

Statement of Licensing Policy 2021-2026

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

Executive Summary

The report asks Members to consider the Council's Draft Statement of Licensing Policy for the five year period 7 January 2021 to 6 January 2026, and to give their feedback or suggestions which will be considered along with any consultation responses.

Purpose of Report

The Council's current policy is valid until 6 January 2021. The Licensing Act 2003 requires the Council to publish a Statement of Licensing Policy which sets out the framework that the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act.

This report makes the following recommendations to this Committee:

1. Agree, for consultation purposes the proposed Statement of Licensing Policy.
2. Authorise the 6 week consultation period as set out in the report .

Timetable

Meeting	Date
Licensing Committee	17 th September 2020
Licensing Committee	19 th November 2020
Council	9 th December 2020

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1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<ul style="list-style-type: none"> <i>No implications have been identified</i> 	[Head of Service or Manager]
Cross Cutting Objectives	<ul style="list-style-type: none"> <i>No implications have been identified</i> 	[Head of Service or Manager]
Risk Management	<ul style="list-style-type: none"> <i>No implications have been identified</i> 	[Head of Service or Manager]
Financial	<ul style="list-style-type: none"> <i>No implications have been identified.</i> 	[Section 151 Officer & Finance Team]
Staffing	<ul style="list-style-type: none"> <i>No implications have been identified</i> 	[Head of Service]
Legal	<ul style="list-style-type: none"> <i>Section 5(1)(a)(b) of the Act requires each Licensing Authority to determine and publish a Licensing Policy Statement and review on an ongoing basis, within a five year period. Adoption of the Policy Statement is a Council function which cannot be delegated to a Committee or Sub-Committee.</i> 	[Legal Team]
Privacy and Data Protection	<ul style="list-style-type: none"> <i>No implications have been identified</i> 	Policy and Information Team
Equalities	<ul style="list-style-type: none"> <i>The consultation process will be completed in line with the legislative requirements and provision will be made for any persons to provide comments on the policy in any format that they wish.</i> 	[Policy & Information Manager]
Public Health	<ul style="list-style-type: none"> <i>An effective and fit for purpose Licensing Policy helps to ensure that residents within the district and those visiting are safe and reduces the risk of health implications in relation to premises which require a license.</i> 	[Public Health Officer]
Crime and Disorder	<ul style="list-style-type: none"> <i>It is noted that the Licensing of premises plays a key role in ensuring that any crime and disorder can be managed appropriately and ensures that a robust process is in place to</i> 	[Head of Service or Manager]

	<i>enable the management of this. This policy seeks to ensure that this process can happen effectively.</i>	
Procurement	<ul style="list-style-type: none"> <i>No implications have been identified.</i> 	[Head of Service & Section 151 Officer]

2. INTRODUCTION AND BACKGROUND

- 2.1 The Licensing Act 2003 (the Act) requires the Council, in its role as a licensing authority, to draft, consult on and publish a statement of licensing policy at least every five years.
- 2.2 The Council's current Policy is in force until 6 January 2021, therefore a new Policy must be in place by 7 January 2021 in order to continue to process applications covered by the Licensing Act 2003. Once in place this Policy must be kept under review.
- 2.3 The proposed draft policy attached as Appendix 1 largely replicates the existing policy, however Officers have taken the opportunity to insert minor changes in relation to legislative change and Government Guidance.
- 2.4 The summary of amendments are as follows:

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

	<p>this Licensing Policy. We may therefore, from time to time, make new applicants and existing licence holders/operators aware of these changes so that they can ensure they meet any future challenges.</p>	
3.4 General Policy Considerations	<p>The Licensing Authority offers a pre-application advice service. This advisory service is chargeable. The advice is a bespoke service for licensing applications. The aim is to help applicants and respond to challenges that may arise during the process. However advice given cannot pre-determine the outcome of any licensing application, particularly if representations are received and brought before the Licensing Sub-Committee. Pre application advice is available from licensing officers upon request and where appropriate.</p>	Recent process included to provide clarity to applicants
3.9	<p>Therefore the authority requests as part of the application the Operating Schedule should include the procedures the applicant is intending to operate to ensure the following:</p> <ul style="list-style-type: none"> •The person they are selling alcohol to is over the age of 18 •That alcohol is only delivered to a person over the age of 18 •That a clear document trail of the order process from order, despatch from the licensed premises and delivery to the customer is maintained (with times and signatures) and available for inspection by an authorised officer. •The time that alcohol is sold on the website/over the phone at the time the alcohol is delivered is within the hours stated on the licence for the sale of alcohol. 	expanded to provide greater clarity in relation to under age sales.
6.5 Human Rights And Equal Opportunities	<p>Immigration Act 2016 and the Modern Slavery Act 2015. The Licensing Authority has responsibilities that relate to the prevention of immigration crime, specifically the prevention of illegal working in licensed premises. Licences must not be issued to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from doing work relating to the carrying on of a licensable activity.</p> <p>These provisions apply to premises licences for alcohol and late night refreshment, (but not entertainment only licences) and personal licences. Other types of authorisation under the Licensing Act 2003 (Club premises certificates and temporary event notice (TEN) are not covered. This is due to there being little evidence of immigration abuse in respect of premises authorised under a club premises certificate and it would have been disproportionate to apply the requirements to a TEN.</p>	Updated to reflect the authorities responsibilities in relation to prevention of illegal working in licensed premises.
17.4	<p>Deterrence of knife crime measures</p> <p>Maidstone experienced a disturbing knife crime incident in August 2019 which led to the death of a young man. It is important that this Licensing Policy recognises this and sets out proportionate measures to deter the carrying of knives into licensed premises in Maidstone.</p> <p>The Licensing Authority must carry out its functions under the Licensing Act 2003 with a view to promoting the licensing objectives, which of course include public safety and the prevention of crime and disorder. This Authority has considered how best this duty can be carried out in the context of current risks to the public arising from the carrying of knives and has decided that to introduce measures to prevent knife crime in licensed premises.</p> <p>The Licensing Authority would expect all applications for licences/certificates authorising the sale or supply of alcohol to consider when preparing their operating schedule the steps which the applicant intends to prevent, so far as reasonably practicable, customers on their premises</p>	Councillors request to make the policy more robust in respect of security measures for certain premises

becoming at risk of knife crime and to deter customers from carrying out acts of knife crime. These steps may be either in the form of specific suggested conditions to be attached to the premises licence / certificate if granted or a condition committing the applicant to have in place during the currency of the licence / certificate a documented risk assessment, which specifically addresses the risks of knife crime on the premises which is kept under regular review.

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

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

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

	<p>locations and key times of knife related incidents. Kent Police can assist the applicant in this regard.</p> <p>As far as those premises are concerned which are currently licenced to sell/supply alcohol, the Licensing Authority expects them to have the same degree of consideration as to the risks of knife crime as new applicants. The Licensing Authority would encourage all existing premises licence holders to note the contents within this policy and also consider steps they intend to take to prevent, so far as reasonably practicable, customers on their premises becoming at risk of knife crime and to deter customers from carrying out acts of knife crime.</p>	
17.11 & 17.12 Licence conditions	<p>Wholesale of alcohol. Since 1 April 2017, businesses which sell alcohol (for example, retailers of alcohol and trade buyers) need to ensure that the UK wholesalers that they buy alcohol from have been approved by HMRC under the Alcohol Wholesaler Registration Scheme (AWRS). They will need to check their wholesalers Unique Registration Number (URN) against the HMRC online database.</p> <p>This is an ongoing obligation and if a business is found to have bought alcohol from an unapproved wholesaler, they may be liable to a penalty or could even face a criminal prosecution and their alcohol stock may be seized. Any trader who buys alcohol from a wholesaler for onward sale to the general public (known as a 'trade buyer') does not need to register unless they sell alcohol to other businesses.</p> <p>Examples of trade buyers would be pubs, clubs, restaurants, cafes, retailers and hotels. However, they will need to check that the wholesaler they purchase alcohol from is registered with HMRC.</p>	Inserted to reflect legislation.

There are also some minor amendments that have been made which are shown as bold red in the document Appendix 1, pages 1, 3 and 12

- 2.5 As there are no significant changes proposed it is suggested that a consultation is run for 6 weeks between 23rd September 2020 – 4th November 2020, this will ensure that a further report including all the consultee comments will be able to be presented to Licensing Committee on 19th November 2020 and for a policy to be in place for 6th January 2021.
- 2.6 The Licensing Act 2003 sets out a list of statutory consultees and also makes provision for other persons/bodies to be consulted as necessary. The List of consultees is set out at Appendix 2

3. AVAILABLE OPTIONS

- 3.1 There are no available options to the Council – Section 5 of the Licensing Act 2003 requires a licensing authority to prepare and publish a statement of its licensing policy for publication at least every five years. The current policy is due to expire on 6 January 2021.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Section 5 of the Licensing Act 2003 requires a licensing authority to prepare and publish a statement of its licensing policy for publication at least every five years. This enables the Licensing Authority to have a secure foundation on which to determine applications in a way that clearly promotes the licensing objectives. Members are therefore asked to approve the revised draft statement of licensing policy for public consultation.

5. RISK

- 5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 Any comments received will be included in a further report and brought before Members for consideration at the Licensing Committee scheduled for 19th November 2020.

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 Should Members approve the draft Policy at Appendix 1 for consultation, it is proposed this will commence on 23 September for a period of six weeks via the Council's consultation portal, the Council webpages and various emails.
- 7.2 Any comments received will be considered by the Senior Licensing Officer and a further report will be brought before Members for consideration at the Licensing Committee meeting scheduled for 19th November 2020. The minutes of the meeting will be placed on the Council's website.
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- 7.3 If the Policy is approved by Members this Statement will be presented to Full Council on 9 December 2020 for adoption taking effect from 7 January 2021. The minutes of the meeting will be placed on the Council's website.
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8. REPORT APPENDICES

1. Draft Statement of Licensing Policy 2021-2026
 - 2 Revised Draft Policy
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9. BACKGROUND PAPERS

Licensing Act 2003 -

<https://www.legislation.gov.uk/ukpga/2003/17/contents>

S.182 Guidance issued to Licensing Authorities -

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

Current Statement of Licensing Policy 2015