a drug safe they must have a written agreement with police as to a procedure in the collection or delivering drugs to police.
- 10. To allow the use of IONTRACK. (Drug testing Machine), within the premises, (or curtilage of the premises), as a condition of entry, at the request of, and after consultation with Police. To allow swabbing for detection of drugs use when deemed necessary by Police.
- 11. All persons that sell or supply alcohol to customers must have licensing training.

- a. Training should take place within six weeks of employment and any new employees will be supervised until the training has taken place.
 - b. Refresher training should be repeated a minimum of every six months or earlier if required due to changes of legislation.
 - c. Training records must be kept on the premises and shall contain the nature, content and frequency of all training.
 - d. Records must be made available for inspection by Police, Police Licensing Officer and authorised officers from the Local Authority upon request either electronically or hard copy.
- 12. The premises will undertake the "Challenge 25" Scheme.
- 13. All staff involved in the sale or supply of alcohol will be trained in the "Challenge 25" Scheme and such training will be recorded.
- 14. The Premises Licence Holder will produce a risk assessment for events at the Premises. Where an event is categorised as 'high risk' the Premises Licence Holder will notify the Police Licensing Team at least 5 days (120 hours) before the event. A copy of the risk assessment will be kept at the Premises and made available to Responsible Authority Officers on request.
- 15. A logbook shall be kept detailing all incidents that occur at the Premises. This will be a bound book which will detail the following:
 - a. The day, date and time of the incident
 - b. The member of staff making the entry
 - c. All members of staff involved in the incident
 - d. An account of the incident
 - e. Details of any persons injured and the injuries sustained
 - f. Any other details thought relevant
- 16. Toughened or polycarbonate glass will be used at the premises. All drinks will be supplied in polycarbonate or suitably toughened glass vessels except for bottled drinks.
- 17. No persons under 18 years of age will be allowed on the premises except for pre-booked functions ending by midnight.
- 18. The Licence Holder shall erect and maintain clear and prominent notices on the exterior of their premises advising patrons of any admission restrictions and that any patrons causing any disturbance or disorder in a queue will result in admission being refused.
- 19. The Premises Licence Holder will use reasonable endeavours to dissuade persons attending the Premises from parking directly outside the Premises.

20. At least one member of staff with a personal licence will be on duty at all times that the premises are open for the sale of alcohol.
21. The only proof of age that will be accepted by staff will be a photographic driving licence, a passport or a 'PASS' marked proof of age card.

The Applicant was asked to give any opening remarks and advised that he agreed with the modified conditions read out.

The Chairman advised that the Sub-Committee would therefore retire for deliberation.

The meeting closed at 10.40 a.m.



LICENSING AUTHORITY: MAIDSTONE BOROUGH COUNCIL

**LICENSING ACT 2003
LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005**

**NOTICE OF DETERMINATION
SUMMARY REVIEW AND REVIEW OF INTERIM STEPS**

Application Ref No: N/A

Applicant: Superintendent Warren Franklin, Kent Police

Premises The Gallery Bank Street Maidstone Kent ME14 1SD

Date(s) of hearing: 30th September 2019

Date of determination: 30th September 2019

Committee Members: [Chairman]: Councillor Cllr Susan Grigg
Councillor Denise Joy
Councillor Val Springett

Legal Advisor in attendance at hearing(s): Robin Harris, Interim Team Leader
(Contentious), MKLS

Licensing Officer in attendance at hearing(s): Lorraine Neale

This was an application for:

☒ Summary Review

of a

☒ Premises Licence

A: Representations, evidence and submissions:

The Committee considered the representations, evidence and submissions of the following parties:

Applicant

Name: Kent Police

Legal or other representative: PC James Williams

Responsible Authorities

None

Other Persons

None

Witnesses and legal representatives in support of other persons

- **N/A**

Licence Holder

Name: Century Buildings (Rochester) Limited

**Legal or other representative: Leo Charalambides
Luke Elford**

Witnesses and legal representatives in support of the licence holder

**Mr David Fuller
Mr Trevor Modell
Miss Carla Helyar**

Representations considered in the absence of a party to the hearing:

- **N/A**

REVIEW OF INTERIM STEPS

Steps taken on date: 6th September 2019

See Record of Consideration for steps, decision and reasons. The Sub Committee having considered whether the interim steps are appropriate for the promotion of the licensing objectives and any relevant representations have determined to withdraw/modify the interim steps taken by:

Modifying conditions of the premises licence.

If so, state the modified conditions: See attached sheets

These reviewed interim steps apply until the end of the period for appealing the full review decision, if that decision is appealed against until the appeal is disposed of or for such shorter period as specified.

Reasons for determination:

■ **Prevention of Crime and Disorder**

Reasons (state in full):

The Sub-Committee were satisfied that the conditions agreed between all parties were appropriate and proportionate to promote this licensing objective.

■ **Public Safety**

Reasons (state in full):

There were no representations relating to this licensing objective.

■ **Prevention of nuisance**

Reasons (state in full):

There were no representations relating to this licensing objective.

■ **Protection of children from harm**

Reasons (state in full):

There were no representations relating to this licensing objective.

PRINT NAME (CHAIRMAN): Cllr Susan Grigg

Signed [Chairman]:  A copy of the original document is held on file

Date: 3/10/2019

Conditions to be added to Premises Licence

1. The Premises Licence Holder will install and maintain a knife arch/metal detecting arch at the customer entrance to the Premises. All customers entering or re-entering the Premises shall pass through the knife arch/metal detecting arch and be searched in accordance with the Premises' search policy.
2. The Premises Licence Holder shall ensure that all performers and their pre-registered entourages attending the Premises are searched with a metal detecting wand and follow-up searches conducted in accordance with the Premises' search policy.
3. The Licence holder shall erect and maintain clear and prominent notices on the exterior of their premises advising patrons that those attending:
 - a. It is a condition of entry that customers agree to be searched;
 - b. Police will be informed if anyone is found in possession of controlled substances or weapons
4. Door supervisors will undertake body searches, at least one male and one female door supervisor must be available to undertake the body searches of the same customer gender before gaining entry to the premises.
5. Door Supervisors shall be responsible for the lawful searching and / or exclusion of those suspected of carrying illegal drugs, offensive weapons who attempt to gain entry into the premises.
6. There will be a door control policy that outlines clear instruction and understanding of the door supervisor's responsibilities at the premises. This policy will contain:
 - a. How door staff prevent overcrowding

B: Consideration of the Licensing Act 2003, the Guidance under s. 182 of the Act and the Statement of Licensing Policy of Maidstone Borough Council

The Committee has taken into account specifically the following provisions of the Licensing Act 2003 and the Regulations thereto:

Sections 53A – D.

The Committee has taken into account the following provisions of the Guidance under section 182 of the Act:

Chapter 2 which relates to the licensing objectives

Chapter 10 which relates to conditions attached to licences;

Chapter 12 which relates to summary reviews.

The Committee has taken into account its Statement of Licensing Policy:

The Committee has decided to depart from the guidance under section 182 of the Act and or the statement of licensing policy for the following reasons:

Paragraphs and reasons (state in full):

N/as

C: Determination:

The Committee has decided to:

- Modify conditions of the premises licence.

If so, state the modified conditions: See attached sheets.

Reasons for determination:

■ **Prevention of Crime and Disorder**

Reasons (state in full):

The Sub-Committee were satisfied that the conditions agreed between all parties were appropriate and proportionate to promote this licensing objective.

■ **Public Safety**

Reasons (state in full):

There were no representations relating to this licensing objective.

■ **Prevention of nuisance**

Reasons (state in full):

There were no representations relating to this licensing objective.

■ **Protection of children from harm**

Reasons (state in full):

There were no representations relating to this licensing objective.

- b. Supervise the queue to ensure that it is managed in a way that avoids rowdy, unpleasant behaviour and to keep customers quiet as to not disturb neighbours in the vicinity
 - c. A procedure for door staff engaged in searching persons as a condition of entry
 - d. To ensure the dispersal of patrons from the curtilage and grounds of the licensed premise immediately after the end of licensable activities
 - e. Prevent patrons from leaving the premises with open containers and bottles
 - f. To provide evidence by written statement to police in any criminal investigation as and when required.
 - g. The toilets shall be regularly monitored.
7. When the Premises are used for the sale of alcohol to the public, a minimum of 4 door staff will be employed from 20:00 hours or when licensable activity is taking place. In addition to this a further one door supervisor per 100 customers. CCTV Control Room will be manned by a suitably licensed Operative controlling and viewing the CCTV.
8. CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition.
- a. Cameras shall encompass ingress and egress to the premises, emergency routes, fire exits and all public areas including where the sale and supply of alcohol occurs.
 - b. Equipment must be maintained in good working order, be correctly time and date stamped, recordings MUST be kept on the hard drive and kept for a period of 31 days and handed to Police upon reasonable request.
 - c. The premises licence holder must ensure at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage

in a recordable format to the Police and Local Authority upon reasonable request.

- d. In the event of technical failure of the CCTV equipment the premises licence holder or DPS must report the failure to the Police Licensing Officer within 24 hours unless the CCTV will be repaired before that time (west.division.licensing@kent.police.uk)
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 11. All persons that sell or supply alcohol to customers must have licensing training.
 - a. Training should take place within six weeks of employment and any new employees will be supervised until the training has taken place.
 - b. Refresher training should be repeated a minimum of every six months or earlier if required due to changes of legislation.
 - c. Training records must be kept on the premises and shall contain the nature, content and frequency of all training.

- d. Records must be made available for inspection by Police, Police Licensing Officer and authorised officers from the Local Authority upon request either electronically or hard copy.
- 12. The premises will undertake the "Challenge 25" Scheme.
- 13. All staff involved in the sale or supply of alcohol will be trained in the "Challenge 25" Scheme and such training will be recorded.
- 14. The Premises Licence Holder will produce a risk assessment for events at the Premises. Where an event is categorised as 'high risk' the Premises Licence Holder will notify the Police Licensing Team at least 5 days (120 hours) before the event. A copy of the risk assessment will be kept at the Premises and made available to Responsible Authority Officers on request.
- 15. A logbook shall be kept detailing all incidents that occur at the Premises. This will be a bound book which will detail the following:
 - a. The day, date and time of the incident
 - b. The member of staff making the entry
 - c. All members of staff involved in the incident
 - d. An account of the incident
 - e. Details of any persons injured and the injuries sustained
 - f. Any other details thought relevant
- 16. Toughened or polycarbonate glass will be used at the premises. All drinks will be supplied in polycarbonate or suitably toughened glass vessels except for bottled drinks.
- 17. No persons under 18 years of age will be allowed on the premises except for pre-booked functions ending by midnight.

18. The Licence Holder shall erect and maintain clear and prominent notices on the exterior of their premises advising patrons of any admission restrictions and that any patrons causing any disturbance or disorder in a queue will result in admission being refused.
19. The Premises Licence Holder will use reasonable endeavours to dissuade persons attending the Premises from parking directly outside the Premises.
20. At least one member of staff with a personal licence will be on duty at all times that the premises are open for the sale of alcohol.
21. The only proof of age that will be accepted by staff will be a photographic driving licence, a passport or a 'PASS' marked proof of age card.

Agenda Item 11

MAIDSTONE BOROUGH COUNCIL

LICENSING ACT 2003 SUB COMMITTEE

MINUTES OF THE MEETING HELD ON WEDNESDAY 23 OCTOBER 2019

Present: Councillor Naghi (Chairman), and
Councillors Joy and M Rose

1. **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor McLoughlin.

2. **NOTIFICATION OF SUBSTITUTE MEMBERS**

It was noted that Councillor Mrs Joy was present as a Substitute for Councillor McLoughlin.

3. **ELECTION OF CHAIRMAN**

RESOLVED: That Councillor Naghi be elected Chairman for the duration of the meeting.

4. **DISCLOSURES BY MEMBERS AND OFFICERS**

There were no disclosures by Members or Officers.

5. **DISCLOSURES OF LOBBYING**

There were no disclosures of lobbying.

6. **EXEMPT ITEMS**

RESOLVED: That the items on the agenda be taken in public as proposed.

7. **APPLICATION FOR REVIEW OF A PREMISES LICENCE UPMART NEWSAGENT, 56 GABRIELS HILL, MAIDSTONE, KENT, ME15 6JJ**

The Chairman requested that all those persons participating in the hearing identified themselves as follows:-

Chairman – Councillor David Naghi
Committee Member – Councillor Mrs Joy
Committee Member – Councillor M Rose

Legal Advisor – Mr Robin Harris

Committee Clerk – Mrs Caroline Matthews

Licensing Officer – Mrs Lorraine Neale

Licence Holder – Mr Sivothayan

Representing the Licence Holder - Mrs Jill Sherratt

Each responsible authority – PC 11187 James Williams (Kent Police)

All parties confirmed that they were aware of the Sub-Committee hearing procedure and that each party had received a copy of the hearing procedure document.

The Chairman explained that:

- The Sub-Committee would allow all parties to put their case fully and make full submissions within a reasonable timeframe.
- The procedure would take the form of a discussion led by the Sub-Committee and they would usually permit cross examination conducted within a reasonable timeframe.
- Any persons attending the hearing who behaved in a disruptive manner may be directed to leave the hearing by the Sub-Committee (including temporarily) and thereafter the person may submit to the Sub-Committee in writing any information which the person would have been entitled to give orally had the person not been required to leave the hearing.

The Sub-Committee confirmed that they had pre-read all the papers and any other documents contained in the report regarding the hearing.

The Chairman enquired whether any draft conditions had been agreed between the licence holder and any other parties for the Sub-Committee to consider.

PC Williams advised that a revised set of conditions had been agreed and provided a copy to the Sub-Committee whilst the Legal Officer highlighted the changes made from the original conditions submitted.

The Chairman invited any questions from either party to which there were none.

The Chairman asked if there were any final remarks from either party.

Mrs Sherratt, representing the applicant/licence holder advised that Mr Sivothayan accepted the failings and would move forward positively.

The Chairman then asked if Members had any final questions for any party.

In response to a question from a Member, Mr Sivothayan advised that the proportion of sales made in the shop for alcohol was 40%.

The Legal Officer asked for clarification in regard to Condition 1 in the papers which requested that the hours permitted for sale of alcohol be reduced to 11.00 to 00.00 daily. PC Williams confirmed that he was content for the opening hours to remain as they are currently.

The Legal Officer confirmed that there were no further matters to be raised or resolved.

The Chairman then adjourned the meeting for deliberation and requested that the Legal Officer remained to assist them.



LICENSING AUTHORITY: MAIDSTONE BOROUGH COUNCIL

**LICENSING ACT 2003
LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005**

**NOTICE OF DETERMINATION
REVIEW**

Application Ref No: 19/03259/Review

Applicant: Chief Inspector Quiller, Kent Police

Premises Upmart 56 Gabriels Hill Maidstone Kent ME15 6JJ

Date(s) of hearing: 23rd October 2019

Date of determination: 23rd October 2019

Committee Members: [Chairman]: Councillor D Naghi
Councillor D Joy
Councillor M Rose

Legal Advisor in attendance at hearing(s): Robin Harris, Interim Team Leader
(Contentious), MKLS

Licensing Officer in attendance at hearing(s): Lorraine Neale

This was an application for:

☒ Review

of a

☒ Premises Licence

A: Representations, evidence and submissions:

The Committee considered the representations, evidence and submissions of the following parties:

Applicant

Name: Kent Police

Legal or other representative: PC James Williams

Responsible Authorities

None

Other Persons

None

Witnesses and legal representatives in support of other persons

- **N/A**

Licence Holder

Name: Kavitha Sivothyayan

Legal or other representative: Gill Sherratt

Witnesses and legal representatives in support of the licence holder

Representations considered in the absence of a party to the hearing:

- **N/A**

B: Consideration of the Licensing Act 2003, the Guidance under s. 182 of the Act and the Statement of Licensing Policy of Maidstone Borough Council

The Committee has taken into account specifically the following provisions of the Licensing Act 2003 and the Regulations thereto:

Sections 51

The Committee has taken into account the following provisions of the Guidance under section 182 of the Act:

Chapter 2 which relates to the licensing objectives
Chapter 10 which relates to conditions attached to licences;
Chapter 11 which relates to reviews.

The Committee has taken into account its Statement of Licensing Policy:

The Committee has decided to depart from the guidance under section 182 of the Act and or the statement of licensing policy for the following reasons:

Paragraphs and reasons (state in full):
N/as

**C: Determination:
The Committee has decided to:**

- Modify conditions of the premises licence.

If so, state the modified conditions: See attached sheets.

Reasons for determination:

■ **Prevention of Crime and Disorder**

Reasons (state in full):

The Sub-Committee were satisfied that the conditions agreed between all parties were appropriate and proportionate to promote this licensing objective.

■ **Public Safety**

Reasons (state in full):

The Sub-Committee were satisfied that the conditions agreed between all parties were appropriate and proportionate to promote this licensing objective.

■ **Prevention of nuisance**

Reasons (state in full):

The Sub-Committee were satisfied that the conditions agreed between all parties were appropriate and proportionate to promote this licensing objective.

■ **Protection of children from harm**

Reasons (state in full):

There were no representations relating to this licensing objective.

PRINT NAME (CHAIRMAN): Cllr David Naghi

Signed [Chairman]:

A copy of the original document is held on file

Date:

Conditions to be added to the Premises Licence

1. CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition.
2. Cameras shall encompass all ingress and egress to the premises, fire exits and all areas where the sale and supply of alcohol occurs.
3. Equipment must be maintained in good working order, be correctly time and date stamped, recordings MUST be kept on the hard drive and kept for a period of 31 days and handed to Police upon reasonable request and in line with the requirements of the Data Protection Act.
4. The premises licence holder must ensure at all times the DPS or appointed member of staff is capable and competent at downloading CCTV footage in a recordable format to the Police and Local Authority upon reasonable request and in line with the requirements of the Data Protection Act.
5. A member of staff who can operate the CCTV will be on duty at all times the premises are open to the public and will be able to provide the Police and local authority with a copy of CCTV, upon reasonable request and in line with the requirements of the Data Protection Act.
6. No beer, lager or cider products above 7% ABV will be sold at the premises.
7. All persons that sell or supply alcohol to customers must have licensing training.
 - a. Training should take place within six weeks of employment and any new employees will be supervised until the training has taken place.
 - b. Refresher training should be repeated a minimum of every six months or earlier if required due to changes of legislation.

c. Training records must be kept on the premises and shall contain the nature, content and frequency of all training.

d. Records must be made available for inspection by Police, Police Licensing Officer and authorised officers from the Local Authority upon request either electronically or hard copy. -

8. A refusal recording system (which can be paper or electronic) will be in operation at the premises. All staff involved in the sale of alcohol will be fully trained in the system and it will record the following:

a. Time of refusal

b. Item refused

c. Name or description of the person refused

d. Reason for Refusal

e. Name of staff member making the refusal.

9. The refusal system will be available for inspection to any Police Officer, Local Authority Licensing Officer or Trading Standards Officer at any reasonable time.

10. A Challenge 25 scheme will be adopted at the premises. All staff involved in the sale or supply of alcohol will be trained in the scheme and such training will be recorded. Such records will be available to the Police or other responsible authority upon request.

11. 'Challenge 25' signs will be prominently displayed.

12. The only proof of age that will be accepted by staff will be a photographic driving licence, a passport or a 'PASS' marked proof of age card.

MAIDSTONE BOROUGH COUNCIL

LICENSING ACT 2003 SUB COMMITTEE

MINUTES OF THE MEETING HELD ON WEDNESDAY 6 NOVEMBER 2019

Present: Councillor Garten (Chairman), Mrs Hinder and Joy

1. **APOLOGIES FOR ABSENCE**

It was noted that apologies for absence had been received from Councillor B Hinder.

2. **NOTIFICATION OF SUBSTITUTE MEMBERS**

It was noted that Councillor Mrs W Hinder was substituting for Councillor B Hinder.

3. **ELECTION OF CHAIRMAN**

RESOLVED: That Councillor Garten be elected as Chairman for the duration of the meeting.

4. **DISCLOSURES BY MEMBERS AND OFFICERS**

Councillor Mrs Hinder advised that she had used the Cavendish a couple of months ago. There were no other disclosures by Members or Officers.

5. **DISCLOSURES OF LOBBYING**

There were no disclosures of lobbying.

6. **EXEMPT ITEMS**

RESOLVED: That all items be taken in public as proposed.

7. **APPLICATION FOR A PREMISES LICENCE UNDER THE LICENSING ACT 2003 FOR THE CAVENDISH, 8 CAVENDISH WAY, BEARSTED, KENT, ME15 8PW**

The Chairman requested that all those persons participating in the hearing identified themselves as follows:-

Chairman – Councillor Patrik Garten
Committee Member – Councillor Denise Joy
Committee Member – Councillor Wendy Hinder

Legal Advisor – Mr Robin Harris

Committee Clerk – Mrs Caroline Matthews

Licensing Officer – Mrs Lorraine Neale

Applicant – Tania Cizmic

Other Persons (Objectors) -

Mr Diplip and Mrs Chandrika Patel (represented by Mrs Joyce Breeder)

All parties confirmed that they were aware of the Sub-Committee hearing procedure and that each party had received a copy of the hearing procedure document.

The Chairman explained that:

- The Sub-Committee would allow all parties to put their case fully and make full submissions within a reasonable timeframe.
- The procedure would take the form of a discussion led by the Sub-Committee and they would usually permit cross examination conducted within a reasonable timeframe.
- Any persons attending the hearing who behaved in a disruptive manner may be directed to leave the hearing by the Sub-Committee (including temporarily) and thereafter the person may submit to the Sub-Committee in writing any information which the person would have been entitled to give orally had the person not been required to leave the hearing.

The Sub-Committee confirmed that they had pre-read all the papers and any other documents contained in the report regarding the hearing.

The Chairman enquired whether any draft conditions had been agreed between the licence holder and any other parties for the Sub-Committee to consider. Both the Applicant and Objectors confirmed that there had not been any agreed.

The Legal Officer outlined the application for a Premises Licence for the Cavendish which included for the sale of alcohol and the provision of live music indoors. It was noted that the premises did not require an Entertainments Licence for its proposed activities.

Members of the Sub-Committee were advised that the Police had withdrawn their representations after agreeing conditions with the Applicant.

It was also noted that objections had been received on the grounds of public nuisance.

The Applicant was invited to provide her opening remarks.

Miss Cizmic advised the Hearing that her partner and herself had taken over the Cavendish in February 2019 and felt that they had improved the choice for customers. To illustrate this, Miss Cizmic explained that they had introduced Afternoon Teas which had proved popular but customers were asking if they could have a glass of Prosecco or wine with it but the Applicant said that she and her partner had to decline as they were not licensed to do so. Hence the reason for the application so they could sell alcohol.

Miss Cizmic also made the following points:-

- That they had held two private events since opening, one of which finished around 9 p.m. but they did not want to make this a regular occurrence as they worked long hours anyway.
- Regular events had included Flower Arranging Classes and Supper Clubs.
- That the application form did not allow for any explanation of what sort of events they intended to hold so they had to resort to the default form.
- They felt they supported the local community including schools and local clubs.
- It was not the intention of the applicant to have live music in the premises.
- They had licensed recorded music playing in the background.
- Both partners had their own personal licences.

Mrs Breeder was asked to give her opening remarks on behalf of the objectors.

Mrs Breeder stated that the residents were concerned that once the licence was granted the premises would turn into a public house.

She cited one instance in the last couple of months where a party was held at the premises which resulted in a drunken woman shouting in the car park. She wanted guarantees that the applicant would do what she said she would do.

In response Miss Cizmic said that the two parties in question were their own parties and she did not envisage that there would be many parties due to the long hours they worked already.

The Legal Officer advised that even if the applicant were to be granted the licence, if there were instances occurring at the premises that were against the conditions of the licence, they would be able to hold them to account by asking for a review of the licence.

In response to questions from Members of the Sub-Committee, Miss Cizmic stated that:-

1. The seating outside was only for customers who wanted to smoke and customers were not encouraged to use the area for eating or drinking.
2. There was no room inside the premises for a live band, but the Applicant had thought about an event involving a small choir at Christmas singing Christmas Carols.
3. That a Temporary Events Licence would be a costly and time consuming option.
4. That the conditions imposed by the Police were agreed which consisted of the provision of CCTV and staff training on Challenge 25.

In response to a question from the Legal Officer, the Senior Licensing Officer advised that it was common for the Police to withdraw their representations if the issues were resolved.

The Objectors asked for an adjournment to discuss their position.

The Chairman re-opened the meeting after 5 minutes and asked if the Objectors had any questions to ask the Applicant.

The Objector stated that their original concerns about the premises becoming a public house had been placated by the comments made by the applicant and that they wished to withdraw their objections.

The Legal Officer thanked the Objectors but advised that as there had been other written objections, these would be taken into account when the Sub-Committee considered the case.

The Chairman asked the Applicant if she had any final remarks. She responded by stating that if the Cavendish were to have any events being held up to or after 9 p.m. then she would ensure that the local residents would be notified.

The Chairman invited any questions from either party to which there were none.

The Chairman asked if there were any final remarks from either party to which there were none.

The Chairman then asked if Members had any final questions for any party to which there were none.

The Legal Officer confirmed that there were no further matters to be raised or resolved.

The Chairman then adjourned the meeting for deliberation and requested that the Legal Officer remained to assist them.



LICENSING AUTHORITY: MAIDSTONE BOROUGH COUNCIL

**LICENSING ACT 2003
LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005**

NOTICE OF DETERMINATION

Application Ref No:19/03291/LAPRE

Applicant: Court Lodge Kitchen Ltd

Regarding The Cavendish, 8 Cavendish Way, Bearsted, Kent, ME15 8PW

Date(s) of hearing: 6th November 2019

Date of determination: 6th November 2019

Committee Members: [Chairman]: Councillor Garten
Councillor Hinder (W)
Councillor Joy

Legal Advisor in attendance at hearing(s): Robin Harris, Interim Team Leader
(Contentious), MKLS

Democratic Services Officer in attendance at hearing: Caroline Matthews

Senior Licensing Officer in attendance at hearing: Lorraine Neale

This was an application for:

☐ Variation ☒ Grant
☐ Provisional Statement ☐ Review ☐ Other

for a

☒ Premises Licence ☐ Club Premises Certificate ☐ Personal Licence
☐ Temporary Event Notice

A: Representations, evidence and submissions:

The Committee considered the representations, evidence and submissions of the following parties:

Applicant

- Name: Tania Cizmic
- Legal or other representative: N/A

Responsible Authorities

Kent Police (Made a representation which was subsequently withdrawn following proposed conditions being agreed and added to the operating schedule.)

Other Persons

Name: Dilip& Chandrika Patel

Witnesses and legal representatives in support of interested parties

Joyce Breeder (Spokesperson)

Representations considered in the absence of a party to the hearing:

N/A

B: Consideration of the Licensing Act 2003, the Guidance under s. 182 of the Act and the Statement of Licensing Policy of Maidstone Borough Council

The Committee has taken into account the following provisions of the Licensing Act 2003 and the Regulations thereto:

Section 4 which relates to the licensing objectives
Section 13 which relates to responsible authorities;
Section 16-24 which relate to the grant of a premises licence;
Schedule 1 which relates to Regulated Entertainment

The Committee has taken into account the following provisions of the Guidance under section 182 of the Act:

Chapter 2 which relates to the licensing objectives
Chapter 8 & 9 which relates to premises licences & determinations
Chapter 10 which relates to conditions attached to licences;

The Committee has taken into account the following provisions of its Statement of Licensing Policy:

Chapter 17 which relates to the 4 licensing objectives;
Chapter 17.9 – 17.15 which relates to the prevention of crime and disorder;
Chapter 17.16 – 17.18 which relates to public safety
Chapter 17.19 – 17.22 which relates to the prevention of nuisance;
Chapter 17.23 – 17.26 which relates to the prevention of children from harm;

The Committee has decided not to depart from the guidance under section 182 of the Act and or the statement of licensing policy-

C: Determination:

The Committee has decided to:

- Grant the application as applied for. (For clarity, this includes the conditions that were agreed with the Police prior to the hearing and are appended below for ease of reference.)

Reasons for determination:

- **Prevention of Crime and Disorder**

Reasons (state in full):

The Sub-Committee was satisfied that the operating schedule provided by the applicant was appropriate and proportionate to promote this licensing objective.

- **Public Safety**

Reasons (state in full):

The Sub-Committee was satisfied that the operating schedule provided by the applicant was appropriate and proportionate to promote this licensing objective.

- **Prevention of nuisance**

Reasons (state in full):

The Sub-Committee had regard to the written representations received and the statements of the parties made during the hearing in relation to this licensing objective. The representations were predominantly concerned with this premises operating regularly until late into the evening as a music venue or public house and the disruption that this could cause to local residents.

The applicant explained that although the limited company had applied for a licence for 7 days of the week to 11PM at night, there was no intention to operate as a 'pub'

and that the small number of events that they had previously had that went on later than their usual operating hours had persuaded them that this was not a business model that they wanted to pursue. The applicant was keenly aware that this premises is located in a noise sensitive area and the intention going forwards would be to have afternoon tea's with prosecco and events planned for later in the evening included activities such as flower arranging. The applicant stated that even these events would be infrequent, likely to finish by 9PM and that the premises would be happy to engage with local residents in advance of any late opening events.

On the basis of these representations, the other persons present at the meeting withdrew their representation against the grant of the licence. In the light of these submissions, the Sub-Committee was satisfied that the operating schedule provided by the applicant was appropriate and proportionate to promote this licensing objective.

- **Protection of children from harm**

Reasons (state in full):

The Sub-Committee was satisfied that the operating schedule provided by the applicant was appropriate and proportionate to promote this licensing objective.

PRINT NAME (CHAIRMAN): Cllr Patrik Garten



Signed [Chairman]:

A copy of the original document is held on file

Date: 07/11/2019

Conditions to be added to the Premises Licence

1. CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition.
2. Cameras shall encompass all ingress and egress to the premises, fire exits and all areas where the sale and supply of alcohol occurs.
3. Equipment must be maintained in good working order, be correctly time and date stamped, recordings MUST be kept on the hard drive and kept for a period of 31 days and handed to Police upon reasonable request and in line with the requirements of the Data Protection Act.
4. The premises licence holder must ensure at all times the DPS or appointed member of staff is capable and competent at downloading CCTV footage in a recordable format to the Police and Local Authority upon reasonable request and in line with the requirements of the Data Protection Act.
5. A member of staff who can operate the CCTV will be on duty at all times the premises are open to the public and will be able to provide the Police and local authority with a copy of CCTV, upon reasonable request and in line with the requirements of the Data Protection Act.
7. All persons that sell or supply alcohol to customers must have licensing training.
 - a. Training should take place within six weeks of employment and any new employees will be supervised until the training has taken place.
 - b. Refresher training should be repeated a minimum of every six months or earlier if required due to changes of legislation.
 - c. Training records must be kept on the premises and shall contain the nature, content and frequency of all training.
 - d. Records must be made available for inspection by Police, Police Licensing Officer and authorised officers from the Local Authority upon request either electronically or hard copy.
8. A refusal recording system (which can be paper or electronic) will be in operation at the premises. All staff involved in the sale of alcohol will be fully trained in the system and it will record the following:
 - a. Time of refusal

- b. Item refused
- c. Name or description of the person refused
- d. Reason for Refusal
- e. Name of staff member making the refusal.

9. The refusal system will be available for inspection to any Police Officer, Local Authority Licensing Officer or Trading Standards Officer at any reasonable time.

10. A Challenge 25 scheme will be adopted at the premises. All staff involved in the sale or supply of alcohol will be trained in the scheme and such training will be recorded. Such records will be available to the Police or other responsible authority upon request.

11. 'Challenge 25' signs will be prominently displayed.

12. The only proof of age that will be accepted by staff will be a photographic driving licence, a passport or a 'PASS' marked proof of age card.

LICENSING - COMMITTEE WORK PROGRAMME

46

	Committee	Month	Lead	Report Author
Licensing Partnership Update	Licensing	Jul-19	John Littlemore	Sharon Bamborough
Amendments to the Hackney Carriage and Private Hire Policy	Licensing	Jul-19	John Littlemore	Lorraine Neale
Unmet Demand Survey 2019	Licensing	Sep-19	John Littlemore	Lorraine Neale
Pre-Application Advice	Licensing	Sep-19	John Littlemore	Sharon Bamborough
Member Training - Refresher	Licensing	Sep-19	John Littlemore	John Littlemore
MBC Animal Licensing Legislation Update	Licensing	Nov-19	John Littlemore	Martyn Jeynes
Fees and Charges 2019/20	Licensing	Nov-19	John Littlemore	Sharon Bamborough
Revisiting Licensing Applications - Site Visits	Licensing	Nov-19	John Littlemore	John Littlemore
Busking Policy	Licensing	TBC	John Littlemore	Lorraine Neale
Street Trading Policy	Licensing	TBC	John Littlemore	Lorraine Neale
Review of Licensing Act 2003 Policy	Licensing	TBC	John Littlemore	Sharon Bamborough

MAIDSTONE BOROUGH COUNCIL

LICENSING COMMITTEE

27 NOVEMBER 2019

**REFERENCE FROM THE COMMUNITIES, HOUSING AND
ENVIRONMENT COMMITTEE ACTING AS THE CRIME
AND DISORDER COMMITTEE**

**REVIEW OF ANTI-SOCIAL BEHAVIOUR POWERS (INCLUDING
TIGHTENING THE PUBLIC SPACE PROTECTION ORDERS**

The Communities, Housing and Environment Committee, Acting as the Crime and Disorder Committee at its meeting held on 24 September 2019, considered a report by the Community Protection Manager which highlighted the work carried out by the Safer Maidstone Partnership to deliver our Community Safety Priorities of protecting our communities against serious and organised crime and advised Members about the work being undertaken to reduce the threat of violence further by protecting young people and supporting the victims of domestic abuse.

The Committee expressed their concerns about recent matters related to the serious incident in the town centre where a young man lost his life and the resultant perception of some members of the public who felt that the town centre was not a safe place to visit at night. In particular they felt that the Council should review their Licensing Act 2003 Policy to strengthen areas, where possible, which related to crime and disorder (improved security).

RECOMMENDED: That the Committee review its Licensing Act 2003 Policy following the recent serious incident of concern which may include means for improved security.

Agenda Item 17

Licensing Committee

27 November 2019

Licence Fees and Charges 2020/2021

Final Decision-Maker	Licensing Committee
Lead Head of Service	John Littlemore, Head of Housing and Community Services
Lead Officer and Report Author	Lorraine Neale, Senior Licensing Officer
Classification	Public
Wards affected	All

Executive Summary

The authority is required to review the fees set for the administration of the Town Police Clauses Act 1847, Local Government (Miscellaneous Provisions) Act 1976, Local Government (Miscellaneous Provisions) Act 1982, The Gambling Act 2005 and The Scrap Metal Dealers Act 2013. This ensures the Council complies with its statutory duty and the licensing of these regimes is self financing, in accordance with the Council's Medium Term Financial Strategy.

Purpose of Report

To seek Member approval of the licence fees and charges for the financial year 2020/21 where the Council has discretion over the level of fee as set out at **2.7, 2.9, 2.11, 2.13, 2.15, 2.17, and 2.19** of the report for implementation on 1 April 2020

This report makes the following recommendations to this Committee:

1. That the Licensing Committee approve fee levels as set out at **2.7, 2.9, 2.11, 2.13, 2.15, 2.17, and 2.19** of the report for implementation on 1 April 2020 subject to the consideration of any representations following consultation

Timetable

Meeting	Date
Licensing Committee	27 November 2019

Licence Fees 2020/2021

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	No implications have been identified, This report is limited to reviewing and setting of fees to contribute towards the recovery of costs of the service	Lorraine Neale, Senior Licensing Officer 13.11.19
Cross Cutting Objectives	No implications have been identified, This report is limited to reviewing and setting of fees to contribute towards the recovery of costs of the service	Lorraine Neale, Senior Licensing Officer 13.11.19
Risk Management	Already covered in the risk section – see 5	[Lorraine Neale, Senior Licensing Officer 13.11.19]
Financial	It is necessary for the Council to deliver a balanced budget and cover the costs of providing this service.	[Section 151 Officer & Finance Team]
Staffing	No implications have been identified, This report is limited to reviewing and setting of fees to contribute towards the recovery of costs of the service	Lorraine Neale, Senior Licensing Officer 13.11.19
Legal	Should parts of industry believe the Authority's fees are at a level which is greater than the costs of the statutory functions then it would be open to them to undertake judicial review proceedings. Should this arise, the authority would need to evidence how it arrived at the fee levels to demonstrate that they have been calculated on a cost recovery basis only.	[Legal Team]
Privacy and Data Protection	No implications have been identified, This report is limited to reviewing and setting of fees to contribute towards the recovery of costs of the service	Lorraine Neale, Senior Licensing Officer 13.11.19
Equalities	No implications have been identified, This report is limited to reviewing and setting of fees to contribute towards the recovery of	Lorraine Neale, Senior Licensing

	costs of the service	Officer 13.11.19
Public Health	No implications have been identified, This report is limited to reviewing and setting of fees to contribute towards the recovery of costs of the service	Lorraine Neale, Senior Licensing Officer 13.11.19
Crime and Disorder	No implications have been identified, This report is limited to reviewing and setting of fees to contribute towards the recovery of costs of the service	Lorraine Neale, Senior Licensing Officer 13.11.19
Procurement	No implications have been identified, This report is limited to reviewing and setting of fees to contribute towards the recovery of costs of the service	Lorraine Neale, Senior Licensing Officer 13.11.19

2. INTRODUCTION AND BACKGROUND

- 2.1 The Council's fees and charges are reviewed on an annual basis as part of the budget setting process. The individual licence, consents and permits fees are calculated to recover the cost of issuing the licence, consent or permit and ensuring compliance with the requirements of the relevant legislation. There are other Licences issued by the Licensing Department where the fees are set by statute and are fixed or are within parameters and these cannot be changed, these are Licensing Act 2003 fees and some Gambling fees such as Lotteries and permits.
- 2.2 The fees that the Council can set were subject to a robust review in 2016 where each licence type was examined and calculated by examining the time it takes to carry out the various tasks in processing each type of application and who in the authority was likely to carry each action out. The hourly rates of staff were fed in to a spreadsheet (originally produced by LACORS) to calculate costs for each type of activity.
- 2.3 There has been no significant change in the time taken or the various tasks required to produce each licence, consent or permit since 2016 and so a 2% inflationary increase has been applied to all fees, in line with this Council's Medium Term Financial Strategy 2020/21 – 2024/25 which allows consideration of overall inflation assumptions.
- 2.4 Members are asked to consider the proposals for increases to the fees and charges for which this Committee is responsible for reviewing at a local level.

Proposed Fees

Taxis and Private Hire Fees and Charges

- 2.5 There have been changes made since the fees for Hackney Carriage Driver and Vehicle were last set. In relation to drivers the cost of a DBS has been reduced from £44 to £40. In relation to vehicles the garage testing element has been removed from the fees, drivers will now pay the garage directly for their compliance tests from 1st April 2020.

There is a Legal Requirement to publish a Public Notice to advertise proposed variations to Hackney Carriage and Private Hire licence fees

- 2.6 Officers from the licensing department will email those Hackney Carriage Proprietors, Private Hire Operators and Drivers where we have their email addresses after this Licensing Committee meeting to give them the opportunity to make representation. A Notice will also be placed in a local paper and will be available on the Council's website.
- 2.7 Proposed Hackney Carriage and Private Hire Licensing fees from 1 April 2020 are:

	Current Fees	Proposed Fees
Knowledge test	£33 per test	£33.50 per test
<u>Hackney Carriage Driver and Dual (Hackney & Private Hire) Driver Licence</u>		
<u>The monitor has been removed from the Hackney Driver and Vehicle fees has the cost has now been recovered.</u>		
<u>On initial application</u>	£ 319 for three years (this includes £22.60 towards the Demand Survey & £8.00 for maintenance of TV monitor) £134 for one year	£ 325 for three years (this includes £23.00 towards the Demand Survey & £8.00 for maintenance of TV monitor) £136 for one year
Disclosure Barring Service search fee	£44 every one or three years depending on licence (or £13 per year if they sign up to the online service)	*£40 every one or three years depending on licence (or £13 per year if they sign up to the online service)
Total (including DBS fee)	£363 for three years £178 for one year	£365 for three years £176 for one year
<u>On renewal</u>	£311 for three years (this includes £22.60 towards the Demand Survey & £8.00 for maintenance of TV monitor) £116 for one year (due to age or medical)	£317 for three years (this includes £23.00 towards the Demand Survey & £8.00 for maintenance of TV monitor) £118 for one year (due to age or medical)
Disclosure Barring Service search fee	£44 every one or three years depending on licence (or £13 per year if they sign up to the	*£40 every one or three years depending on licence (or £13 per year if they sign up to the

	Current Fees	Proposed Fees
	online service)	online service)
Total (including DBS fee)	£355 for three years £160 for one year	£357 for three years £158 for one year
<u>Private Hire Driver Licence</u>		
On initial application	£243 for three years £146 for one year	£248 for three years £149 for one year
Disclosure Barring Service search fee	£44 every one or three years depending on licence (or £13 per year if they sign up to the online service)	*£40 every one or three years depending on licence (or £13 per year if they sign up to the online service)
Total (including DBS fee)	£287 for three years £190 for one year	£288 for three years £189 for one year
On renewal	£238 for three years £128 for one year (due to age or medical)	£243 for three years £131 for one year (due to age or medical)
Disclosure Barring Service search fee	£44 every one or three years depending on licence (or £13 per year if they sign up to the online service)	*£40 every one or three years depending on licence (or £13 per year if they sign up to the online service)
Total (including DBS fee)	£282 for three years £172 for one year	£283 for three years £171 for one year
<u>Hackney Carriage Vehicle Licence</u>		
New & Renewal	£352 for one year (this includes £22.60 towards the Demand Survey & £8.00 for maintenance of TV monitor)	£301 for one year (this includes £23.00 towards the Demand Survey & £8.00 for maintenance of TV monitor) (Vehicle testing fees have been removed from MBC fees and are now paid directly to the Garage)
<u>Private Hire Vehicle Licence</u>		
New & Renewal	£324 for one year	£277 for one year (Vehicle testing fees have been removed from MBC fees and are now paid directly to the Garage)
<u>Private Hire Operator Licence</u>		
5 year licence – Initial application	£497 for five years	£506 for five years
5 year licence -	£415 for five years	£423 for five years

	Current Fees	Proposed Fees
Renewal		
3 year licence – Initial application	£348 for three years	£354 for three years
3 year licence - Renewal	£282 for three years	£287 for three years
1 year licence – Initial application	£200 for one year	£204 for one year
1 year licence - Renewal	£133 for one year	£135 for one year
Other Costs		
Change of ownership of licensed vehicle	£72	£73
Replace external vehicle plate	£24	£24
Replace driver badge	£11	£11
Replace internal plate holder	£1.75	£1.75
Copy of existing paper licence	£12	£12
Change of address details for a replacement licence	£12	£12
Change of name for a vehicle or operator licence	£12	£12
Change of name and address for a driver badge	£22	£22
Vehicle exemption certificate or general administration fee	£46	£47
Vehicle re-test	£49	N/A testing fees are now paid directly to the Garage

*The DBS reduced their cost for an enhanced disclosure in October 2019, bringing it down to £40 from £44.

Gambling Act 2005

2.8 The maximum levels have been included in the table in brackets for comparison purposes. The previous year's fees are printed in italics for your information. The proposed fees are in bold and those cells that are shaded in the body of the table are where we have reached the maximum fee level that may be set.

2.9

Premises Type	New Application £			Annual Fee £		
Existing Casinos	n/a			n/a		
New Small Casino	8000	(8,000)	<i>8000</i>	4666	(5000)	<i>4575</i>
New Large Casino	9664	(10,000)	<i>9475</i>	7543	(10000)	<i>7395</i>
Bingo Club	2983	(3500)	<i>2925</i>	846	(1000)	<i>830</i>
Betting Premises (excluding Tracks)	3000	(3000)	<i>2945</i>	600	(600)	<i>600</i>
Tracks	1829	(2500)	<i>1793</i>	846	(1000)	<i>830</i>
Family Entertainment Centres	1829	(2000)	<i>1793</i>	683	(750)	<i>670</i>
Adult Gaming Centre	1829	(2000)	<i>1793</i>	750	(750)	<i>750</i>
Temporary Use Notice	240	(500)	<i>235</i>	N/A		

	Application to Vary £	Application to Transfer £	Application for Re-Instatement £	Application for Provisional Statement £	Licence Application (provisional Statement holders) £	Copy Licence £	Notification of Change £
Existing Casinos	n/a	n/a	n/a	n/a	n/a	n/a)	n/a)
New Small Casino	4000 (4000) <i>4000</i>	1761 (1800) <i>1727</i>	1761 (1800) <i>1727</i>	8000 (8000) <i>8000</i>	3000 (3000) <i>2967</i>	13 (25) <i>13</i>	29 (50) <i>29</i>
New Large Casino	4585 (5000) <i>4495</i>	2150 (2150) <i>2150</i>	2150 (2150) <i>2150</i>	9649 (10000) <i>9460</i>	4411 (5000) <i>4325</i>	13 (25) <i>13</i>	29 (50) <i>29</i>
Bingo Club	1750 (1750) <i>1750</i>	1200 (1200) <i>1200</i>	433 (1200) <i>425</i>	2379 (3500) <i>2332</i>	1200 (1200) <i>1200</i>	13 (25) <i>13</i>	29 (50) <i>29</i>
Betting Premises (excluding tracks)	1500 (1500) <i>1500</i>	1200 (1200) <i>1200</i>	413 (1200) <i>405</i>	1860 (3000) <i>1824</i>	1200 (1200) <i>1200</i>	13 (25) <i>13</i>	29 (50) <i>29</i>
Tracks	1250 (1250) <i>1250</i>	950 (950) <i>950</i>	413 (950) <i>405</i>	2034 (2500) <i>1994</i>	950 (950) <i>950</i>	13 (25) <i>13</i>	29 (50) <i>29</i>

Family Entertainment Centres	1000 (1000) <i>1000</i>	950 (950) <i>950</i>	418 (950) <i>410</i>	1855 (2000) <i>1819</i>	950 (950) <i>950</i>	13 (25) <i>13</i>	29 (50) <i>29</i>
Adult Gaming Centre	1000 (1000) <i>1000</i>	1200 (1200) <i>1200</i>	418 (950) <i>410</i>	1855 (2000) <i>1819</i>	1200 (1200) <i>1200</i>	13 (25) <i>13</i>	29 (50) <i>29</i>
Temporary Use Notice	n/a	n/a	n/a	n/a	n/a	13 (25) <i>13</i>	29 (50) <i>29</i>

There is also the introduction of pre- application fees to consider, please see 2.19

Scrap Metal Dealers Act 2013

2.10 In setting a fee, the authority must have regard to any guidance issued by the Secretary of State, the proposed fees were originally calculated using that Guidance and the proposed fees raised by the 2% inflation increase.

2.11

	Current Fee	Proposed Fee
Maidstone Borough Council		
Site licence – grant	£472	£481
Site licence – renewal	£400	£408
Collector’s licence – grant or renewal	£287	£293
Minor administrative change to licence	£31	£32
Variation - change of site manager	£169	£172
Variation from collector to site licence	£205	£209
Variation from site to collector licence	£133	£136

Sexual Entertainment Venue fees

2.12 The authority is required to review the fees set for the administration of the Local Government (Miscellaneous Provisions) Act 1982. This ensures the Council complies with its statutory duty and that the licensing of Sexual Entertainment Venue premises is self financing, in accordance with the Council's Medium Term Financial Plan

2.13

	Current Fee	Proposed Fee
Maidstone Borough Council		
New Licence Application	£4,387	£4,475
Renewal Licence Application	£4,387	£4,475
Transfer of Licence	£2,142	£2,185

Boats and Boatmen

2.14 The authority is required to review the fees set for the administration of the Public Health Acts Amendment Act 1907 and Local Government, Planning And Land Act 1980 .This ensures the Council complies with its statutory duty and that the licensing of Boats and Boatmen is self financing, in accordance with the Council's Medium Term Financial Plan

2.15

	Current Fee	Proposed Fee
Maidstone Borough Council		
Pleasure Boats (New & Renewal)	£129	£132
Row Boats (New & Renewal)	£26	£27
Boatmen (New & Renewal)	£16	£16

Street Trading

2.16 The authority is required to review the fees set for the administration of the Local Government (Miscellaneous Provisions) Act 1982. This ensures the Council complies with its statutory duty and that the authorisation of Street Trading is self-financing, in accordance with the Council's Medium Term Financial Plan

2.17

	Current Fee	Proposed Fee
Maidstone Borough Council		
Up to 12 trading days New only	£31	£32
Up to 30 trading days (New & Renewal)	£67	£68
Up to 90 trading Days (New & Renewal)	£185	£189
Full year consent	£395	£403

2.18 Licensing Act 2003 & Gambling Act 2005

Fees for licences issued under the Licensing Act 2003 are statutory fees fixed by central Government. The level of those fees have not changed since 2005. The Fees for Gambling Act 2005 can be set by Local Authorities up to a maximum that has been set by central government.

2.19 PRE-APPLICATION ADVICE - PROPOSED FEES

At a meeting of the Licensing Committee on 17th September 2019, the Committee agreed to the introduction of fees for Licensing pre-application advice **in principle** with a view to the proposed fees being included as part of the annual review of fees and charges. The proposed fees are :

The fees have been calculated using an hourly rate for a licensing officer with on-cost (and building in anticipated budgetary increases) of £40 per hour; £15 for receipt, processing and allocation of the request, and £20 per site visit to cover expenses (fuel & vehicle) plus VAT @20%

Small Application- Up to one hour of advice regarding small licence applications, Excludes events – see below	£66
Medium Application- Up to 2 hours advice for medium size applications including a site visit	£138

Excludes event – see below	
Large Application- Up to 4 hours advice for large applications including multiple (if necessary) site visits Excludes events – see below	£258
Events up to 1000 capacity: Category A - up to 3 hours advice for extra large public events includes the cost of specialist officers and site visits	£354
Events between 1001 and up to 1999 capacity - Category B – up to 7 hours advice for extra large public events includes the cost of specialist officers and site visits	£498
Events between 2000 and up to 4999 capacity – Category C – up to up to 14 hours advice for extra large public events includes the cost of specialist officers and site visits	£690
Extra large events - 5000 people or more - Category D - up to 21 hours advice for extra large public events includes the cost of specialist officers and site visits	£1026

Check and send

Licensing Act 2003 – transfer of licence <i>or</i> variation of designated premises supervisor – include assistance completing form and advising on statutory requirements and the statutory fee (<i>currently</i> £23)	£55 (each)
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3. AVAILABLE OPTIONS

- 3.1 Members may decide to leave the fee levels as they are and not apply an inflationary increase to cover the full cost of delivering the licensing function. This would mean there would be a shortfall in income against the budget set for the function. Authorities cannot make a profit from the system and must ring-fence income from licensing fees so that any excess of 1 year's revenue pertaining to future years is carried forward, any excess in one area cannot be used to subsidise a shortfall in another.
- 3.2 Members may approve the inflationary increase fees as set at **2.7, 2.9, 2.11, 2.13, 2.15, 2.17, and 2.19**
- 3.3 Members may require a fee higher than the cost of delivering the service. However, the fee is statutorily required to be reasonable and case law indicates that compliance with the EU Services Directive and Regulations requires that only the cost of administering the application and monitoring compliance be included in the fee. If the Council were to exceed this without justification it may be subject to challenge.
- 3.4 Members may approve the proposed fees for Licensing Pre-application advice as set out in **2.19**

- 3.5 Members may decide not to approve the proposed fees for licensing pre-application advice and, if necessary, give further direction to officers.
-

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Members are requested to approve the proposed inflationary fee increases as set out at **2.7, 2.9, 2.11, 2.13, 2.15, 2.17, and 2.19** of the report to ensure that the fee income reflects the cost of providing the service.
- 4.2 Members are requested to approve the proposed Licensing Pre-application advice fees
-

5. RISK

- 5.1 If the fees are set to high then there is a risk that we could be challenged as an Authority.
- 5.2 If the fees are set to low there is the risk we will not cover the cost of delivering the service incurring a deficit.
-

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 The fees set out at 2.7 are subject to consultation and any responses from consultation will be brought to a future Licensing Committee for consideration before adopting these fees.
- 6.2 The fees set out at **2.9, 2.11, 2.13, 2.15, 2.17, and 2.19** are not subject to consultation
-

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 The fees will be charged with respect to new, existing and renewal applications from 1 April 2020 and published on our website.
-

8. REPORT APPENDICES

N/A

9. BACKGROUND PAPERS

N/A

Licensing Committee

27 November 2019

Update on Animal Licensing Activities

Final Decision-Maker	Licensing Committee
Lead Head of Service	John Littlemore, Head of Housing & Communities
Lead Officer and Report Author	Martyn Jeynes, Community Protection Manager
Classification	Public
Wards affected	All

Executive Summary

Since October 2018 the Community Protection Team have been working with businesses across Maidstone to regulate licensable animal activities under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018. As this change brought the biggest reform of animal licensing legislation for nearly four decades, the journey for our officers and local businesses has been intense. This report updates Members on the:

- nature and standard of regulated businesses across Maidstone
- lessons learnt and challenges overcome
- fee structure and how it needs to be adjusted to ensure the service remains cost neutral

Purpose of Report

Provide the Licensing Committee with officers' experience of implementing the new legislation over the last 12 months and to propose changes to the current fee structure based on this learning.

This report makes the following recommendations to this Committee:

1. That the update on the implementation of the changes in regulation for animal-related activities that were introduced in October 2018 be noted.
2. That option 2, to introduce a revised fee structure from 1st April 2020, is approved as detailed in Paragraphs 5.1 to 5.3 below.

Timetable

Meeting	Date
Licensing Committee	27 November 2019

Update on Animal Licensing Activities

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	A Thriving Place: Animals provide a great deal of enjoyment and enrich the lives of those who own or use them for leisure purposes. This in itself generates a thriving business sector that must be regulated to ensure those businesses operate at the required standards and protect the welfare of the animals in their care.	John Littlemore Head of Housing & Communities
Cross Cutting Objectives	N/A	John Littlemore Head of Housing & Communities
Risk Management	The guidance provided with the legislation is very prescriptive and will promote transparency with businesses in this sector. Where there are elements of subjectivity the legislation provides routes of appeal that the council will support. Best practice and information sharing across Kent has helped shape the service and the implementation has been monitored closely in the first year to ensure the service was within scope and resourced appropriately. Concerns identified are outlined in this report	John Littlemore Head of Housing & Communities
Financial	It is necessary for the Council to deliver a balanced budget and cover the costs of providing this service.	[Section 151 Officer & Finance Team]
Staffing	We will deliver the recommendations with our current staffing.	John Littlemore Head of Housing & Communities
Legal	Should parts of industry believe the Authority's fees are at a level which is greater than the costs of the statutory functions then it would be open to them to undertake judicial review proceedings. Should this arise, the Authority would need to evidence how it arrived at the fee levels to demonstrate that they have been calculated on a cost recovery basis only.	[Legal Team]

Privacy and Data Protection	No issues identified. This report is limited to reviewing and setting of fees to contribute towards the recovery of costs for the service.	Policy and Information Team
Equalities	No issues identified. This report is limited to reviewing and setting of fees to contribute towards the recovery of costs for the service.	[Policy & Information Manager]
Public Health	No issues identified. This report is limited to reviewing and setting of fees to contribute towards the recovery of costs for the service.	[Public Health Officer]
Crime and Disorder	As a growing sector, particularly the desire to have “designer dog breeds”, it is important to ensure that consumers are protected against those who do not have the welfare of their animals and customers in mind when conducting their business. Illegal animal-related businesses put consumers and animals at risk and we will work with partners and customers to drive down illegal businesses in this sector.	John Littlemore Head of Housing & Communities
Procurement	No issues identified. This report is limited to reviewing and setting of fees to contribute towards the recovery of costs for the service.	[Head of Service & Section 151 Officer]

2. INTRODUCTION AND BACKGROUND

Licensing of Animal Activities in Maidstone

- 1.1 Since the changes in regulation for animal-related activities were introduced in October 2018, the Community Protection Team (CPT) has been working with local businesses to ensure they understand and adopt the requirements of the new regime. The CPT's Animal Welfare specialist, working alongside CPT colleagues, officers from the Licensing Partnership and local vets, has sought to regulate businesses in Maidstone in relation to:
- Selling animals as pets
 - Providing or arranging for the provision of boarding for cats or dogs
 - Hiring out horses
 - Breeding dogs
 - Keeping or training animals for exhibition
 - Keeping a Dangerous Wild Animal*
 - Operating a zoo
- 1.2 Appendix 1 provides a breakdown of the licences issued in Maidstone in comparison between the old and new regulations. Prior to October 2018 the CPT issued 33 licences across these areas. Under the new regulations we have seen a 55% increase (51 licences issued) in the number of businesses being regulated. This is set to rise to 82% (60 licences issued) as there are currently nine businesses known to the CPT that have or will be making an application in the next six months.
- 1.3 The new legislation has also meant that some businesses that were previously out of scope, now need to be licensed. It is likely, due to the nature of some businesses, that some businesses remain unknown to the CPT.

Improving Animal Welfare for Licenced Activities

- 1.4 The primary purpose of the new regime was to improve standards across the animal activity sector. Extensive guidance was introduced that focussed on all aspects of animal care within these businesses, which has meant some businesses have had to make significant changes to their business practices. Unfortunately, some businesses have chosen not to continue.
- 1.5 The new regime has meant that our Animal Welfare specialist has had to attend an intensive weeklong residential training course on Inspecting Licensable Activities and is required to submit a significant portfolio of work in order to continue to undertake this work after 2021.
- 1.6 The priority, as per our implementation plan outlined to Committee in September 2018, was to assist those businesses already licensed under the previous regime to make their transition and to support new businesses or those previously out of scope to become regulated.

* still regulated under Dangerous Wild Animals Act 1976

- 1.7 During the first year of the new regime significant resources have been invested into supporting 50 businesses to become licenced and providing advice to potential businesses to ensure that 100% of the applications have been successful in obtaining a licence.
- 1.8 The investment by the CPT is reflected in the average time taken to undertake site inspections under the two regimes:

	In 2017-18 (under old regulations, before 1 October 2018)	In 2018-19 (under new regulations, since 1 October 2018)
Average Inspection time	30-60 minutes	4 – 6 hrs

- 1.9 This investment is also reflected in the standards achieved by businesses in the area. The legislation introduced a new risk matrix, which allows licences to be issued for up to three years where the activity is seen to be low risk and a higher standard. A three-year licence can be awarded to 5-star rated activities and a two-year licence can be issued for 3 and 4-star ratings. This creates not only a financial incentive, as fees are payable only at renewal, it also creates competition and status within each sector.
- 1.10 Achieving the higher standards has seen businesses improving their animal husbandry techniques, producing the associated documentation and upgrading their facilities to achieve the higher standards.
- 1.11 Appendix 2 shows the ratings for businesses in Maidstone. 50% of our licensed businesses achieved a 5-star rating with a creditable 86% achieving a star rating of 3 or above. This reflects not only the standard of our businesses, but the support provided by the service.

Lessons Learned in the First Year

- 1.12 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 brought the most significant changes in regulation decades. Whilst many businesses were well equipped to deal with the changes, many have had a difficult journey. Many businesses and local authorities across the country underestimated the implications of the new regime, particularly in the first 6 months.
- 1.13 As was reported to Members in September 2018, the guidance and expectations of the new legislation were not published until August 2018. This gave local authorities and businesses across the country very little time to assess and implement the changes necessary.
- 1.14 Challenges by businesses against the government's guidance has seen changes made, some of which are significant, throughout the year. DEFRA are currently undertaking a full review of the regulations and associated guidance; further changes are expected in the new year. This has been a source of frustration for businesses and officers alike.
- 1.15 This uncertainty and changing standards make the achievements shown in Appendix 2 even more impressive.

- 1.16 As demonstrated in 2.8 the resources required to achieve these results has been significant and some activities have required more officer time than we had anticipated. This has been particularly true of home boarding, where this activity was previously out of scope and unregulated in Maidstone. As the name suggests these are businesses operating in family homes. The guidance introduced in 2018 saw a number of common practices outlawed, placing strict requirements on businesses operating from home. This has led to some difficult conversations and difficult decisions have had to be made in order to meet the standards required.
- 1.17 Whilst the first year has been challenging it is also worth noting that none of the licences issued by the CPT have been challenged. Equally some businesses have sought to make changes within weeks of their inspection to achieve a higher standard.
- 1.18 Alongside home boarding, another significant area of improved regulation has been around breeding dogs. The introduction of tighter regulation of this sector is designed to cut down on the illegal selling of puppies, by ensuring puppy adverts carry a licence number from a local authority. This means that anyone who generates more than £1000 in income from selling puppies is required to be licensed. This ensures that breeding bitches are protected from over breeding and their welfare is maintained to an acceptable standard throughout.
- 1.19 As a result of this improved regulation we have seen a 166% increase in the number of breeding businesses licensed with the Authority. We anticipate that this will increase further in Spring 2020 when we anticipate the introduction of "Lucy's Law" which will outlaw third party selling of puppies, forcing those using "friends" to sell their puppies, to obtain a licence.
- 1.20 We forecast an increase in the number of businesses needing a licence to be roughly 70 businesses. We are anticipating that we will be up to 60 licences within the next 3-6 months. Implementing the service and undertaking the necessary training has meant that the resource available investigate illegal operations has been largely complaint driven. Searches on social media and selling sites would suggest there are businesses operating illegally in the area.
- 1.21 We have recently identified that a few businesses in Maidstone now fall into scope where we had not previously set fees. It has been identified that three businesses in Maidstone are likely to need a zoo licence, due to their activity opening times being more than 7 days a year. A further business initiative offering home boarding through hosted services has also been identified. The fees for these have been calculated and are also detailed in section 3.
- 1.22 In addition, we have seen an increase in requests to revisit activities for variations and rescoring and for duplicate copies of licences which were not anticipated previously.

Service Costs

1.23 In September 2018, ahead of the new legislation's commencement, a proposed fee structure was agreed by Members to cover the cost of this service area and to ensure that, where practicable, the service remains cost neutral.

1.24 The fee structure agreed in September 2018 broke the costs down as follows into two parts:

Part A Costs – Application Phase (for all applications)

Administration Process (liaison with customers, checking and enter application on system, Managerial oversight)

Financial Process (collection of fees)

Inspectors Input (review applications, arrange vet visits (as appropriate), initial inspection with vet (inc travel), review licence detail/conditions)

CPT Managerial Oversight (review reports, assist with decisions, strategic overview and appeals)

Miscellaneous Costs (spread across all licences) – Officer training, website maintenance, general advice, equipment inc vehicle costs, fee setting and committee matters

Return of statistics to DEFRA

Part B Costs – Licensed phase (only for successful applications)

Enforcement of unlicensed activities and enforcement/investigation of complaints at licensed establishments

Additional costs for other services e.g. vet required to attend premises for complaint investigation

An unannounced visit required per licence, spread over the period of the licence

1.25 Whilst every reasonable effort was taken to ensure the fees were reflective of the resources required, as outlined in 2.8, our predicted average of three hours for an inspection was significantly short of the reality of an inspection. We do however anticipate that this average will fall as businesses and officers become more familiar with the new regime and therefore expect the average to drop to four hours rather than five. Our fee structure is built around anticipated increases on the average, with larger businesses paying fees that reflect this additional work.

1.26 Some of the costs are distributed over the number of licensed businesses. Whilst we anticipated 70 business, the reality is that we have only licenced 51, therefore the costs associated, such as the cost of enforcement against unlicensed activities, are shared over fewer businesses.

1.27 Whilst fees in this area have been cause for concern, the process by which we have derived the fees is fully auditable. Should a business feel the fees are disproportionate they may seek to challenge this by way of a judicial review. We are confident that we could demonstrate that the fees have been calculated on a cost of recovery basis only, in accordance with the leading case law.

1.28 Members should note that this is a thriving business sector, many offering services to mainly affluent clients. Research of the businesses licenced in Maidstone show the incomes for these businesses are significantly higher than the £1000 minimum set in the regulations. The charges for services offered by these less traditional businesses in Maidstone are outlined below:

Cat Boarding	£10 - £18 per cat per day
Dog Boarding	£15 - £30 per dog per day/night
Dog Home Boarding	£25- £30 per dog per day/night
Dog Breeding (selling puppies)	£1000 - £2500 per Puppy
Dog Day Care	£30 per dog per day
Horse Hiring (riding lessons):	Adults £30-£53 per hour Children £29- £42 per hour

1.29 Whilst consideration has been given to introducing pre-applications fees, it is felt that the new regulations still require time to settle. Over the next year we would look to standardise the application process further, so as to be able to offer a pre-application process and to then reduce officer fees accordingly from the application process. At this time, we feel it is better to work with businesses to support their applications and avoid businesses being put off from applying and operating illegally as a result, particularly whilst continued uncertainty and confusion about the legislation is being investigated/resolved by DEFRA.

1.30 Our fee structure also allows for the opportunity for businesses to be refunded a proportion of their fee if their application is unsuccessful. New applications and renewals will receive a rebate of on average 35% and 40% of their fees respectively. To date no business has been unsuccessful in achieving at least a 1-star licence after working with the officers to ensure they meet the minimum standards.

1.31 As outlined in section 3, we propose that the fees are adjusted to better reflect the service challenges outlined above.

3. AMENDMENTS TO FEE STRUCTURE

- 3.1 As outlined in the previous section, the last year has seen an increase in the number of licensed animal activities in the borough. Many of the businesses have been able to achieve more than 3-stars which means their licences have been issued for two or three years. With fees only payable at application and renewal, 27 businesses are now paying less per year than they were under the previous fee structure shown below:

Licensable Activity	2018 Fee Range	2019/20 Eqv annual cost (2 to 3yr licence)
Boarding Kennels	£360-£450	£153-£262
Boarding Cattery	£185-£305	£143-£262
Pet shops	£420	£165-£250
Riding establishments	£320-£435	£165-£277
Breeding establishments	£295-£550	£131-£230

- 3.2 These businesses are being rewarded for being low risk and having a higher standard of animal welfare and the proposed changes to fees will not affect 25 businesses until they renew their licence in 2022.
- 3.3 As also outlined in section 2, in order for the Authority's service to remain on a cost recovery basis, reasonable adjustments have been made to ensure officers are able to maintain demand and to ensure businesses are inspected thoroughly and helped to obtain the star rating they deserve. The adjustments will also ensure resources are available to pursue those businesses still operating without a licence, putting consumers and animal welfare at risk.
- 3.4 The proposed fees for each activity (Part A and B Combined) have been calculated and are provided in Appendix 3. The average increase for a new application is £72 and £57 for a renewal application. Also proposed are new fees in relation to hosted home boarding, zoos and miscellaneous charges in relation to variation and duplication of licences. When reviewing Appendix 3, Members are reminded that businesses with a 5-star licence will save considerably over the length of their licence period.
- 3.5 Whilst we have not been able to consult on our fees, the proposed fee structure has been generated in accordance with the guidance provided, which itself was based on the responses made to the initial consultation and work undertaken by DEFRA in drafting the legislation. Similar structures have been adopted by other Kent authorities but will vary based on each LA's officer costs.
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4. AVAILABLE OPTIONS

- 4.1 Option 1: Do nothing – Continue to use the existing fee structure. Whilst it would be feasible to continue using the existing fees, the new fees have been formulated to reflect the work actually required to issue a licence. Reg 13 (2) of the Act makes statutory requirement for fees not to exceed reasonable costs of various matters set out. We would still need to undertake the work to regulate businesses and any shortfall would need to come from the public purse. We also need to introduce new fees for zoos and hosted home boarding as these activities are in scope and cannot be regulated without an agreed fee.
- 4.2 Option 2: Introduce the new fee structure to support the new Animal Licensing Regime. The new fees reflect the resource actually required to continue to deliver the improved levels of Animal Welfare in licensed activities. The new fee structure will not only allow for continued high levels of support for businesses but will also allow officers to pursue those operating without a licence.
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5. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 5.1 Option 2 is recommended in order that we are able to meet the legal requirements of the Act and to bring in revenue to cover the costs on the service.
- 5.2 The scoring matrix has allowed a large number of businesses to achieve an overall reduction in their costs by allowing them to demonstrate their competency and their higher standards of animal care and we anticipate this will continue to rise in coming years.
- 5.3 The new legislation also provides a framework and powers to tackle those that choose to operate outside the scope of the legislation, putting animals and consumers at risk. This will have a detrimental effect on both the welfare of the animals involved but impact on the economy within this growing sector if we do not seek to regulate against those who operate outside the requirements of the legislation.
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6. RISK

- 6.1 Detailed in section 1.
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7. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.4 The fees set out in Appendix 3 are not subject to consultation as they are calculated based on the resources required to provide the service on a cost recovery basis.
- 5.5 Committee previously expressed concerns that the fees would not support businesses. This report demonstrates that we are now licensing 18 more businesses and that 27 of those businesses are paying the equivalent of less per year than under the previous licensing regime.
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8. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 8.1 The fees will be charged with respect to new, existing and renewal applications from 1st April 2020.
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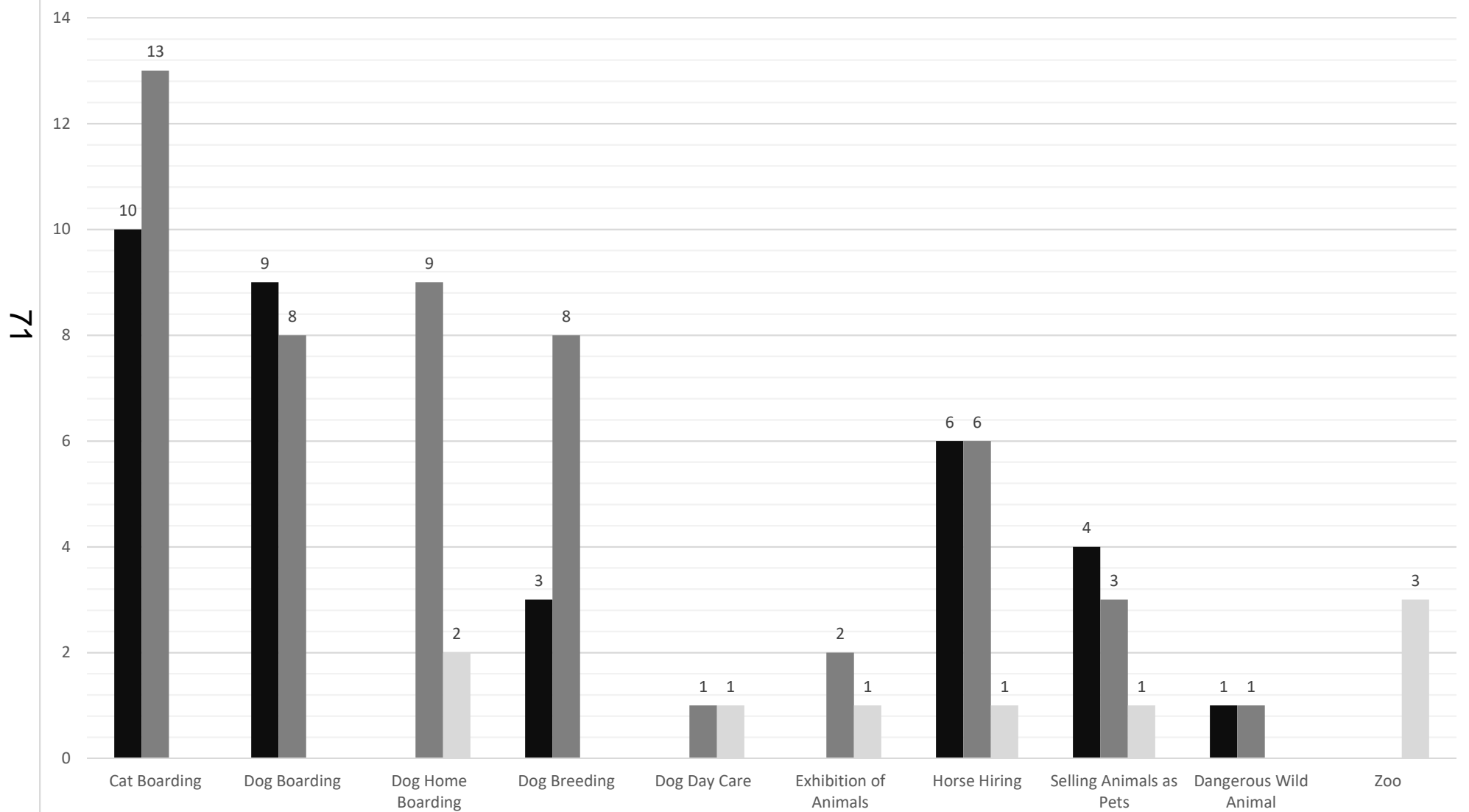
9. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

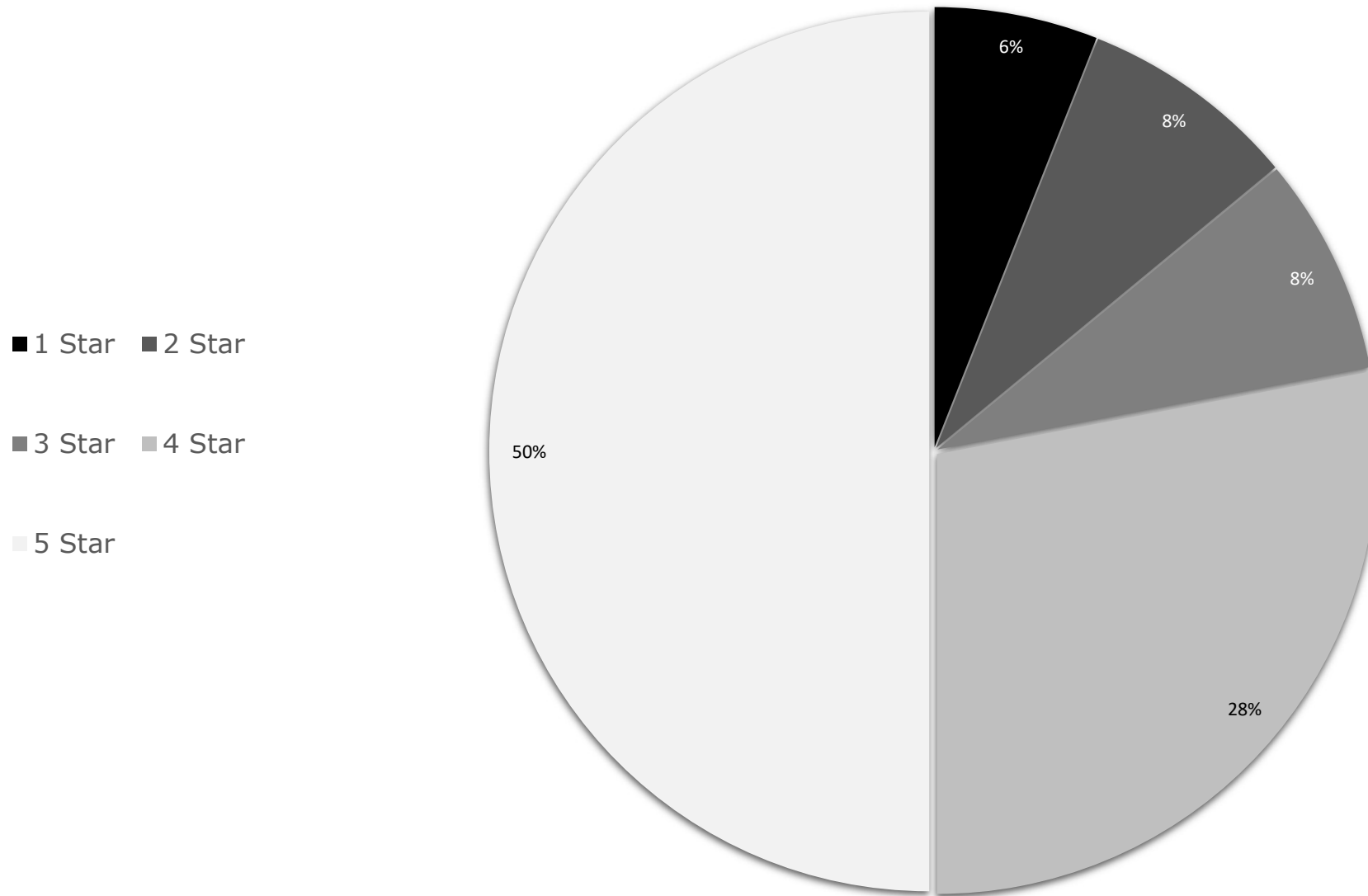
- Appendix 1: Animal Activity Licences Issued in Maidstone
- Appendix 2: Animal Activity Star Ratings
- Appendix 3: Proposed fees for Animal Licensing Activities 2020/2021

Appendix 1- Animal Activity Licences issued

■ Pre Oct 18 ■ New Regs ■ To be issued



Appendix 2- Animal Activity Star ratings



Appendix 3 – Proposed fees for Animal Licensing Activities 2020/2021

New Application				
Activity Type	Activity Size	2020/21 fee	2019/20	The +/-
Boarding Kennels	Up to 50 dogs	£530.00	£460.00	£70.00
	51 or more dogs	£610.00	£525.00	£85.00
Boarding Cattery	Up to 50 cats	£495.00	£425.00	£70.00
	51 or more cats	£530.00	£460.00	£70.00
Pet shops	All types	£570.00	£495.00	£75.00
	Up to 4	£495.00	£425.00	£70.00
Home boarding and day care	5 or more dogs	£530.00	£460.00	£70.00
	<i>Arranger fee</i>	£380.00	N/A	New
	<i>Host fee</i>	£190.00	N/A	New
Riding establishments	Up to 10 horses	£570.00	£495.00	£75.00
	11 or more horses	£645.00	£555.00	£90.00
Performing animals	All types	£455.00	£395.00	£60.00
Breeding establishments	Up to 5 dogs	£455.00	£395.00	£60.00
	6-10 dogs	£495.00	£425.00	£70.00
	11+ dogs	£530.00	£460.00	£70.00
	<i>Zoo</i>			
	<i>Single species</i>	£530.00	N/A	New
	<i>Less 10 species</i>	£720.00	N/A	New
	<i>More 10 species</i>	£1,220.00		New

Renewal				
Activity Type	Activity Size	2020/21 fee	2019/20	The +/-
Boarding Kennels	Up to 50 dogs	£480.00	£425.00	£55.00
	51 or more dogs	£555.00	£485.00	£70.00
Boarding Cattery	Up to 50 cats	£440.00	£390.00	£50.00
	51 or more cats	£480.00	£425.00	£55.00
Selling of animals	All types	£520.00	£455.00	£65.00
	Up to 4	£440.00	£390.00	£50.00
Home boarding and day care	5 or more dogs	£480.00	£425.00	£55.00
	<i>Arranger fee</i>	£290.00	N/A	New
	<i>Host fee</i>	£95.00	N/A	New
Riding establishments	Up to 10 horses	£520.00	£455.00	£65.00
	11 or more horses	£595.00	£515.00	£80.00
Performing animals	All types	£400.00	£355.00	£45.00
Breeding establishments	Up to 5 dogs	£400.00	£355.00	£45.00
	6-10 dogs	£440.00	£390.00	£50.00
	11+ dogs	£480.00	£425.00	£55.00
	<i>Zoo</i>			
	<i>Single species</i>	£440.00	N/A	New
	<i>Less 10 species</i>	£630.00	N/A	New
	<i>More 10 species</i>	£1,130.00	N/A	New

PTO.

Miscellaneous Fees				
Activity Type	Activity Size	2020/21 fee	2019/20	The +/-
Duplicate copy of licence	N/A	£20	N/A	New
Variation of Licence	N/A	£115.00		

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted