

LICENSING COMMITTEE MEETING

Date: Thursday 22 November 2018
Time: 6.30 pm
Venue: Town Hall, High Street, Maidstone

Membership:

Councillors Garten, Mrs Grigg, Harvey, Hinder, Mrs Hinder (Vice-Chairman), Joy (Chairman), McKay, McLoughlin, Purle, Mrs Robertson, 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. Notification of Visiting Members | |
| 5. Disclosures by Members and Officers | |
| 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 20 September 2018 | 1 - 6 |
| 9. Minutes of the Licensing Act 2003 Sub-Committee Meeting held on 7 June 2018 | 7 - 13 |
| 10. Minutes (Part I) of the Licensing Act 2003 Sub-Committee Meeting held on 6 August 2018 | 14 - 15 |
| 11. Minutes of the Licensing Act 2003 Sub-Committee Meeting held on 3 September 2018 | 16 - 26 |
| 12. Minutes of the Licensing Act 2003 Sub-Committee Meeting held on 25 September 2018 | 27 - 33 |

Issued on Wednesday 14 November 2018

**Continued
Over/:**

Alison Broom

Alison Broom, Chief Executive

13. Statement of Licensing Principles for Gambling Act 2005 2019 - 2022	34 - 89
14. Emission standards and suitability for use of Maidstone	90 - 129
15. Licence Fees 2019 -2020	130 - 139

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

16. Minutes (Part II) of the Licensing Act 2003 Sub-Committee Meeting held on 6 August 2018	1 – information re any individual	140 - 143
	2 – Information re identity of an individual	
	3 – Information re financial/business affairs	

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. Tuesday, 20th November 2018. 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.

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MAIDSTONE BOROUGH COUNCIL

LICENSING COMMITTEE

MINUTES OF THE MEETING HELD ON THURSDAY 20 SEPTEMBER 2018

Present: Councillor Mrs Joy (Chairman), and
Councillors Garten, Mrs Grigg, Harper, Harvey,
Hinder, Mrs Hinder, McLoughlin, Purle,
Mrs Robertson, J Sams and Springett

20. **APOLOGIES FOR ABSENCE**

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

21. **NOTIFICATION OF SUBSTITUTE MEMBERS**

It was noted that Councillor Harper was substituting for Councillor McKay.

22. **URGENT ITEMS**

There were no urgent items.

However, Members questioned why the Licensing Committee meetings were not webcast. The Legal Advisor stated that in the past the Committee had considered the issue on several occasions and decided that as there were many Part II items and matters where objectors were in attendance, it was more prudent to not webcast these meetings. However, time had passed and if Members wished to reconsider that decision then the Committee could do so.

RESOLVED: That the decision on whether to webcast the Licensing Committee meetings be reviewed on an annual basis.

Voting: For: 11 Against: 0 Abstentions: 1

23. **VISITING MEMBERS**

There were no Visiting Members.

24. **DISCLOSURES BY MEMBERS AND OFFICERS**

There were no disclosures by Members and Officers.

Councillor Mrs Springett arrived at 6.35 p.m. as this item was being discussed.

25. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

26. EXEMPT ITEMS

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

27. MINUTES OF THE MEETING HELD ON 19 JULY 2018

In response to a question by a Member, Mr John Littlemore, the Head of Housing and Community Services, advised that he would find out why Email regarding the Licence Tracker had not been sent out as requested.

RESOLVED: That the Minutes of the meeting held on 19 July 2018 be approved as a correct record and signed.

28. COMMITTEE WORK PROGRAMME

The Committee considered the Work Programme for 2018/19 and the following comments were made by Members:-

- **Deregulation Act 2015** – Members expressed concerns about the effect that the de-regulation of certain types of licensable activity, mainly at alcohol licensed premises (particularly outside) had had on residents living near public houses. In particular complaints made are dealt with by enforcement which entails months of recordings from the complainant by which time the Summer months, where the amplified music is more prominent, have gone and the situation has settled down again. They would wish that consideration be given to possible lobbying of central government.

Mr Littlemore undertook to take a report to the Communities, Housing and Environment Committee as this would come under that Committee's responsibilities.

- Gambling Act 2005: Responses to Consultation – November 2018
- MBC Animal Establishment Fees and Charges 2019/20 – Mr Littlemore advised that should the report on the agenda be approved at this meeting then this would not need to come to the March Committee meeting.

RESOLVED:

- 1) That the Committee Work Programme for 2018/19 be noted with the changes made.
- 2) That Officers present a report to the Communities, Housing and Environment Committee on the deregulated LA03 activities and the

impact they have had on communities and what options were there to deal with them.

Voting: Unanimous

29. CHANGES TO ANIMAL LICENSING LEGISLATION

Mr Martyn Jeynes, the Community Protection Manager, introduced his report which provided guidance from DEFRA on the new Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 which would come into effect on the 1st October 2018.

The Committee noted that the new legislation provided an updated licensing framework in England for five activities involving animals which were as follows:-

- Selling animals as pets
- Providing for or arranging for the provision of boarding for cats and dogs
- Hiring out horses
- Dog breeding
- Keeping or training animals for exhibition

Mr Jeynes highlighted areas that were now captured by the legislation such as online trading of pets.

In response to questions from Members, Mr Jeynes advised that:-

- The fees were calculated according to the guidance and took into account all the activities involved in the particular processes such as travel, time spent at the establishment and the processing of the licence application.
- The new regulations were made on 16th April 2018 and due to come into effect on 1st October 2018. The relatively late publication of the guidance, particularly around fee setting meant that it had not been possible to brief Members before the Committee meeting.
- The legislation gave more powers to Local Authorities, including giving Officers authority to enter a premises with a warrant on suspicion of trading rather than having to gather evidence of an offence first.
- If selling pets online the person was required to show a licence number on their advertisement.
- A dog training establishment did not fall under the new regime but the person who exhibited the dog would have to be licensed.
- The guidance stated that there should only be 1 litter per bitch each year. The restriction of 3 litters per year related to 3 breeding bitches in one household. An Officer can investigate if there was a

suspicion that it was more.

- The current licences were due to expire in December 2018 so existing establishments had been contacted and advised about the new regime. The legislation provided for the transition of existing licences which needed to be issued under the new regime once expired. With most licences due to expire in December 2018 there was likely to be heavy demand on the service between October and December.
- It would be possible to review the fees in 12 months' time as there would have been sufficient time to check if the fees had been calculated in the correct manner.
- Officers could follow up on concerns from residents who suspected an activity was being operated without a licence.
- The guidance stated that a cost for enforcement against unlicensed activities should be included, which would be paid from licensed activities fees, as enforcing against unlicensed activities protected their business.
- Establishments who were awarded a 5 Star rating would pay upfront cost in the first year, but the Council would still need to recover its costs overall.
- Dog Day Care and Home Dog Boarding were new additions to the regulations and therefore an unknown quantity.
- Dog Walkers and Horse Livery Stables were currently outside of the scope of the legislation.
- It was envisaged that the details of the Animal Licences would be published on the licensing website in order that anyone could check to see if the establishments had a licence.
- Officers would be working with the Communications Team to ensure that the message was given out to the general public to reflect the new changes. Mr Jeynes stated that he would also address the requirement for a hotline so residents could report their concerns around unlicensed activities.
- Officers had taken into account the cost of an inspector and others in training to provide cover. It had also been recognised that for the first one to two years the service would be resource heavy, especially as a lot of the existing licences expire at the end of 2018.
- The fees were calculated to cover the cost of the service provided, this included the cost for one official visit and an unannounced visit during the term of the licence.

- The activities of home dog boarding and dog day care were required to be licensed from 1st October. If these were excluded from the list of fees then it would not be possible to licence this activity. The guidance specifies the fees from other licensed activities cannot be used to subsidise another licensing activity. The fees for each licence had been costed based on predicted costs for the Council on administering the licence and not on the relative incomes of the activities themselves.

RESOLVED:

- 1) That the changes required by The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 be noted.
- 2) That the associated fee structure, produced in accordance with the guidance provided by DEFRA effective from 1 October 2018 be agreed.
- 3) That a review of the service be submitted to the Committee in 12 months' time.

Voting: For: 8 Against: 4 Abstentions: 0

Councillor Garten asked for his dissent to be noted.

30. **COMMITTEE MEMBER TRAINING**

Mr John Littlemore, the Head of Housing and Community Services presented a report on the Constitution requirement that Members and Substitute Members of the Licensing Committee undertake the required training to enable them to continue to serve on the Committee.

In response to a question from a Member, Mrs Bolas, the Legal Officer advised that it was not felt practical to hold the training in the evening as it would take a minimum of two to three hours to complete and was detailed.

The Committee noted that one more training session would be arranged to capture the two Committee Members and the Substitute Members who had not undertaken the training. However, failure of any Member to attend the training session would result in them not being able to serve on the Committee as a Member or a Substitute. Mrs Bolas advised that a further refresher training session would be organised in the new year.

RESOLVED: That the content of the report be noted and the need for its Membership to be compliant with Maidstone Borough Council's Constitution and the Licensing Committee decision of the 16 June 2016 on the requirements for training be agreed.

Voting: Unanimous

31. DURATION OF MEETING

6.30 p.m. to 8.10 p.m.

MAIDSTONE BOROUGH COUNCIL

LICENSING ACT 2003 SUB COMMITTEE

MINUTES OF THE MEETING HELD ON THURSDAY 7 JUNE 2018

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

57. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members and Officers.

58. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

59. EXEMPT ITEMS

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

60. APPLICATION FOR A CLUB PREMISES CERTIFICATE UNDER THE
LICENSING ACT 2003 FOR MARDEN CRICKET AND HOCKEY CLUB,
MAIDSTONE ROAD, MARDEN, KENT, TN12 9AG

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

Councillor Mrs Wendy Hinder – Chairman
Councillor Mrs Denise Joy – Committee Member
Councillor Mrs Val Springett – Committee Member

Mrs Jayne Bolas – Legal Advisor
Mrs Caroline Matthews – Democratic Services Officer

Mrs Charlotte Hope – Chairman of Marden and Hockey Club
Mr Ian Farlane – General Manager, Marden and Hockey Club

The Chairman asked for all parties to confirm that they were aware of the hearing procedure and that each had a copy of the procedure document.

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

The Legal Advisor briefly outlined the application for a Club Premises Certificate and advised that the objectors as stated on Pages 33 and 34 were the only remaining objectors not to have withdrawn. However, they were not present despite the Licensing Manager having twice sent out

emails to them requesting that they confirmed their attendance at the Sub-Committee meeting.

Members were advised by the Legal Advisor that in the absence of the objectors they could decide to proceed with the Sub-Committee meeting, taking into account the objectors' reasons for objection on the papers or if they felt it necessary in the public interest, adjourn it until a new date at which the objectors could be invited to attend again.

Members were satisfied that they had enough information to proceed and it was not necessary in the public interest to adjourn.

Mrs Bolas gave the Sub-Committee a brief outline of the application for a new premises certificate in Maidstone Road, Marden.

She highlighted the activities applied for, which were on Pages 6 and 7 of the papers, which stated that the supply of alcohol on a Friday night would be until 1 a.m. and on a Saturday night would be until 2 a.m.

The Sub-Committee noted that no representations had been received from responsible authorities.

It was also noted that 3 out of the 5 objectors had withdrawn their representations. However, Members were required to consider the representations from the other objectors.

Mrs Charlotte Hope, the Chairman of Marden and Hockey Club presented her opening remarks.

She advised that the Clubhouse had been situated on the Marden Road since 1963, following the merge of the Cricket and Hockey Clubs. In 2017 the Marden Tennis Club joined the Cricket and Hockey Club in preparation for the move to new facilities in Maidstone Road, Marden.

The Club was run as a non-profit making organisation, whereby all the costs were met from subscriptions and match fees. It did not benefit from any public or lottery funding and was run mainly by volunteers. However, in order to accrue some additional income it was intended that the Clubhouse could be hired out for parties or events, where paid staff would manage the bar area and provide security.

It was noted that the Clubhouse had CCTV and alarms and all events would be closely monitored by Ian Farlane and his team who would be on site for the duration of any events. Mrs Hope emphasised that the Club had a zero tolerance to the mis-use of drugs and drink.

Following a question from a Member Mrs Hope stated that they had very few neighbours and the nearest was situated over 100m away and was very supportive of their facility.

She emphasised that the Clubhouse was only open to members (and their guests) and people attending events. In the event of a party, they became a guest of the club under the Club's rules.

It was noted that the pitches were floodlit but the users had to come off the pitches by 10 p.m. and have left the facility by 11 p.m.

She highlighted the fact that other facilities in the village, such as the Raj of Kent and the Memorial Hall had late licensing hours.

In terms of public safety the main exit from the Club was onto Maidstone Road which was not a lit residential road, it was essentially a country lane. Therefore to enable a safe passage for walkers from the Club, it was agreed with the landowners to create a footpath that would run to the back of the railway. However it was envisaged that there would be very few walkers.

Mr Farlane pointed out that the Club house was fully double glazed, with toughened glass and the noise level would therefore be minimal.

In response to questions from Members, Mr Farlane confirmed that:-

- the facility had air conditioning
- every person who played sport at the facility was a Member and any Member could sign a guest in on three occasions before that person has to become a Member as well. It was noted that any supporters from other clubs do not have to sign in as a guest.
- If someone hired the facilities then they become a guest of the club.

Members confirmed that they did not have any further questions and the the hearing was adjourned to enable the Sub-Committee to make a decision.

NOTICE OF DETERMINATION

Applicant: The Committee of Marden Cricket and Hockey Club

Regarding

CLUB PREMISE CERTIFICATE

Marden Cricket and Hockey Club, Maidstone Road, Marden, Kent TN12 9AG

Date of hearing: 7 June 2018

Date of determination: 7 June 2016

Committee Members: [Chairman]:
Councillor Mrs Hinder
Councillor Mrs Joy
Councillor Mrs Springett

Legal Advisor in attendance at hearing: Mrs Jayne Bolas

Democratic Services Officer in attendance at hearing: Mrs Caroline Matthews

This was an application for:

☒ Grant

for a

☒ Club Premises Certificate

A: Representations, evidence and submissions:

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

Applicant

Name: The Committee of Marden Cricket and Hockey Club
Other Representatives: Mrs C Hope and Mr I Farlane

Responsible Authorities

N/A

Interested Parties Not attending

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

Email 19/04/18 Sally Bampton and email Ronald and Elaine Locke at Pages 33 and 34 of the report.

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

Sections 71-79 which relate to the application for a club premises certificate;

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 6 Club premises certificates

Chapter 9 Determining Applications

Chapter 10 which relates to conditions attached to licences;

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

- | | |
|---------------|--|
| 13.1 – 13.8 | Club Premises Certificates |
| Chapter 17 | which relates to the 4 licensing objectives; |
| 17.9 – 17.15 | which relates to the Prevention of Crime and Disorder; |
| 17.16 – 17.18 | which relates to the Promotion of Public Safety |
| 17.19 – 17.22 | which relates to the Prevention of Public Nuisance |

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

Grant as applied for with conditions consistent with the club operating schedule and mandatory conditions :

Reasons for determination:

At 10.00 a.m. Members noted non-attendance by remaining objectors and were satisfied that they had been notified of the hearing and not confirmed non-attendance or otherwise or made contact, Members decided the matter could be dealt with by considering their written representations and the hearing should proceed.

Public Safety and Prevention of Nuisance –

Members of the Sub-Committee carefully considered the information in the report, noting the withdrawal of 3 objections.

They heard from Mrs Hope and Mr Farlane for the applicant and considered the two written representations at pages 33 and 34 of the agenda from Mrs Bampton and Mr and Mrs Locke. Members noted that there were no Responsible Authority Objections and two remaining objections from other persons on the papers only and that they reside some distance from the premises. Members noted the amended times for the application following representations and dealt with the application on the basis of the amendments made on 14 May 2018. A further amendment was made in respect of the 8 occasions for extended hours applied for; should an event be on a Friday the supply of alcohol will end at 01:00 to coincide with the premises opening time terminal hour, rather than at 02:00 as it appears at page 7. It remains at 02:00 if the occasion is on a Saturday. . Members were of the view, based on the map at Page 35 of the agenda and evidence heard and the amendments to hours that the application should be granted. Members noted the licensed hours of premises in the locality as at page 5 of their report. They noted the location of the Club premises in Maidstone Road and its proximity to the objectors' houses and other residential properties and details of the entrance/exits onto Maidstone Road. The activities of live and recorded music are indoor only and cease at 23:00 hours as requested by objectors, save for 8 Friday or Saturday set calendar year and non-standard timings for New Year's Eve. There is no objection from Police or EHOs to suggest that undue noise or disturbance will result from music or patrons.

The premises are to operate as a club and Members were satisfied that the Committee have a history of no complaints over years at previous premises. It appears that the hours applied for, including 8 later Fridays/Saturdays and New Year's Eve are not unreasonable for a premises of this nature in this location.

Having balanced the issues raised in relation to noise and patrons' safety, Members were satisfied that the licensing objectives of prevention of public nuisance and public safety can be promoted appropriately and proportionately without the need for conditions beyond the mandatory and those included in the club operating schedule. Members were aware of the steps taken for parking at and attending the club and a footpath to be created for any walkers.

Informative On Review – All parties should be aware that if issues in respect of promotion of the licensing objectives occur in future provisions under SS87-89 of the Licensing Act 2003 apply and a review may be applied for, (after a reasonable interval has elapsed if on the same basis as the representations heard on 7 June 2018).

PRINT NAME (CHAIRMAN): Councillor Mrs Hinder

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

Date: 7 June 2018

61. DURATION OF MEETING

10.00 a.m. to 11.30 a.m.

Agenda Item 10

MAIDSTONE BOROUGH COUNCIL

LICENSING ACT 2003 SUB COMMITTEE

MINUTES (PART I) OF THE MEETING HELD ON MONDAY 6 AUGUST 2018

Present: **Councillors Garten (Chairman), Mrs Joy and
McLoughlin**

62. **DISCLOSURES BY MEMBERS AND OFFICERS**

There were no disclosures by Members and Officers.

63. **DISCLOSURES OF LOBBYING**

There were no disclosures of lobbying.

64. **EXEMPT ITEMS**

RESOLVED: That the items contained in the agenda be taken in private having applied the public interest test.

65. **EXCLUSION OF THE PUBLIC FROM THE MEETING**

Appeal Against Penalty Points 1

Paragraph 1 – Information re
Individual

Paragraph 2 – Information re
Identity of an individual

Paragraph 3 – Information re
Financial/business affairs

Appeal Against Penalty Points 2

Paragraph 1 – Information re
Individual

Paragraph 2 – Information re
Identity of an individual

Paragraph 3 – Information re
Financial/business affairs

66. **APPEAL AGAINST PENALTY POINTS 1**

The Sub-Committee considered the appeal against the issue of 3 Penalty Points to a Hackney Carriage/Private Hire Driver's Licence as detailed in the exempt report.

Determination:

That the Sub-Committee had decided to rescind the penalty points issued to the Appellant as detailed in the exempt minute.

67. APPEAL AGAINST PENALTY POINTS 2

The Sub-Committee considered the appeal against the penalty points issued where it had exceeded the maximum of 12 in a rolling 12 month period.

Determination:

The Sub-Committee decided to suspend the driver's Private Hire Driver's Licence for a period of 28 days as detailed in the exempt minute.

Agenda Item 11

MAIDSTONE BOROUGH COUNCIL

LICENSING ACT 2003 SUB COMMITTEE

MINUTES OF THE MEETING HELD ON MONDAY 3 SEPTEMBER 2018

Present: Councillors Garten, Mrs Joy (Chairman) and Mrs Springett

1. **DISCLOSURES BY MEMBERS AND OFFICERS**

There were no disclosures by Members and Officers.

2. **DISCLOSURES OF LOBBYING**

There were no disclosures of lobbying.

3. **EXEMPT ITEMS**

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

4. **APPLICATION TO VARY A PREMISES UNDER THE LICENSING ACT 2003 FOR HUSH HEATH WINERY, HUSH HEATH ESTATE, FIVE OAK LANE, STAPLEHURST, TONBRIDGE, KENT , TN12 0HX**

The Meeting commenced at 10.15 a.m.

Mrs Jayne Bolas, the Legal Advisor highlighted an amendment to the report as follows:-

Page 1 – the current opening hours should read – 11.00 to 1700 Mon to Sat and 12.00 to 17.00 Sun not 15:00 as shown.

She also clarified that the Supply of Alcohol limited to tasting samples condition at Annex 3, Page 63 would not be removed by this application.

Mrs Bolas advised that Mrs Tipples, an objector who had indicated her intention to be present, had sent through an email stating that she was no longer able to attend and Mr Codd, also an objector, would be speaking on her behalf.

Mrs Bolas also advised that Mrs Tipples had sent in an attachment to her email and Mr Balfour-Lynn, the applicant advised that he had received the email, along with an attachment, but had not read them in full.

The Legal Advisor reminded the Sub-Committee that ordinarily any documentation to be submitted by any party should be received prior to

the Hearing taking place but if the Applicant was happy to consent to the document being presented then it could be taken into consideration.

Mr Codd advised that the document put forward by Mrs Tipples set out some legal points raised by her since her original letter and he would only be referring to it in his presentation.

Mr Balfour-Lynn was asked if he would consent to the documentation being provided to the participants of the meeting. Mr Balfour-Lynn advised that he was happy to give his consent. He wished to deal with the matter for his business and employees.

Mrs Bolas asked the Members if they wished to go ahead with the meeting or adjourn until they had read the document produced by Mrs Tipples.

The Members agreed to adjourn for 15 minutes to enable them to read the document.

After the adjournment the Chairman referred to the procedure notes attached to the Committee papers and asked everyone present to introduce themselves.

Councillor Mrs Denise Joy – Chairman
Councillor Patrik Garten – Committee Member
Councillor Mrs Val Springett – Committee Member

Mrs Springett indicated that she was substituting for Cllr McLoughlin.

Mrs Jayne Bolas – Legal Advisor
Mrs Caroline Matthews – Democratic Services Officer

Mr Balfour-Lynn – Applicant
Ms S. Easton – for the Applicant
Ms V. Ash – for the Applicant

Mr A. Codd – on behalf of Objector Mrs Andrea Hodgkiss and on behalf of Mrs A and Mr F Tipples and Spokesman for Mr & Mrs Humphrey
Mr K Humphrey – Objector (and on behalf of Mrs Humphrey)

Mrs Bolas referred to the observations made by Mrs Tipples in the document where she questioned whether the application should have been made in Mr Balfour-Lynn's name as the Hush Heath Estate was the trading name published on Companies House (and was the trading name of a limited partnership known as Hush Heath Estate LLP), the registered members of which are Hush Heath Hospitality Limited and Hush Heath Hospitality (Kent) Limited which were appointed as members of Hush Heath Estate LLP in May 2018 in place of Mr & Mrs Balfour-Lynn.

Mr Balfour-Lynn explained that as Hush Heath was owned by his family it seemed appropriate for his name to appear on the licence as all roads lead back to the family.

Mr Codd, in response, disagreed with Mr Balfour-Lynn's statement and said that Mrs Balfour-Lynn was in fact the ultimate person responsible as Mr Balfour-Lynn was not a Director.

Mr Balfour-Lynn referred to a recent change in legislation where every company had to register persons of significant influence, which he felt he was, along with his wife.

Mrs Bolas clarified the position by stating that Section 16 of the Licensing Act 2003 set out who could apply and the Directorship of a company would not mean that another could not be carrying on a business and liability for offences would be for persons carrying on a licensable activity as a matter of fact rather than necessarily the licence holder in any event.

The Members adjourned the meeting to discuss this issue and reach a decision.

Determination

The Applicant

Members accepted that Mr Balfour-Lynn under Section 16 of the Licensing Act 2003 was a person who carried on, or proposed to carry on, a business which involved the use of the premises for the licensable activities to which this application relates.

It was clear that he was the wine producer at the winery and involved in the primary business and also a person of influence in relation to the Company related to the premises, which was also a family business. There was clearly accountability as a matter of fact for licensable activities at the premises.

This was similar to many situations where breweries or store managers are responsible for premises where licences are held by publicans/staff etc and vice versa.

After this decision was made the Chairman outlined the procedures.

Mrs Bolas outlined the application made by Mr Balfour-Lynn, the current licence holder. Members noted that the application covered three issues, an extension of the area to be used for licensable activities, the addition of playing of live and recorded music and the provision of refreshments indoors and outside and extended hours for new activities and opening.

Mr Codd, on behalf of the objectors, advised that residents had received a letter from Ms Easton where she advised that the variation to the licence would include the provision of up to 12 events per year, with the potential to operate an event until 23.45 hours.

Mr Balfour-Lynn, the Applicant, informed the Sub-Committee that as he was not experienced in submitting licensing applications he had asked Ms Easton to speak to Mrs Neale, the Council's Senior Licensing Manager and she had advised them to complete a variation application.

A further point was made that it was not believed that the application should be dealt with by way of a variation such as this, but by a new premises application.

Mr Codd felt that the 'extension to the sample tasting area' should be classed as a new building as it bore no relation to the original drawings and should therefore be treated as a new application. Mrs Tipples had indicated that had there been an application for a new premises there might have been responses from Responsible Authorities and objectors as the matter would appear more substantial.

Mr Balfour-Lynn, in response, stated that he had applied for planning permission, and all the various consultees such as the Council's Planning Department, Fire Authority, District Surveyor etc dealt with it as one building.

Mrs Bolas, advising Members, stated that an assessment had to be made on applications by a Licensing Authority on a case by case basis. She added that there was no evidence to suggest that if the application had come forward as a new application whether there would have been more objectors coming forward. Objections had come forward to the variation and Members had those before them in detail to consider.

Mr Codd, in response, felt that as the application had been made in the Summer, not a lot of people would have had chance to view the application as this was holiday season.

Mr Balfour-Lynn stated that their business had always encouraged tourism into the area, and was busy in the summer months and quieter in winter. The nature of the business had not changed. It grew the grapes, made the wine and sold it in the United Kingdom and overseas and tastings had always happened.

The meeting was adjourned at 11.25 a.m. to make a decision on whether the application should have been a variation or new premises one and reconvened at 12.05 pm

Mrs Bolas read out the decision on behalf of the Sub-Committee.

The Application

The guidance was clear that new premises or major/or significant differences to current ones are dealt with by new licence applications but this is Guidance to have regard to and was dealt with on a case by case basis on the facts.

In this case there was an extension to the existing licenced premises, which was large but remained part of the existing premises building.

Activities according to the application and applicant primarily remained the same as current simply in a larger, better facility and with ability to hold up to 12 events per annum with music, LNR and additional hours. The business remained primarily a winery with tastings to 17:00 hours.

Conditions remained for alcohol supply to be by tasting samples only.

It is also the case that a new licence application received advertisement and consultation in the same way as variation. Members understood the argument that Responsible Authorities or others may have come forward differently but in view of the advertising and consultation provisions and detailed objections received from 6 households, it was not believed that there had been any prejudice to objectors by the use of a variation application.

Members could fully hear objectors' issues and consider all the facts on the application before them.

Mr Balfour-Lynn was asked to give his opening remarks.

He advised the Sub-Committee that he lived 200 yards away from the winery and was probably more vulnerable to the noise than neighbouring properties. He felt he acted in a responsible manner and brought employment to the local community. He believed that he had not received any complaints about noise from neighbours since 2010.

Mr Balfour-Lynn also stated that the estate did not allow picnics to take place within its grounds and was not considered a place for children, merely a place to enable visitors to explore English wine. He advised that the tasting room had been extended and new buildings had also been built. He was conscious that neighbours should not be able to hear any noise as the new buildings were further away than before.

He confirmed that the business was not planning on having more than 12 events a year. Although provision had been made for in the licensing application, he felt it extremely unlikely that weddings would take place there. Although he did indicate that his daughter's wedding had been held there, the guests came in a coach to minimise traffic disruption.

Mr Balfour-Lynn also advised that the business worked closely with Visit Kent and tried to work with the local community, an example given of Goudhurst School being able to walk through the woods in the grounds.

He stressed that corporate events did happen during the week but had not run into the evenings. They provided training for Tesco, M&S and Banks at elegant corporate functions but there would not be wild parties.

Mr Codd was asked if he had any questions. He stated that he did not have any questions.

In response to a question from a Member, Mr Balfour-Lynn advised that they were allowed up to 200 people in the building for tastings at any one time. However, he did not envisage that there would ever be an occasion where there were that many people having tastings. The premises were not on a public highway, it was a destination location.

He envisaged that the odd cocktail party would go on until 8 or 9 o'clock at night with classical music being played in the background. They had evenings for a local wine club. A larger tasting area was needed as the space had been too small to accommodate the separation required by Tesco (they produce their own label sparkling wines), as they have strict regulations for the production area.

In response to a question from a Member, Mr Balfour-Lynn confirmed that he would be content to notify residents of events. .

Mr Codd was asked to give his opening remarks.

He felt that the application failed to promote all the licensing objectives or detail the activities that would take place. The application failed to identify how the extension would be addressed to prevent nuisance. He asked for formal written conditions not verbal assurances.

In response Mr Balfour-Lynn stated that he did not want to fall foul of any licensing laws so had sought to cover many possibilities. However, neighbours would have the opportunity to complain if they did not like anything that the business was doing.

Mr Codd stated that at weekends he wished to enjoy his property and had not had any problems with noise from the Hush Heath Winery to date. However, the area was extremely flat to the north and noise could travel which could emanate from traffic or music being played either inside or outside.

Mr Humphrey indicated that his wife had complained once direct to the winery and the matter had been dealt with swiftly. The concern was the 365 days per year nature of the application, he could cope with infrequent events that were not late but his concern was frequency and noise levels.

Both the applicant and the objectors were asked to give their closing speeches.

Mr Codd, the objector, stated that he wished to emphasise that his actions were not undertaken with any malice and he did not wish to obstruct the business of Hush Heath. While he had lived at his present address since 2012 he had not been disturbed but in his view the application did not show due consideration for the 4 licensing objectives. One off events were reasonable but changes to ambient noise might occur and that was a cause for concern. Noise leakage from customers on an outdoor terrace

to midnight could fundamentally change ambient noise. Live and recorded music on an elevated terrace has the potential to change ambient noise and this had no noise assessment. The new building has no detail of noise mitigation, however he had heard at this meeting that it was double glazed but there are large numbers of doors and 78 households within a 1 mile radius. Weddings were advertised as corporate events and noise of those leaving and their vehicles was cause for concern. Transport was also a public nuisance with access by 5 routes and much single track with no pavement or lighting and ditches. There was little public transport so most would be private vehicles. They wanted to resolve a solid framework to live in peace.

Mr Balfour-Lynn, in response, stated that he was glad the neighbours wanted his company to keep the business open and understood their concerns but emphasised that the nature of their business was not a nightclub, it was a winery where activities were centred around visitors sampling wine in a relaxed atmosphere.

He added that the company had just recently planted a native hedge to further reduce the noise impact. The new part of the building was further away from neighbours so should not have a noise impact.

In response to a question from a Member on whether he would have any objections to the number of events going past 6 p.m. being limited to 12 a year, he stated that they were not a 365 day business so would not object.

The Sub-Committee advised that they would adjourn the meeting and reconvene at 2 p.m.



LICENSING AUTHORITY: MAIDSTONE BOROUGH COUNCIL

LICENSING ACT 2003

LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005

NOTICE OF DETERMINATION

Application Ref No:

Applicant: Mr Richard Balfour-Lynn

(see minute for decision on applicant)

Regarding **Hush Heath Winery, Hush Heath Estate, Five Oak Lane, Staplehurst**

Date of hearing: 3 September 2018

Date of determination: 3 September 2018

Committee Members: [Chairman]: Councillor Mrs Joy
Councillor Mrs Springett
Councillor Garten

Legal Advisor in attendance at hearing: Mrs Jayne Bolas

Democratic Services Officer in attendance at hearing: Mrs Caroline Matthews

This was an application for:

☒ Variation

(see minute for decision on nature of application)

for a

☒ Premises Licence

A: Representations, evidence and submissions:

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

Applicant

Name: Mr Richard Balfour-Lynn

Witnesses in support of Applicant: Ms S. Easton, Ms V Ash

Responsible Authorities

None

Other Persons

Name: Mr A Codd (on behalf of Ms A Hodgkiss and for Mrs A. Tipples, Mr B Tipples,

Mrs A and Mr F Tipples and Spokesman for Mr & Mrs Humphrey
Mr K Humphrey (and on behalf of Mrs Humphrey)

Witnesses in support of Other Persons N/A

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

All representations referred to at Pages 3 and 4 of the agenda, additional letter from Ms Wyeth and two from Mr Stanley. Letter from Mrs Tipples and response (dated 23/8/18). All documents from Mrs Amanda Tipples submitted by Mr Codd at the hearing numbered 0-5.

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

Sections 34 and 35 which relate to the variation of a premises licence.

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

Chapters 8 and 9 which relate to premises licences and 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;
17.16 – 18 which relates to Public Safety
17.19 – 17.22 which relates to the Prevention of Public Nuisance

C: Determination:

The Committee has decided to:

Grant the variation to the premises licence for the area and activities applied for and additional hours subject to conditions.

Conditions:

All relevant mandatory conditions;
All conditions in the current licence and operating schedule at p20 of the agenda;
Additional conditions, see separate sheet

Reasons for determination:

Having heard Mr Balfour-Lynn and Ms Easton and Ms Ash (witnesses) and two other persons and representations and having read all papers on the agenda., Members of the Sub-Committee have taken account of the evidence relevant to promotion of the licensing objectives of public safety and to prevent public nuisance.

They have taken account that there have been no representations of concern from responsible authorities.

They have carefully balanced the requirements of the applicant in operating his business as a winery with some events in an extended space and the need for the promotion of the licensing objectives of prevention of public nuisance and protection of public safety to protect the concerns of neighbours likely to be caused nuisance by uncontrolled licensable activities.

Having considered the topography of the area, the close proximity of residents and the likely travel of sound and the concerns of residents regarding quiet use of their premises Members have provided conditions to ensure a reasonable balance.

The applicant indicated that he was content to notify residents of events, limit those to 12 a year and wished to be a responsible neighbour. Objectors present confirmed that their concern was the potential for issues with an unrestricted licence.

Members also considered the comments with regard to traffic and felt that traffic beyond the premises was a matter for the behaviour of visitors and beyond the control of the licence holder. It was not felt that further conditions would be appropriate in this regard.

Informative:

If issues should arise during the operation of a licence, which are related to licensable activity at the premises and promotion of the licensing objectives, application may be made for review of a premises licence in accordance with the Licensing Act 2003.

PRINT NAME (CHAIRMAN): Councillor Mrs Joy

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

Date: 3 September 2018

MAIDSTONE BOROUGH COUNCIL

LICENSING ACT 2003 SUB COMMITTEE

MINUTES OF THE MEETING HELD ON TUESDAY 25 SEPTEMBER 2018

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

5. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members and Officers.

6. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

7. EXEMPT ITEMS

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

8. REPORT OF THE HEAD OF HOUSING AND COMMUNITY SERVICES - APPLICATION FOR A PREMISES LICENCE UNDER THE LICENSING ACT 2003 FOR BATTEL HALL, BURBERRY LANE, LEEDS, KENT, ME17 1RH

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

Mrs Debbie Matthews, Hospitality Manager, Leeds Castle
Mr Jo Lynch, Commercial Director, Leeds Castle
Mr John Gibbs, Noise Consultant for Leeds Castle

Robin Harris, Legal Officer
Caroline Matthews, Democratic Services Officer

The Legal Officer advised that one of the original Committee Members had been unable to attend and the Substitute Member had also been unable to attend. Therefore one of the other Licensing Committee Members had agreed to substitute. This would, however, mean that there was a husband and wife team serving on the Sub-Committee and Mr Harris asked the representatives of Leeds Castle if they had any objections to which they replied they did not.

The Chairman asked all parties to confirm that they were aware of the hearing procedure and that each had a copy of the procedure document.

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

The Legal Advisor briefly outlined the application for a premises licence on behalf of Leeds Castle Enterprises Ltd in regard to the premises known as Battel Hall.

The Sub-Committee noted that the only objector had not confirmed his attendance and as he was not present Members could decide to postpone the meeting until another day or take his original objection into consideration whilst considering this application.

The Sub-Committee determined that they would carry on with the Sub-Committee meeting and would take the objector's original representation into consideration.

The Legal Officer advised that other than the original objector who had made a representation based on public nuisance, no other objections had been received from any other members of the public or the responsible authorities.

It was also noted that draft conditions had been proposed and the applicant had agreed them but the objectors had not.

The Applicant was invited to give his opening remarks.

Mr Lynch, the Commercial Director of Leeds Castle Enterprises, addressed the Sub-Committee.

He advised that:-

- Battel Hall had been completely restored
- The Organisation would not be looking to hold large parties there night after night. Part of the building had accommodation in it to provide guest rooms for those attending events or holiday lets.
- Although small wedding parties could take place there, the Organisation would be selective both in terms of the clientele and any other proposed activities taking place as they were sensitive to the local neighbouring properties.
- 13 events had already been booked for the first year, some during the day.
- All events would be operated under strict guidelines and would have staff present for the duration of the event and car parking stewards would be in attendance to enable guests to have a safe exit from the venue.
- Should there be more vehicles than could normally be accommodated, then the cars could be accommodated inside the

Leeds Castle grounds and they could exit via the A20 to avoid noise nuisance. Of course some guests may come by coach which was easier to accommodate.

Mrs Matthews, the Hospitality Manager for Leeds Castle advised that Leeds Castle had engaged a Noise Impact Consultant, Mr Gibbs. He had undertaken a site meeting with an Officer from the Council's Environmental Health Department to discuss the provision of amplified outside music. A Management Plan was agreed and submitted to the Officer.

Members of the Sub-Committee noted that acceptable levels of amplified music were double what the Organisation would be setting their levels at.

In response to a question from a Member, Mr Gibbs explained that the music would be quite loud inside the venue but not outside. Based upon experience the properties in George Lane and Burberry Lane would not be disturbed by the noise levels as it would be quieter than the noise caused by passing traffic.

Mr Harris, the Legal Advisor asked whether the objector lived in close proximity to Battel Hall. Mr Gibbs responded that the objector did not live in the closest property and background noise levels would be higher in Lower Road as opposed to Burberry Lane.

It was noted that for planning purposes the Organisation was limited to 15 events in a year.

In response to a question from a Member, Mr Gibbs advised that there would not be any noise loss if the event was contained in a Marquee.

It was noted that two events had already taken place in Battel Hall during the Summer months and no complaints had been received by Leeds Castle or the Council.

The first event, which took place in mid-June, where 80 guests attended and finished at 8 p.m. The second event had 40 guests and went on until 11-12 p.m. However no amplified music was played at either event.

It was noted that a hotline number would be advertised to the public which would be picked up by the control room and would be included in the Management Plan.

The Sub-Committee were advised that Leeds Castle had had an open day for local residents, inviting along 350 people from the village. The objective was to get their feedback on the type of events held at the Castle and whether there was any noise nuisance. The main issue was Fireworks, which the Castle Organisers had taken on board and Battel Hall would not be an appropriate venue anyway.

LICENSING AUTHORITY: MAIDSTONE BOROUGH COUNCIL

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

NOTICE OF DETERMINATION OF NEW APPLICATION

Application Ref No: **18/02647/LAPRE**

Applicant: Deborah May

Regarding the premises or club: Battel Hall Burberry Lane Leeds Village
ME17 1RH

Licence/Certificate Holder: Leeds Castle Enterprises Ltd

Date of hearing: 25th September 2018

Date of determination: 25th September 2018

Committee Members: [Chairman]: Councillor: Mrs Hinder
Councillor: Mrs Joy
Councillor: Mr Hinder

Legal Advisor in attendance at hearing: Mr Robin Harris

This is an application for:

✓ New Application

of a:

✓ Premises Licence ☐ Club Premises Certificate

A: Representations, evidence and submissions:

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

Applicant:

- Name: Mrs Deborah May
 - Representative: Mr Jo Lynch
 - Representative: Mr John Gibbs (Acoustic consultant)

Responsible Authorities:

None

Other persons:

- Mr S Bernini

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 11 Premises licence;
Sections 16 – 18 inclusive which relate to the application for a premises licence;

The Committee has taken into account the following provisions of the Guidance under section 182 of the Act as amended and published April 2018:

Chapter 2 Licensing Objectives
Chapter 8 Premises Licences
Chapter 9 which relates to determining applications
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 Licensing conditions

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/A
.....
.....

C. Determination:

The Committee has decided / taken the following step(s) members consider necessary for the promotion of the licensing objectives, having regard to the application and the relevant representations:

To grant the application.

Reasons for determination:

Prevention of Crime and Disorder

Reasons (state in full):

There was no representation under this licensing objective.

Protection of children from harm

Reasons (state in full):

There was no representation under this licensing objective.

Prevention of public nuisance

Reasons (state in full):

The Sub-Committee was asked to determine this application for a premises licence against the background of a representation made under this licensing objective.

In particular another person was concerned about 'noise disturbance and traffic.'

The Sub-Committee heard from the acoustic consultant for the applicant who explained that due to the volume of noise that had been set in the noise management plan, the noise from the licensed premises would be barely audible at the outside of the nearest residential property and likely to be inaudible inside the property.

The Sub-Committee also heard from the applicant that it was possible to divert vehicles via another exit and therefore mitigate traffic noise.

The Sub-Committee noted the Planning Committee Condition that limits the number of 'late' events to 15 per year.

On the basis of the above the Sub-Committee determined to grant the licence as applied for.

Public safety

Reasons (state in full):

There was no representation under this licensing objective.

Additional Notes

The Sub-Committee noted that in the event that this premises causes issues for neighbouring residents there is the possibility to review the licence after a reasonable interval.

Appeal

.
Any person aggrieved by the decision of the Sub-Committee has a right of appeal to the Magistrates Court. The appeal must be lodged within 21 days of the date the appellant is notified of the decision to be appealed against.

PRINT NAME (CHAIRMAN): CLLR W Hinder

Signed [Chairman]:

Date: 27th September 2018

Agenda Item 13

Licensing Committee

22 November 2018

Is the final decision on the recommendations in this report to be made at this meeting?

No

Statement of Principles for Gambling Act 2005 Policy 2019 -2022

Final Decision-Maker	Full Council
Head of Service	John Littlemore
Lead Officer/Report Author	Lorraine Neale
Classification	Non-exempt
Wards affected	All

This report makes the following recommendations to the final decision-maker:

That the Committee recommends to the Communities, Housing & Environment Committee the draft Gambling Act 2005 Statement of Principles 2019-2022 Policy (at Appendix 1), with the inclusion of amendments following the consultation responses received ,for adoption by Council.

This report relates to the following Five Year Plan Key Objectives:

- Keeping Maidstone Borough an attractive place for all

Timetable (* please delete those not applicable)

Meeting	Date
Communities, Housing & Environment Committee	11 December 2018
Full Council	12 December 2018

Statement of Licensing Principles for Gambling Act 2005 2019 -2022

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 Section 349 of the Gambling Act 2005 requires all Licensing Authorities to prepare and publish a statement of licensing principles that they propose to apply in exercising their functions under the Act during the three year period to which the policy applies. Section 155 states that this function may not be delegated from Council and so this Committee is recommending a proposed document following consideration of consultation responses and resulting amendments to Communities, Housing and Environment Committee for onward recommendation to Council for adoption.
- 1.2 The purpose of this report is to ask the Licensing Committee to consider the consultation responses and proposed amendments to the draft Policy and confirm the content is recommended for approval.
- 1.3 The 12 week consultation commenced 6 August 2018 and concluded 28 October 2018 and those responses are included (Appendix 2) in the report which is seeking approval for the recommendation for approval by Communities, Housing and Environment Committee on 11 December 2018 to recommend adoption of the amended Statement of Principles at Council on 12 December 2018.
- 1.4 The proposed revised Statement of Principles is included at Appendix 1.

2. INTRODUCTION AND BACKGROUND

- 2.1 Maidstone Borough Council is the Licensing Authority under the provisions of the Gambling Act 2005 (the Act).
- 2.2 In accordance with the above Act Licensing authorities are required to develop, consult on, and publish a Statement of Gambling Policy every three years that sets out the principles they propose to apply in exercising their functions under the Gambling Act 2005 during that period..
- 2.3 The current policy was approved at Full Council on 1 March 2017 but needs to be revised and re-published prior to 20 January 2019 for a further three-year period. A “light touch’ review was undertaken in 2016 to comply with Section 349 of the Act:

“For the purposes of section 349 of the Act (requirement on licensing authorities to publish a policy statement every three years), the first appointed day shall be 31st January 2007”.

This was because publication of the 5th edition of Gambling Commission Guidance was published too late to include in the draft. A further detailed review of the policy was carried out in 2017 to include the 5th edition of Gambling Commission Guidance. Although the current policy has only been in issue for 2 years a review is required under S349.

- 2.4 A revised draft of the policy was put before the Licensing Committee at their meeting of 19 July 2018, at which they agreed to authorise officers to consult with all relevant interested parties and the results of the consultation be reported back to Licensing Committee to recommend to the Communities, Housing & Environment Committee any amendments for them to refer the Policy to Full Council for adoption.
- 2.5 The gambling objectives are:
- i) preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime
 - ii) ensuring that gambling is conducted in a fair and open way and
 - iii) protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 2.6 The draft Policy that went out for consultation provides clarity in some areas of the Policy taken from the Guidance published by the Gambling Commission (5th Edition, September 2015). The amendments to the previous statement are highlighted using track changes in Appendix 1. There were no changes to the intent or direction of the Policy, which sets out how the Council seeks to regulate gambling activities under its control and provide a framework for consistent decision making
- 2.7 A comprehensive consultation exercise was carried out in accordance with the Act and Statutory Guidance over a 12 week period between 6 August and 28 October 2018.
- 2.8 An extensive list of interested parties were contacted directly and invited to comment on the revised draft policy. In addition, public notices inviting comment were placed on the Council's website. The full list of consultees is included in the draft policy at appendix 5.
- 2.9 The draft policy was made available to view electronically online and in hard copy at the council offices.
- 2.10 Despite the long consultation period and wide-reaching methodology, only three responses were received; this may be because the new policy was widely consulted on as was the earlier revision by Maidstone Borough Council and the principles are the same. The responses are from a resident who makes comment on gambling problems and addictions but does not propose any changes to the policy; a favourable response from Boxley Parish Council with no changes proposed and from the Gambling Commission containing a number of suggested minor amendments. (Appendix 2)

2.11 The Gambling Commissions suggested amendments have been incorporated in the draft policy as they are points of clarification and assist in understanding the sections involved. The amendments can be seen in bold in the draft Policy at pages 17,19 and 29.

2.12 The Government recently announced that they will, through the introduction of secondary legislation, reduce the maximum stakes on Fixed Odds Betting Terminals from £100 to £2. In anticipation of this, a footnote has been added to Appendix 7 of the Policy, showing a table of gaming machine stakes and prizes, to advise that these values are subject to change and are understood to have been delayed to Oct 2019 from April. .

3 AVAILABLE OPTIONS

3.1 It is a statutory requirement for the Council to have a current statement of licensing principles in place covering the principles for its functions under the Act. The Council is also required to have regard to guidance issued by the Gambling Commission, which also specifies requirements for gambling policies. If the Council did not comply with the Commission's guidance, then it would need to have good reasons for failing to do so. The content of the proposed Gambling Policy is recommended having regard to the requirements in the Act, Regulations and guidance.

4 PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 That Committee recommends to the Communities, Housing & Environment Committee the draft Statement with further minor amendments following consultation for referral to Council for adoption.

5 CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

5.1 Included at Appendix 2

6 CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	No issues identified	[Head of Service or Manager]
Risk Management	No issues identified	[Head of Service or Manager]
Financial	No issues identified	[Section 151 Officer & Finance Team]
Staffing	No issues identified	[Head of Service]
Legal	The Licensing Authority must formally review its adopted	[Legal Team]

	Statement of Principles for the Gambling Act 2005 Policy. Section 349 of the Act requires the authority to review this every three years and keep it under review from time to time. Without an up-to-date Policy in place, this could leave the authority open to legal challenge over the legitimacy of any decisions made.	
Equality Impact Needs Assessment	None identified at this stage.	[Policy & Information Manager]
Environmental/Sustainable Development	. No issues identified	[Head of Service or Manager]
Community Safety	No issues identified	[Head of Service or Manager]
Human Rights Act	No issues identified	[Head of Service or Manager]
Procurement	No issues identified	[Head of Service & Section 151 Officer]
Asset Management	No issues identified	[Head of Service & Manager]

7 REPORT APPENDICES –

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

- Appendix 1: Revised Draft Policy with track changes and Gambling Commission amendments in bold
- Appendix 2: Consultation responses

8 BACKGROUND PAPERS

- Gambling Commission Guidance to licensing authorities 5th edition, September 2015
<http://www.gamblingcommission.gov.uk/PDF/GLA5-updated-September-2016.pdf>
- Existing Statement of Principles
http://www.maidstone.gov.uk/_data/assets/pdf_file/0004/164686/Gambling-Licensing-Policy-April-2017.pdf
- Licence Conditions and Codes of Practice for Operators
<http://www.gamblingcommission.gov.uk/PDF/LCCP/Licence-conditions-and-codes-of-practice-April-2018.pdf>

Maidstone Borough Council

'Gambling Act 2005 Statement of Licensing Principles' ~~2016~~ 2019 - ~~2019~~ 2022

~~September 2016~~ July 2018

CONTENTS

Item	Page
1. The Licensing Objectives	4
2. Introduction	5
3. Declaration	7
4. Functions	8
5. Operators	9
6. Risk Assessments	9-10
7. Local Area Profiles	11-12
8. Responsible Authorities	12
9. Interested Parties	13
10. Exchange of Information	14
11. Public Register	14
12. Compliance & Enforcement	14-15
The appendices that follow form part of this Policy Statement	
Appendix 1. Permits	16
(i) Unlicensed family entertainment centre gaming machine permits	16
(ii) (Alcohol) licensed premises gaming machine permits	17
(iii) Prize gaming permits	18
(iv) Club gaming and club machine permits	20
Appendix 2. Gambling Premises Licences	22
(i) Decision making – general	22
(ii) “Premises”	23
(iii) Location	24
(iv) Planning	25
(v) Duplication	25
(vi) Door Supervisors	25
(vii) Licensing Objectives	26
(viii) Reviews	26
(ix) Provisional Statements	26-27
(x) Adult Gaming Centres	27
(xi) (Licensed) Family Entertainment Centres (FEC)	27-28
(xii) Tracks	28
(xiii) Casinos	28
(xiv) Bingo	28

(xv) Temporary Use Notices (TUN)	28
(xvi) Occasional Use Notices (OUN)	29
<u>(xvii) Small Society Lotteries</u>	<u>29</u>
(xviii) Travelling Fairs	29
Help with gambling related problems	29
Appendix 3. Responsible Authorities	30
Appendix 4. Table of Delegations of Licensing Functions	31-33
Appendix 5. List of Consultees	34
Appendix 6. Summary of Gaming Machines by Premises	35-36
Appendix 7. Summary of Stakes & Prizes	37-38
Appendix 8. Statement of Principles for Unlicensed Family Entertainment Centres, Gaming Machine Permits & Prize Gaming Permits	39-44

1. The Licensing Objectives

The Gambling Act 2005 ('The Act') requires that in exercising most of its functions under the Act, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Gambling Act 2005. The licensing objectives are:

- **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;**
- **Ensuring that gambling is conducted in a fair and open way;**
- **Protecting children and other vulnerable persons from being harmed or exploited by gambling.**

It should be noted that the Gambling Commission (the Commission) has stated "The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling".

Maidstone Borough Council as "The Licensing Authority" for the Maidstone Borough will aim to permit the use of premises for gambling as set out in section 153 of the Gambling Act 2005.

Principles to be applied - Section 153

In exercising its functions under this part, the Licensing Authority shall aim to permit the use of premises for gambling in so far as the authority think it meets one or all of the following: –

- a) the Gambling Commission's code of practice;
- b) the Guidance to local authorities;
- c) the Licensing Authority's own statement of principles;
- d) the three licensing objectives.

In determining whether to grant a Premises Licence a Licensing Authority must not have regard to the expected demand for gambling premises that are the subject of the application.

Any objection to an application for a Premises Licence or request for a review of an existing licence should be based on the Licensing Objectives of the Gambling Act 2005. It should be noted that, unlike the Licensing Act 2003, the Gambling Act 2005 does not include as a specific Licensing Objective for the prevention of public nuisance. The licensing authority take the view that certain issues, incidents or events that might typically be classed as nuisance, public nuisance or antisocial behaviour might also be considered to be issues, incidents or events of disorder. The licensing authority will apply the ordinary meaning of disorder and consider each case on its own merits. The licensing authority will in all cases consider whether other relevant legislation would be more appropriate in the circumstances of any given application.

2. Introduction

The Maidstone Borough Council Area

MAIDSTONE BOROUGH COUNCIL – PARISHES



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

Licensing authorities are required by the Gambling Act 2005 to publish a Gambling Policy Statement, setting out the principles that they propose to apply when exercising these functions. This Statement may be reviewed from time to time but must be republished at least every three years. This policy was approved by Full Council on ~~1st March 2017xx~~ to come into force ~~2nd March 2017xx~~.

In determining its policy the Licensing Authority shall have regard to Commission's Guidance and give appropriate weight to the views of those who respond to its consultation.

This draft policy has been prepared in accordance with the Gambling Commission's 5th Edition Guidance to Licensing Authorities (September, 2015). and contains the minimum of amendments and no changes to the intent or direction of the previous policy, which is that the Council seeks to ensure that premises for Gambling uphold the licensing objectives.

The Commission has introduced the following amendments to the Guidance which:

- reflect regulatory and legislative changes since the 2012 version;
- reflect recent changes to the social responsibility provisions within the Commission's Licence Conditions and Codes of Practice;
- promote local partnership working between licensing authorities, the Commission and the industry to work in partnership to address local issues and concerns; and
- provide greater clarity about the wide range of powers afforded to licensing authorities to manage local gambling regulation through measures such as their statement of licensing policy.

The Licensing Authority will consult widely on the Gambling Policy statement before it is finalised and published.

The Act requires that the following parties be consulted by Licensing Authorities:

- the Chief Officer of Police for the Authority's area;
- one or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area;
- one or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Act.

A list of those persons consulted is attached at appendix 5.

The consultation for the policy will take place between ~~6 October 2016??~~ and ~~23 December 2016,??~~ a period of ~~12-6~~ weeks. The Licensing Authority has followed, as far is reasonably practicable given the time constraints, the Revised Code of Practice (April 2004) and the Cabinet Office Guidance on consultations by the public sector__.

The full list of comments made and the consideration by the Licensing Authority of those will be available upon request to: The Licensing Administration Team via email licensing@sevenoaks.gov.uk or by telephoning 01732 227 004.

The draft policy is published on Maidstone Borough Council's website <http://www.maidstone.gov.uk/>. ~~Copies will be placed in the public libraries within the area and is available in the Council's principal offices.~~

This policy statement will not override the right of any person to make an application, make representations about an application or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Act.

3. Declaration

In producing the final licensing policy statement, this Licensing Authority declares that it will have had regard to the licensing objectives of the Gambling Act 2005, the Guidance issued by the Gambling Commission, as amended, and any responses from those consulted on the policy statement.

Appendices have been attached to this statement providing further information and guidance that is intended only to assist readers, and should not be interpreted as legal advice or as part of the Council's policy. Readers are strongly advised to seek their own legal advice if they are unsure of the requirements of the Gambling Act 2005, the Guidance, or regulations issued under the Act.

4. Licensing Authority Functions

Function	Who deals with it
Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences	Licensing Authority
Issue Provisional Statements	Licensing Authority
Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits	Licensing Authority
Issue Club Machine Permits to Commercial Clubs	Licensing Authority
Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres	Licensing Authority
Receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines	Licensing Authority
Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines	Licensing Authority
Register small society lotteries below prescribed thresholds	Licensing Authority
Issue Prize Gaming Permits	Licensing Authority
Receive and endorse Temporary Use Notices	Licensing Authority
Receive Occasional Use Notices	Licensing Authority
Provide information to the Gambling Commission regarding details of licences issued (see section 8 on 'information exchange')	Licensing Authority
Maintain registers of the permits and licences that are issued under these functions	Licensing Authority

Gambling Commission Functions

Function	Who deals with it
Issue and renewal of Operating Licences	Gambling Commission
Review Operating Licences	Gambling Commission
Issue Personal Licences	Gambling Commission
Issue Codes of Practice	Gambling Commission

Issue Guidance to Licensing Authorities	Gambling Commission
Licence remote gambling through Operating Licences	Gambling Commission
Issue licences in relation to the manufacture, supply, installation, adaptation, maintenance or repair of gaming machines	Gambling Commission
Deal with appeals against Commission decisions	Gambling Appeals Tribunal

The Licensing Authority is not involved in licensing remote gambling. This will fall to the Gambling Commission via operating licences.

Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.

5. Operators

Gambling businesses are required to have an operator licence issued by the Gambling Commission before they can operate in Great Britain. Operator licences can be issued for up to ten different types of gambling activity and a separate licence is needed for both remote and non-remote gambling of the same types.

An operator licence gives a general authorisation for a business to provide gambling facilities, but a business wishing to provide non-remote gambling facilities in a Licensing Authority area is required to apply for a premises licence that is specific to the particular premises.

Operators are required to comply with conditions attached to both their operator and individual premises licences. They are also required to adhere to the mandatory provisions in the Gambling Commission's Social Responsibility Code of Practice and take account of the provisions in the Ordinary Code of Practice (although these are not mandatory).

The Licence Conditions and Codes of Practice (LCCP) were updated in April 2015, and have introduced significant new responsibilities for operators in relation to their local premises. With effect from April 2016, all non-remote licensees that run gambling premises will be required to assess the local risks to the licensing objectives arising from each of their premises and have policies, procedures and control measures to mitigate them.

Licensees are required to take into account the Licensing Authority's statement of principles in developing their risk assessments.

6. Risk Assessments

Gambling operators are required to undertake a risk assessment for all their existing premises as from 6th April 2016. In undertaking their risk assessments, they must take into account relevant matters identified in the Licensing Authority's Statement of Policy.

~~Following that date, operators must also undertake a review of these assessments when certain triggers are met. These 'triggers', along with the Council's views on what would~~

instigate either a new assessment or the review of an existing one are detailed at appendix B attached to this document.

Operators are advised to share their risk assessments when submitting such applications, or otherwise at the request of the Licensing Authority, such as when they are inspecting a premises.

Such risk assessments can make reference to the Licensing Authority's Local Area Profile, which may be compiled with respect to reported gambling-related problems in an area.

The Licensing Authority expects applicants to have a good understanding of the area in which they either operate, or intend to operate. The applicant will have to provide evidence that they meet the criteria set out in this Statement of Principles and demonstrate that in operating the premises they will promote the licensing objectives.

The Gambling Commission introduced a Social Responsibility Code of Practice requiring operators of premises used for gambling to conduct local area risk assessments and an Ordinary Code stating this should be shared with the Licensing Authority in certain circumstances in May 2016.

The Licensing Authority expects applicants for Premises Licences in its area to submit a risk assessment with their application when applying for a new premises licence, when applying for a variation to a premises licence or when changes in the local environment or the premises warrant a risk assessment to be conducted again.

The risk assessment should demonstrate the applicant has considered, as a minimum:

- local crime statistics;
- any problems in the area relating to gambling establishments such as anti-social behaviour or criminal damage;
- the location of any nearby sensitive premises, such as hostels and other facilities used by vulnerable persons e.g. drug and alcohol addictions;
- whether there is a prevalence of street drinking in the area, which may increase the risk of vulnerable persons using the premises;
- the type of gambling product or facility offered;
- the layout of the premises;
- the external presentation of the premises;
- the location of nearby transport links and whether these are likely to be used by children or vulnerable persons;
- the customer profile of the premises;
- staffing levels;
- staff training, knowledge and experience;
- whether there is any indication of problems with young persons attempting to access adult gambling facilities in that type of gambling premises in the area.

It is recommended that operators liaise with other gambling operators in the area to identify risks and consult with any relevant responsible authorities as necessary.

This Statement of Principles does not preclude any application being made and every application will be decided on its individual merits, with the opportunity given for the applicant to show how potential concerns can be overcome.

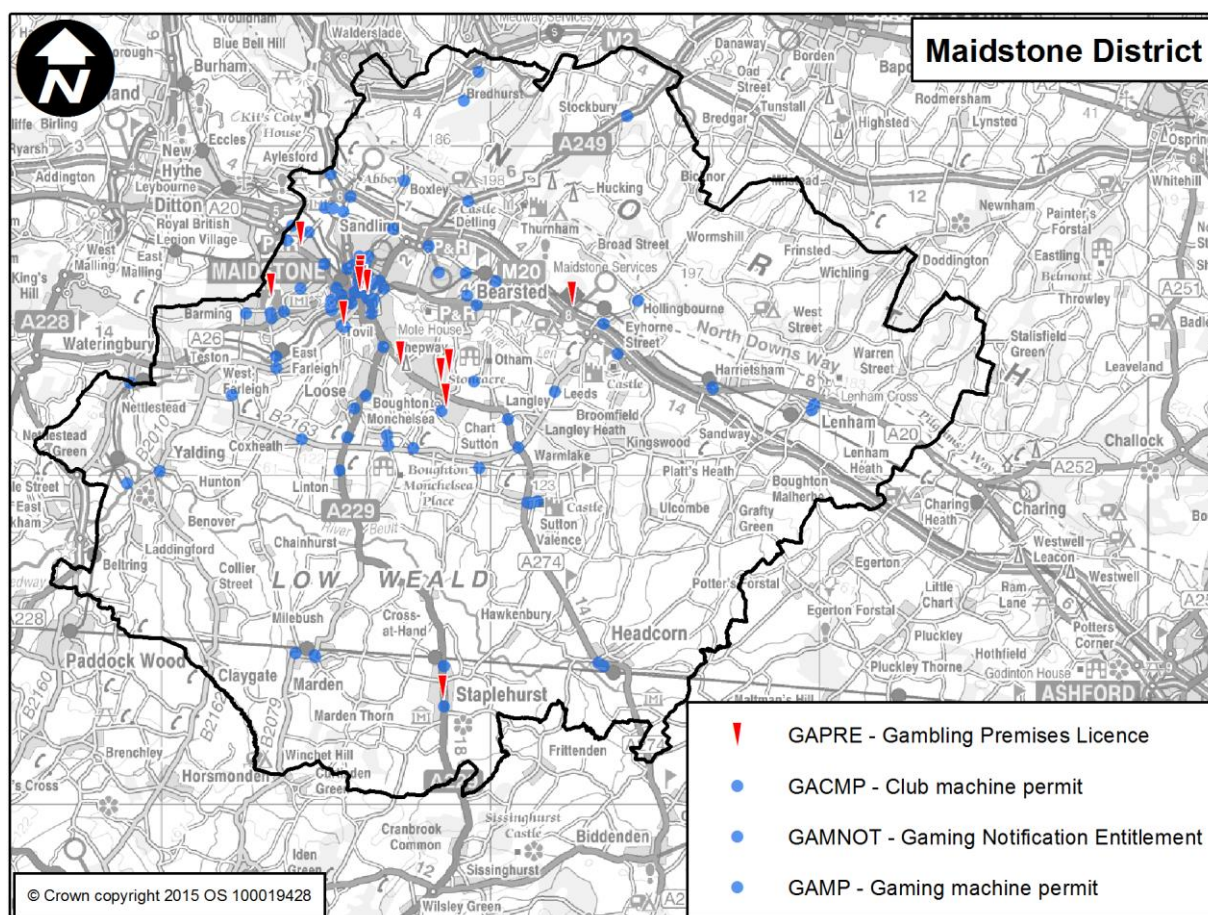
The Licensing Authority expects applicants to keep a copy of the local area risk assessment on the licensed premises and to ensure that all staff have seen the risk

assessment, have received training in respect of its content, and are able to produce the risk assessment on request by an authorised officer of the Council, the Police or the Gambling Commission.

7. Local Area Profile (LAP)

The Guidance indicates licensing authorities complete and map their own assessment of local risks and concerns by developing Local Area Profiles to help shape their statements (although there is no requirement to do this). In simple terms, the objective of the profile is to set out what the area is like, what risks this might pose to the licensing objectives, and what the implications of this are for the Licensing Authority and operators. Importantly, risk in this context includes potential and actual risks, thereby taking into account possible future emerging risks, rather than reflecting current risks only.

Gambling Premises are mapped out within the Borough (red markers) and those premises that have gaming machine permits (Licensed Premises and Club) and gaming permits (Clubs) to indicate the location of the premises. There are 17 betting gambling premises across the Borough and there are no areas of high density of gambling premises. Gambling premises and gambling activities are concentrated in and around Maidstone, which the map demonstrates.



In assessing local area profiles, Licensing Authorities can also take into account the location of

- schools, sixth form colleges, youth centres etc., with reference to the potential risk of under-age gambling
- hostels or support services for vulnerable people, such as those with addiction issues or who are homeless, given the greater risk of problem gambling among these groups
- religious buildings
- any known information about issues with problem gambling
- the surrounding night time economy, and possible interaction with gambling premises
- patterns of crime or anti-social behaviour in the area, and specifically linked to gambling premises
- the socio-economic makeup of the area
- the density of different types of gambling premises in certain locations
- specific types of gambling premises in the local area (E.g., seaside resorts may typically have more arcades or FECs).

In drafting this document relevant bodies and organisations were contacted for evidence of existing problems. However, information at the time of drafting this Statement of Principles was unavailable. This Licensing Authority does not have evidence that there are specific issues at the moment to support the assertion that any part of the Borough had or is experiencing problems from gambling activities.

Complaints are only one means to consider addressing risk as they are related to an event that has happened, rather than the probability of an event happening and the likely impact of that. This position will be kept under review, and in the event that it changes, further research will be carried out to discover the extent of the problems and to prepare a Local Area Profile (LAP). If there is a need or evidence to develop the LAP further this will be done outside the scope of this document and updated as information changes.

8. Responsible Authorities

In exercising the Licensing Authority's powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm, the following principles have been applied:

- the need for the body to be responsible for an area covering the whole of the Licensing Authority's area and
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

In accordance with the Commission's Guidance for Local Authorities the Licensing Authority designates the following for this purpose:

Children's and Families - KCC Social Service

The contact details of all the Responsible Bodies under the Gambling Act 2005 are listed at Appendix 3 of the policy.

9. Interested parties

The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under the Act to determine whether a person is an interested party.

Section 158 of the Gambling Act 2005 defines interested parties as persons who, in the opinion of the Licensing Authority;

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) has business interests that might be affected by the authorised activities;
- c) represents persons who satisfy paragraph (a) or (b).

An interested party can make representations about licence applications or apply for a review of an existing licence.

Each application will be decided upon its merits. This Authority will not apply rigid rules to its decision-making. However, it will consider the Commission's Guidance issued to local authorities.

The Gambling Commission has emphasised that 'demand' cannot be a factor in determining applications.

The Guidance states that moral objections to gambling are not a valid reason to reject applications for premises licences, as such objections do not relate to the licensing objectives. All objections must be based on the licensing objectives.

The Commission has recommended that the Licensing Authority state within its Gambling Policy Statement that interested parties may include trade associations, trade unions, and residents and tenants' associations. However, this Authority will not generally view these bodies as interested parties unless they have a person who in the opinion of the Licensing Authority:-

- a) live sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) have business interests that might be affected by the authorised activities; or
- c) represents persons who satisfy paragraph a) or b).

Interested parties can be persons who are democratically elected, such as Councillors and MP's. No evidence of being asked to represent an interested person will be required provided the Councillor/MP represents the relevant ward. Likewise, parish councils may be considered to be interested parties.

Apart from these exceptions this Authority will require written confirmation that a person/body/advocate/relative is authorised to represent an interested party. Where they can demonstrate that they represent person in (a) or (b) above, a letter of authorisation from one of these persons, requesting the representative to speak on their behalf will be sufficient.

Councillors who are not within the definition of an "interested party" may attend meetings of the Licensing Committee's Sub-Committees, but have no right to address the hearing unless appointed by an 'interested party' to assist or represent that party.

In determining whether a person lives or has business interests sufficiently close to the premises, that they are likely to be affected by the authorised activities, the Licensing Authority will consider the following factors:-

- the size of the premises;
- the nature of the premises;
- the distance of the premises from the location of the person making the representation;
- the potential impact of the premises (e.g. number of customers, routes likely to be taken by those visiting the establishment);
- the circumstances of the complaint. This does not mean the personal characteristics of the complainant but the interest of the complainant, which may be relevant to the distance from the premises;
- the catchment area of the premises (i.e. how far people travel to visit); and
- whether the person making the representation has business interests in that catchment area that might be affected.

If there are any doubts then please contact the Licensing Team via email at licensing@maidstone.gov.uk or by telephone 01622 ~~602028~~602528.

10. Exchange of Information

Licensing Authorities are required to include in their Gambling Policy Statement the principles to be applied by the Authority, in exercising the functions, under sections 29 and 30 of the Act, with respect to the exchange of information between it and the Gambling Commission, the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

The principle that this Licensing Authority will apply is that it will have regard to the provisions of the Gambling Act 2005 in its exchange of information, and the provision that the Data Protection Act 1998 will not be contravened. The Licensing Authority will have regard to any revised Guidance issued by the Gambling Commission on this matter as well as any regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Any protocols established as regards information exchange with other bodies will be made available.

11. Public Register

The Licensing Authority is required to keep a public register and share information contained in it with the Gambling Commission and others. Regulations will prescribe what information should be kept in the register. Copies of the register may be obtained on payment of a fee.

12. Compliance and Enforcement

The Licensing Authority will act in accordance with the relevant legislation and Guidance as amended from the Gambling Commission and adopt the principles of better regulation set out in the Regulators Compliance Code.

The purpose of the Licensing Authority's enforcement protocol is to facilitate co-operation and co-ordination between enforcement agencies in pursuance of both the Gambling Act 2005 and the Licensing Act 2003.

A copy can be requested via email at licensing@sevenoaks.gov.uk or by telephoning the Licensing Administration Team 01732 227004.

In accordance with the Gambling Commission's Guidance for local authorities this Licensing Authority will endeavour to avoid duplication with other regulatory regimes.

The Licensing Authority, as recommended by the Gambling Commission's Guidance, has adopted a risk-based inspection programme.

Licensing authorities are required by regulation under the Gambling Act 2005, to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

The Licensing Authority's principles are that:

It will adopt the Guidance for local authorities and it will endeavour to be:

- Proportionate
Intervention will only be when necessary. Remedies should be appropriate to the risk posed and costs identified and minimised.
- Accountable
Authorities must be able to justify decisions and be subject to public scrutiny.
- Consistent
Rules and standards must be joined up and implemented fairly.
- Transparent
Enforcement should be open and regulations kept simple and user friendly.
- Targeted
Enforcement should be focused on the problems and minimise side effects.

The Licensing Authority will adopt a risk based inspection programme.

New premises, premises under new management, premises where complaints have been received or intelligence received relevant to the licensing objectives and premises or operators where compliance failings have been identified previously will attract a higher risk rating. Premises located in areas where there have been incidents of crime affecting or relating to gambling premises, or where the premises themselves have been the victims or involved in such crime, shall also attract a higher risk rating. The Council will conduct baselining assessments to assess initial risk ratings for gambling premises in its district. The Licensing Authority operates a partnership approach to dealing with enforcement matters concerning licensed premises. This may include working with the Police or any of the other responsible authorities under the Act, or working with colleagues from other Council departments or outside agencies.

The Licensing Authority needs to be satisfied premises are being run in accordance with the provisions of the Act, the licensing objectives, the Licence Conditions and Codes of Practice issued by the Gambling Commission and any conditions attached to the Premises Licence. To achieve this, the Licensing Authority will inspect premises, look at gambling facilities, gaming machines and policies and procedures, meet with licence holders and carry out general monitoring of areas as necessary.

Inspection and enforcement under the Act will be based on the principles of risk assessment, a graduated response and the targeting of problem premises. The frequency of inspections will be determined on risk-based criteria with high risk operations receiving more attention than premises carrying lower risk.

Premises found to be fully compliant will attract a lower risk rating. Those where breaches are detected will attract a higher risk rating.

The Licensing Authority will take appropriate enforcement action against those responsible for unlicensed premises/activity. Action will be carried out in accordance with the Enforcement Policy.

The main enforcement and compliance role for the Licensing Authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for Operating and Personal Licences.

Appendix 1

Factors to be taken into account when considering applications for premises licences, permits and other permissions including matters that will be considered when determining whether to review a licence.

1. Permits

- i. **Unlicensed Family Entertainment Centre (FEC) gaming machine permits**
(Statement of Principles on Permits - Schedule 10 para7)

Where a premises does not hold a Premises Licence but wishes to [make available provide Cat D](#) gaming machines it may apply to the Licensing Authority for this permit. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

As unlicensed family entertainment centres will particularly appeal to children and young persons, weight shall be given to child protection issues. The Licensing Authority has considered and will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling, but includes wider child protection considerations. The policies and procedures are expected to include:

- What staff should do if they suspect that truant children are on the premises;
- How staff should deal with unsupervised young children on the premises;
- How staff should deal with children causing perceived problems on or around the premises;
- Safeguarding awareness training
- A basic criminal record check for staff or equivalent criminal records check for the applicant and also the person who has the day to day control of the premises;

The Licensing Authority will also expect applicants to demonstrate

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed family entertainment centres;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
- that staff are trained to have full understanding of the maximum stakes and prizes.

It should be noted that a Licensing Authority cannot attach conditions to this type of permit and that the “statement of principles” only applies to initial applications and not to renewals (paragraph 8(2)). For initial applications, the Licensing Authority need not (but may) have regard to the licensing objectives and shall have regard to any Gambling Commission Guidance.

The Gambling Commission's Guidance for local authorities states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits....., licensing authorities may want to give weight to child protection issues."

The Gambling Commission's Guidance also states: "An application for a permit may be granted only if the Licensing Authority is satisfied that the premises will be used as an unlicensed FEC, and if the Chief Officer of Police has been consulted on the application."

Statement of Principles: This Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations.

The efficiency of such policies and procedures will each be considered on their merits. However, they may include:-

- appropriate measures/training for staff as regards suspected truant school children on the premises;
- measures/training covering how staff would deal with unsupervised very young children being on the premises;
- children causing perceived problems on/around the premises; and
- Safeguarding awareness training

With regard to renewals of these permits, the Licensing Authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

(ii) (Alcohol) Licensed Premises (Licensing Act 2003) Gaming Machine Permits – (Schedule 13 Para 4(1))

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have two gaming machines of categories C and/or D. The premises licence holders merely need to notify the Licensing Authority. The Licensing Authority may make an order disapplying the automatic entitlement in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act 2005;
- the premises are mainly used for gaming; or
- an offence under the Gambling Act 2005 has been committed on the premises.

If a premises wishes to have more than two machines, then it needs to apply for a permit and the Licensing Authority will consider that application based upon the licensing objectives, any Guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*”

This Licensing Authority considers that “such matters” will be decided on a case by case basis, but generally there will be regard to the need to protect children and vulnerable persons from being harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating.

Measures which will satisfy the Licensing Authority that there will be no access may include the adult machines being in sight of the bar or in the sight of staff that will monitor that the machines are not being used by those under 18 years old. [This applies to licensed family entertainment centres and bingo premises and not adult gaming centres and betting premises which are adult only premises.](#) Notices and signage may also help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

It should be noted that the Licensing Authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

It should also be noted that the holder of a permit must comply with any Code of Practice, as amended, issued by the Gambling Commission about the location and operation of the machine.

(iii) Prize Gaming Permits – (Statement of Principles on Permits - Schedule 14 Para 8 (3))

Given that the premises will particularly appeal to children and young persons, in considering what to take into account in the application process and what information to request from the applicant, the Licensing Authority will want to give weight to child protection issues and will ask the applicant to set out the types of gaming that he or she is intending to offer. The applicant will be expected to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. [These considerations should also apply to unlicensed family entertainment centre permits.](#)

- What staff should do if they suspect that truant children are on the premises;
- How staff should deal with unsupervised young children on the premises;
- How staff should deal with children causing perceived problems on or around the premises;
- Safeguarding awareness training; and

- A basic criminal record check for staff or equivalent criminal records check for the applicant and also the person who has the day to day control of the premises;

The Licensing Authority will also expect applicants to demonstrate

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed family entertainment centres;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act);
- that staff are trained to have full understanding of the maximum stakes and prizes; and
- that the gaming offered is within the law

In making its decision on an application for this permit the Licensing Authority need not (but may) have regard to the licensing objectives and shall have regard to any Gambling Commission Guidance.

The Gambling Act 2005, attaches mandatory conditions to all prize gaming permits. The Licensing Authority cannot attach conditions. The mandatory conditions are as follows:

The limits on participation fees, as set out in regulations, must be complied with;

- the all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize) or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.
- Prize gaming permits are issued for 10 years and there is no annual fee.

(iv) Club Gaming and Club Machines Permits (Schedule 12 Para 1) insert page 44 - 45, need more club info.

Members' Clubs and Miners' Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club Gaming Machine Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B3A, B4, C or D), equal chance gaming and games of chance as set out in regulations. A Club Machine Permit will enable the premises to provide gaming machines (3 machines of categories B3A, B4, C or D). A

If a club does not wish to have the full range of facilities permitted by a club gaming permit or if they are a commercial club not permitted to provide non-machine gaming (other than exempt gaming under section 269 of the Act), they may apply for a club machine permit which will enable the premises to provide gaming machines (three machines of categories B4, C or D).

The Guidance for local authorities states: "Members' Clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, it must be permanent in nature, not established to make a commercial profit and must be controlled by its members equally. unless the gaming is restricted to bridge and whist but there is no need for a club to have an alcohol licence.

The Licensing Authority is aware that it may refuse an application on one or more of the following grounds:

- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young persons, or by both;
- (c) an offence under the Act or a breach of a condition of a permit has been committed by the applicant while providing gaming activities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Gambling Commission or the police.

Fast Track Procedure (Schedule 12(10))

There is also a procedure available under the Act for premises that hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12, para 10). As the Gambling Commission's Guidance for local authorities' states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse a permit are reduced" and "The grounds on which an application under the process may be refused are:

- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

There are statutory conditions on club gaming permits that no child uses a category B3A, B4 or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

The Licensing Authority will need to satisfy itself that the club meets the requirements of the Gambling Act 2005 to hold a club gaming permit. In order to do this, it may require proof of additional information from the operator such as:

- is the primary activity of the club something other than gaming?
- are the club's profits retained solely for the benefit of the club's members?
- are there 25 or more members?
- are the addresses of members of the club genuine domestic addresses and do most members live reasonably locally to the club?
- do members participate in the activities of the club via the internet?
- do guest arrangements link each guest to a member?
- is the 48 hour rule being applying for membership and being granted admission being adhered to?
- are there annual club accounts available for more than one year?
- how is the club advertised and listed in directories and on the internet?
- are children permitted in the club?
- does the club have a constitution and can it provide evidence that the constitution was approved by members of the club?
- is there a list of Committee members and evidence of their election by the club members?

When examining the club's constitution, the Licensing Authority would expect to see evidence of the following:

- Who makes commercial decisions on behalf of the club?
- Are the aims of the club set out in the constitution?
- Are there shareholders or members? Shareholders indicate a business venture rather than a non-profit making club.
- Is the club permanently established? (Clubs cannot be temporary).
- Can people join with a temporary membership? What is the usual duration of membership?
- Are there long term club membership benefits?

Aside from bridge and whist clubs, clubs may not be established wholly or mainly for the purposes of gaming. The Licensing Authority may consider such factors as:

- How many nights a week gaming is provided;
- How much revenue is derived from gambling activity versus other activity;
- How the gaming is advertised;
- What stakes and prizes are offered;
- Whether there is evidence of leagues with weekly, monthly or annual winners;
- Whether there is evidence of members who do not participate in gaming;
- Whether there are teaching sessions to promote gaming such as poker;
- Where there is a tie-in with other clubs offering gaming through tournaments and leagues;
- Whether there is sponsorship by gaming organisations;
- Whether participation fees are within limits

Appendix 2

2. Gambling Premises Licences

(i) Decision making - general:

Premises Licences will be subject to the requirements set-out in the Gambling Act 2005 and Regulations, as well as specific mandatory and default conditions detailed in regulations issued by the Secretary of State. The Licensing Authority is able to exclude default conditions and also attach others, where it is believed to be appropriate.

The Licensing Authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant Guidance issued by the Gambling Commission;
- reasonably consistent with the Licensing Objectives; and
- in accordance with the Authority's Statement of Licensing Policy.

Any conditions attached to licences by the Licensing Authority will be proportionate and will be:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- are reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures the Licensing Authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. The Licensing Authority will also expect the licence applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively.

An applicant for a licence will need to specify what supervision is proposed for the area where machines are sited and to clarify how supervisors will be trained to recognise vulnerable adults.

The Licensing Authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in a non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance [and licence conditions and codes of practice.](#)

The Licensing Authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons less than 18 years of age.

These conditions will apply to premises including buildings where multiple premises licences are applicable.

The Licensing Authority is aware that tracks may be subject to one or more than one premises licence provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, the Licensing Authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

There are also conditions which the Licensing Authority cannot attach to premises licences which are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated) and
- conditions in relation to stakes, fees, winning or prizes.

(ii) "Premises":

Premises are defined in the Act as "any place". It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises and as the Guidance for local authorities' states, it "will always be a question of fact in the circumstances". The Gambling Commission does not however consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

The Licensing Authority will have regard to the Commission's Guidance on the division of premises and access between premises.

The Licensing Authority takes particular note of the Guidance for Local Authorities which states that in considering applications for multiple licences for a building ([split premises](#)) or those for a specific part of the building to be licensed, licensing authorities should be aware that:

- the third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling but also that they are not permitted to be in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating; and
- entrances and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area.

The Licensing Authority will pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly, there will be specific issues that authorities should consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. But, in addition an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

It should also be noted that an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that references to "the premises" are to the premises in which gambling may now take place. Thus a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. The Licensing Authority agrees with the Gambling Commission that it is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. The Gambling Commission emphasises that requiring the building to be complete ensures that the authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.

(iii) Location:

The Licensing Authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. As per the Gambling Commission's Guidance for local authorities, the Licensing Authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

(iv) Planning:

Planning and licensing are different regulatory systems and will be dealt with separately. The Gambling Commission's Guidance states: "When dealing with a premises licence application for finished buildings, the Licensing Authority should not take into account whether those buildings have or comply with the necessary planning or building consents.

Those matters should be dealt with under relevant planning control, building and other regulations and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building."

(v) Duplication:

As stated above in section 12 on Compliance and Enforcement, as per the Gambling Commission's Guidance for local authorities the Licensing Authority will seek to avoid duplication with other regulatory regimes so far as possible.

(vi) Door Supervisors:

The Gambling Commission's Guidance advises local authorities that licensing authorities may require persons operating premises in which gambling takes place to take measures such as the supervision of entrances; segregation of gambling from non-gambling areas frequented by children (assuming such non-gambling areas are compatible with requirements of the Act); and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives.

Any person employed to fulfil a condition on a premises licence that requires door supervision should hold a relevant licence issued by the Security Industry Authority (SIA).

It is to be noted that door supervisors at licensed casino or bingo premises are exempt from the requirements of the Private Security Industry Act 2001. Where an authority imposes door supervision requirements on such licences, the personnel will not need licensing under the 2001 Act.

The Licensing Authority therefore has specific requirements for door supervisors working at casinos or bingo premises, where there are multiple licensable activities and/or the Police Licensing Officer has concerns about the licensing objectives being undermined.

Where the premises are licensed under the Licensing Act 2003 door supervisors will be required to hold a relevant licence issued by the Security Industry Authority (SIA).

(vii) Licensing objectives:

The Licensing Authority has considered the Commission's Guidance to local authorities in respect of the licensing objectives.

Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;

Ensuring that gambling is conducted in a fair and open way;

Protecting children and other vulnerable persons from being harmed or exploited by gambling.

(viii) Reviews:

Interested parties or responsible authorities can make requests for a review of a premises licence; however, it is for the Licensing Authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the following matters:

- it is in accordance with any relevant code of practice issued by the Gambling Commission;
- it is in accordance with any relevant Guidance issued by the Gambling Commission;
- it is reasonably consistent with the licensing objectives; and
- it is in accordance with the authority's statement of licensing policy.

Consideration will be given as to whether the request is frivolous, vexatious, or will certainly not cause the Licensing Authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

The Licensing Authority can also initiate a review of a licence on the basis of any reason that it thinks is appropriate.

(ix) Provisional Statements:

The Licensing Authority notes the Guidance from the Gambling Commission which states:

S.204 of the Act provides for a person to make an application to the Licensing Authority for a provisional statement in respect of premises that he or she:

- expects to be constructed
- expects to be altered
- expects to acquire a right to occupy.

In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been

addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances.

In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- (a) which could not have been raised by objectors at the provisional licence stage; or
- (b) which in the authority's opinion reflect a change in the operator's circumstances.

(c) Where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. This must be a substantial change to the plan and licensing authorities should discuss any concerns they have with the applicant before making a decision.

(e)(d) Operators can apply for a premises licence in respect of premises which have still to be constructed or altered, and licensing authorities are required to determine any such applications on their merits. Gambling premises do not have to be complete before a Premises Licence can be granted. The Act allows a potential operator to apply for a provisional statement if construction of the premises is not yet complete, or they need alteration, or he does not yet have a right to occupy them.

(x) Adult Gaming Centres (AGC):

The Licensing Authority particularly notes the Commission's Guidance which states: "No-one under the age of 18 years of age is permitted to enter an AGC. Licensing authorities will wish to have particular regard to the location of an entry to AGCs to minimise the opportunities for children to gain access. This may be of particular importance in areas where young people may be unsupervised and an AGC is in a complex, such as a shopping centre or airport."

Because gaming machines provides opportunities for solitary play and immediate payouts, they are more likely to engender repetitive and excessive play. The Licensing Authority in considering Premises Licences for AGC's will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds are not attracted to, or gain access to, the premises.

The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives although appropriate measures/licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry

- Notices/signage
- Specific opening hours
- Self-exclusion ~~Self-barring~~ schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

(xi) (Licensed) Family Entertainment Centres (FECs):

Family Entertainment Centres are wholly or mainly used for having gaming machines available for use.

The Licensing Authority will, as per the Gambling Commission's Guidance refer to the Commission's website to see any conditions that apply to operator licences covering the way in which the area containing the category C machines should be delineated. This Licensing Authority will also make itself aware of any mandatory or default conditions on these premises licences.

As gaming machines are a form of gambling which is attractive to children and licensed FEC's will contain both Category D machines on which they are allowed to play, and Category C machines on which they are not. Because gaming machines provide opportunities for solitary play and for immediate payouts, they are more likely to engender repetitive and excessive play. The Licensing Authority, in considering applications for FEC Premises Licences, will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives although appropriate measures/licence conditions may cover issues such as:

- * CCTV
- * Supervision of entrances/machine areas
- * Physical separation of areas
- * Location of entry
- * Notices/signage
- * Specific opening hours
- * Self-exclusion ~~Self-barring~~ schemes
- * Provision of information leaflets/helpline numbers for organisations such as GamCare
- * Measures/training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

(xii) Tracks:

The Licensing Authority is aware that the Gambling Commission may provide specific Guidance as regards tracks. The Licensing Authority shall have regard to this Guidance in the discharge of its functions.

(xiii) Casinos:

The Licensing Authority has not passed a 'no Casino' resolution under Section 166(1) of the Gambling Act 2005; therefore this would allow the authority to grant a Casino licence.

Any future decision to pass or not pass such a resolution will be made by the Council's Licensing Committee and will need to be endorsed by the Full Council, but will only be taken after a full consultation process has been undertaken within its area.

(xiv) Bingo:

The Licensing Authority will have regard to the Gambling Commission's Guidance.

The Licensing Authority expects that where children are permitted in bingo premises, any Category B or C machines are located in an area which is separated from the rest of the premises by barriers or in a separate room, where it is made clear that entry is permitted only for those aged 18 or over. Appropriate signage should be provided to this effect and the area should be monitored by staff, either through direct supervision or by monitored CCTV.

To avoid a situation where a premises holds a bingo Premises Licence primarily to benefit from the gaming machine allowance, the Licensing Authority will need to be satisfied that bingo is regularly played in any premises for which a Premises Licence is issued and that the premises presentation is clearly that of a bingo premises and readily identifiable as such to any customer using the premises.

(xv) Temporary Use Notice (TUN):

There are a number of statutory limits as regards Temporary Use Notices. It is noted that it falls to the Licensing Authority to decide what constitutes a 'set of premises' where Temporary Use Notices are received relating to the same building/site (see Gambling Commission's Guidance for Local Authorities).

(xvi) Occasional Use Notice (OUN):

The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The Licensing Authority will need to consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

(xvii) Small Society Lotteries

The Council will adopt a risk-based approach towards our compliance responsibilities for small society lotteries. We consider the following list, although not exclusive, could affect the risk status of the operator:

- Submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held)
- Submission of incomplete or incorrect returns
- Breaches of the limits for small society lotteries

Non-commercial gaming is permitted if it takes place at a non-commercial event as either an incidental or principal activity at the event. Events are non-commercial if no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:

- By, or on behalf of, a charity or for charitable purposes
- To enable participation in, or support of, sporting, athletic or cultural activities.

Charities and community groups should contact us on 01622 602028 or email licensing@maidstone.gov.uk to seek further advice

(xviii) Travelling Fairs:

It will fall to the Licensing Authority to decide whether, where category D machines and/or equal chance prize gaming without a permit are to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This Licensing Authority will work with its neighbouring authorities to ensure that land which crosses its boundaries is monitored so that the statutory limits are not exceeded.

Help with gambling related problems:

A list of organisations where people may seek help will be available on the Licensing Authority's website.

Appendix 3

Responsible Authorities:

Further information about the Gambling Act 2005 and the Council's licensing policy can be obtained from:

Licensing Team

Maidstone Borough Council
Maidstone House
King Street
Maidstone
Kent
ME15 6JQ

Tel: 01622 602028

e-mail: licensing@maidstone.gov.uk

Website: www.maidstone.gov.uk

Local Planning Authority

Maidstone Borough Council
Maidstone House
King Street
Maidstone
Kent
ME15 6JQ

Tel: 01622 602736

e-mail:

planningsupport@midkent.gov.uk

Chief Police Officer – (West Division)

Maidstone Police Station
Palace Avenue
Maidstone
Kent
ME15 6NF

Tel: 01622 690690

e-mail:

west.division.licensing@kent.pnn.police.uk

Information can also be obtained from:

Gambling Commission

Victoria Square House
Victoria Square
Birmingham. B2 4BP

Tel: 0121 230 6666

Fax 0121 230 6720

e-mail: info@gamblingcommission.gov.uk

Website: www.gamblingcommission.gov.uk

Environmental Protection/ Health and Safety

Maidstone Borough Council
Maidstone House
King Street
Maidstone
Kent
ME15 6JQ

Tel: 01622 602202

e-mail:

enforcementoperations@maidstone.gov.uk

Kent Safeguarding Children's Board

KCC Social Services
Sessions House
County Road
Maidstone
Kent ME14 1XQ

e-mail: kscb@kent.gov.uk

social.services@kent.gov.uk

Appendix 4

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

Gambling Act 2005	Functions	Delegation
	Final approval of three year licensing policy	Full Council
	Policy not to permit casinos	Full Council
	Fee Setting (when appropriate)	Full Council
Section 29	Duty to comply with requirement to provide information to Gambling Commission	Officers
Section 30	Functions relating to the exchange of information	Officers
Section 163	Determination of application for Premises Licence in respect of which representations have been made (and not withdrawn) Determination of application for Premises Licence where no relevant representations received	Licensing Sub-Committee Officers
Section 162	Attachment of condition to Premises Licence or exclusion of default condition	Licensing Sub-Committee
Section 162	Decision as to whether representation is vexatious, frivolous, or would certainly not influence the authority's determination of application	Officers in consultation with the Head of Service
Section 187	Determination of application to vary Premises Licence in respect of which representations have been made (and not withdrawn) Determination of application to vary Premises Licence in respect of which no representation received	Licensing Sub-Committee Officers
Section 188	Determination of application for transfer of Premises Licence in respect of which representations have been made (not withdrawn) Determination of application for transfer of Premises Licence where no representations received	Licensing Sub-Committee Officers
Section 193	Revocation of Premises Licence for failure to pay annual fee	Officers
Section 194	Determination that a Premises Licence has lapsed	Officers
Section 195	Reinstatement of lapsed Premises Licence in respect of which representations have been made (and not withdrawn) Reinstatement of lapsed Premises Licence where no representation is received	Licensing Sub-Committee Officers
Section 198	Rejection of application for review of Premises Licence on various grounds	Officers in consultation with Head of Service
Section 200	Initiation of review of Premises Licence	Officers
Section 201	Determination that representation about review of Premises Licence is frivolous, vexatious or will certainly not influence a review of a Premises Licence	Officers in consultation with Head of Service

Section 202	Determination of action following review of Premises Licence	Licensing Sub-Committee
Section 204	Determination of application for provisional statement in respect of Premises Licence where representations have been made (and not withdrawn) Determination of application for provisional statement in respect of which no representations received	Licensing Sub-Committee Officers
Section 205	Decision to disregard representations made in respect of application for a Premises Licence after issue of provisional statement	Officers in consultation with Head of Service
Section 218	Issue of counter notice to Temporary Use Notice where number of permitted days are exceeded	Officers
Section 221	Objection to Temporary Use Notice	Officers
Section 222	Issue of counter notice in response to Temporary Use Notice	Licensing Sub-Committee
Section 284	Making of Order to remove exemptions from specified premises	Licensing Sub-Committee
Section 304	Power to designate officer of a Licensing Authority as an authorised person for a purpose relating to premises	Officers
Section 346	Institution of criminal proceedings in respect of an offence under the provisions of the Act	Officers in consultation with Head of Service
Schedule 10		
Paragraph 8	Determination of application for Family Entertainment Centre Gaming Machine Permit	Director of Regeneration and Communities (or in his absence the Head of Housing & Community Services) (Refusal to be exercised only in consultation with Head of Service)
Paragraphs 14 and 15	Notification of lapse of Family Entertainment Centre Gaming Permit	Officers in consultation with Head of Service
Schedule 11		
Paragraph 44	Registration of society for small society lottery	Officers
Paragraph 48	Refusal of application for registration of society for small society lottery	Officers in consultation with Head of Service
Paragraph 50	Revocation of registration of society for small society lottery	Officers in consultation with Head of Service
Paragraph 54	Cancellation of registration of society for small society lottery for non-payment of annual fee	Officers
Schedule 12		
Paragraphs 5 and 10 and 24	Determination of application for Club Gaming Permit and Club Registration Permit and for renewal of permit in respect of which representations have been made (and not withdrawn) Determination of application for Club	Licensing Sub-Committee Officers

	Gaming Permit and Club Registration Permit and for renewal of permit where no representations received	
Paragraph 15	Determination of application for variation of Club Gaming Permit and in respect of which Club Registration Permit and cancellation of permit representations have been made (and not withdrawn) Determination of application for variation of Club Gaming Permit and Club Registration Permit and cancellation of permit where no representations	Licensing Sub-Committee Officers
Paragraph 21	Cancellation of Club Gaming Permit and Club Registration Permit	Licensing Sub-Committee
Paragraph 22	Cancellation of Club Gaming Permit and Club Registration Permit for failure to pay annual fee	Officers
Schedule 13		
Paragraphs 4, 15 and 19	Determination of application for grant, variation or transfer of Licensed Premises Gaming Machine Permit	Officers (Refusal and limitation on number of machines only in consultation with Head of Service
Paragraph 16	Cancellation of Licensed Premises Gaming Machine Permit or variation of number or category of machines in respect of which representations received (and not withdrawn)	Sub-Committee
Paragraph 17	Cancellation of Licensing Premises Gaming Machine Permit and variation of number or category of machine where no representations received Cancellation of Licensed Premises Gaming Machine Permit for failure to pay annual fee	Officers Officers
Schedule 14		
Paragraphs 9 and 18	Determination of application for Prize Gaming Permit and application for renewal of Permit	Officers (Refusal only in consultation with Head of Service
Paragraph 15	Determination that Prize Gaming Permit has lapsed	Officers

Appendix 5
LIST OF CONSULTEES

All Maidstone Borough Councillors

All Parish Councillors

All premises currently licensed to sell or supply alcohol

All premises currently licensed for regulated entertainment

All premises currently licensed for late night refreshments

Any other prescribed in regulations by Secretary of State

Town Centre Management

Environment Agency

British Waterways Board

GamCare

2 & 3 Baden Place

Crosby Row

London SE1 1YW

Tel: 020 7378 5200

Website: www.gamcare.org.uk

The Bingo Association

Lexham House

75 High Street (North)

Dunstable

Bedfordshire LU6 1JF

Tel: 01582 860921

Website: www.bingo_association.co.uk

British Casino Association

38 Grosvenor Gardens

London SW1W 0EB

Tel: 020 7730 1055

Website: www.britishcasinoassociation.org.uk

This list is not finite and other persons or organisations may be added.

SUMMARY OF GAMING MACHINES BY PREMISES

Appendix 6

	Machine category								
Premises type	A	B1	B2	B3	B3A	B4	C	D	
Large casino (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)							
Small casino (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)							
Pre-2005 Act casino (no machine/table ratio)		Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead							
Betting premises and tracks occupied by pool betting			Maximum of 4 machines categories B2 to D						
Bingo premises				Maximum of 20% of total number of gaming machines which are available for use on the premises categories B3 or B4				No limit on category C or D machines	
Adult gaming centre				Maximum of 20% of total number of gaming machines which are available for use on the premises categories B3 or B4				No limit on category C or D machines	
Family entertainment centre (with premises licence)								No limit on category C or D machines	
Family entertainment centre (with permit)									No limit on category D machines
Clubs or miners' welfare institute (with permits)						Maximum of 3 machines in categories B3A or B4 to D*			
Qualifying alcohol-licensed premises						1 or 2 machines of category C or D automatic upon notification			
Qualifying alcohol-licensed premises (with gaming machine permit)						Number of category C D machines as specified on permit			
Travelling fair						No limit on category D machines			
	A	B1	B2	B3	B3A	B4	C	D	

1 Bingo premises licence are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. Where a premises licence was granted before 13 July 2011, they are entitled to make available eight¹⁰⁷ category B gaming machines, or 20% of the total number of gaming machines, whichever

is the greater. Category B machines at bingo premises are restricted to sub-category B3 and B4 machines, but not B3A machines.

2. Adult gaming centres are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C or D machines. Where a premises licence was granted before 13 July 2011, they are entitled to make available four category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at adult gaming centres are restricted to sub-category B3 and B4 machines, but not B3A machines.
3. Only premises that are wholly or mainly used for making gaming machines available may hold an unlicensed FEC gaming machine permit or an FEC premises licence. Category C machines may only be sited within licensed FEC's and where an FEC permit is in force. They must be in a separate area to ensure the segregation and supervision of machines that may only be played by adults. There is no power for the licensing authority to set a limit on the number of machines under the FEC permit.
4. Members' clubs and miners' welfare institutes with a club gaming permit or with a club machine permit, are entitled to site a total of three machines in categories B3A to D but only one B3A machine can be sited as part of this entitlement.
5. Commercial clubs with club machine or gaming permits are entitled to a total of three machines in categories B4 to D.

Appendix 7

SUMMARY OF MAXIMUM STAKE AND MAXIMUM PRIZE BY CATEGORY OF GAMING MACHINE.

Machine category	Maximum stake (from January 2014)	Maximum prize (from January 2014)	Allowed premises
A	Unlimited	Unlimited	Regional Casino
B1	£5	£10,000 (with the option of a maximum £20,000 linked progressive jackpot on a premises basis only)	Large Casino, Small Casino, Pre-2005 Act casino and Regional Casinos
B2	£100*	£500	Betting premises and tracks occupied by pool betting and all of the above
B3	£2	£500	Bingo premises, Adult gaming centre and all of the above
B3A	£2	£500	Members' club or Miners' welfare institute only
B4	£2	£400	Members' club or Miners' welfare club, commercial club and all of the above.
C	£1	£100	Family entertainment centre (with Commission operating licence), Qualifying alcohol licensed premises (without additional gaming machine permit), Qualifying alcohol licensed premises (with additional LA gaming machine permit) and all of the above.
D money prize	10p	£5	Travelling fairs, unlicensed (permit) Family entertainment centre and all of the above

D non-money prize (other than crane grab machine)	30p	£8	All of the above.
D non-money prize (crane grab machine)	£1	£50	All of the above.
D combined money and non-money prize (other than coin pusher or penny falls machines)	10p	£8 (of which no more than £5 may be a money prize)	All of the above.
D combined money and non-money prize (coin pusher or penny falls machine)	20p	£20 (of which no more than £10 may be a money prize)	All of the above.

* [These values are subject to change](#)

Appendix 8

STATEMENT OF PRINCIPLES FOR UNLICENSED FAMILY ENTERTAINMENT CENTRES, GAMING MACHINE PERMITS & PRIZE GAMING PERMITS GAMBLING ACT 2005

Contents

1. The Gambling Act 2005
2. Purpose of this document
3. Unlicensed Family Entertainment Centres (UFECs)
4. Prize Gaming Permits
5. Statement of Principles for UFEC gaming machine permits and prize gaming permits
6. Supporting documents
7. Child Protection Issues
8. Protection of Vulnerable Persons
9. Miscellaneous Matters

1. The Gambling Act 2005

Unless otherwise stated any references in this document to the Council is to Maidstone Borough Council as the Licensing Authority.

The Act requires the Council, as the Licensing Authority, to aim to permit the use of premises for gambling in so far as the authority thinks it:

- In accordance with a relevant code of practice,
- In accordance with any relevant Guidance issued by the Gambling Commission,
- Reasonably consistent with the licensing objectives, and
- In accordance with the Licensing Authority policy issued under the Act.

The licensing objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

2. Purpose of this document

This document has been prepared to assist persons considering making an application for either an unlicensed family entertainment centre (UFEC) gaming machine permit or a prize gaming under the Gambling Act 2005.

Maidstone Borough Council fully endorses the licensing objectives detailed above and expects all applicants to work in partnership to promote these objectives through clear and effective management of each gambling operation whether in respect of a permit or premises licence.

In respect of UFEC gaming machine permits it has been prepared in accordance with Paragraph 7 of Schedule 10 of the Act and in respect of prize gaming permits it has been prepared in accordance with paragraph 8 of Schedule 14 of the Act. The document should be read in conjunction with Maidstone Council Statement of Licensing Policy and Principles. – Gambling Act 2005.

The purpose of the document is to clarify measures that the Council will expect applicants to demonstrate when applying for either of these permits so the Council can determine the suitability of the applicant and the premises for a permit.

Within this process the Council will aim to grant the permit where the applicant is able to demonstrate that:

- They are a fit and proper person to hold the permit, and
- They have considered and are proposing suitable measures to promote the licensing objectives and they have a legal right to occupy the premises to which the permit is sought.

The measures suggested in this document should be read as guidance only and the Council will be happy for applicants to suggest measures above and beyond those listed in the document and or to substitute measures as appropriate.

3. Unlicensed Family Entertainment Centres

The term 'unlicensed family entertainment centre' is one defined in the Act and refers to a premises which provides category D gaming machines together with various other amusements such as computer games and "penny-pushers".

The premises is 'unlicensed' in that it does not require a premises licence but does require a permit to be able to provide its category D gaming machines. It should not be confused with a 'licensed family entertainment centre' that does require a premises licence because it contains both category C and D gaming machines.

Unlicensed family entertainment centres (UFECs) will be most commonly located at seaside resorts, in airports and at motorway service centres, and will cater for families, including unaccompanied children and young persons. The Council will only grant a UFEC gaming machine permit where it is satisfied that the premises will be operated as a bona fide unlicensed family entertainment centre.

In line with the Act, while the Council cannot attach conditions to this type of permit, the Council can refuse applications if they are not satisfied that the issues raised in this “Statement of Principles” have been addressed through the application.

Applicants only need to address the “Statement of Principles” when making their initial applications and not at renewal time. (Permits are granted for a period of ten years.)

4. Prize Gaming Permits

Section 288 defines gaming as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences. Prize gaming can often be seen at seaside resorts in amusement arcades where bingo is offered and the prizes are displayed.

A prize gaming permit is a permit issued by the Council to authorise the provision of facilities for gaming with prizes on specified premises.

Applicants should be aware of the conditions in the Gambling Act 2005 by which prize gaming permits holders must comply. The conditions in the Act are:

- The limits on participation fees, as set out in regulations, must be complied with
- All chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played
- The prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize) and participation in the gaming must not entitle the player to take part in any other gambling

In line with the Act, while the Council cannot attach conditions to this type of permit, the Council can refuse applications if they are not satisfied that the issues raised in this “Statement of Principles” have been addressed through the application.

Applicants only need to address the “Statement of Principles” when making their initial applications and not at renewal time. Permits are granted for a period of ten years.

5. Statement of Principles for UFEC gaming machine permits and prize gaming permits

Supporting documents

The Council will require the following supporting documents to be served with all UFEC gaming machine permit and prize gaming permit applications:

- Proof of age (a certified copy or sight of an original birth certificate, driving licence, or passport – all applicants for these permits must be aged 18 or over);
- Proof that the applicant has the right to occupy the premises. Acceptable evidence would be a copy of any lease, a copy of the property's deeds or a similar document;
- An enhanced criminal record certificate. (This should be no greater than one month old.) This will be used to check that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act.)

In the case of applications for a UFEC gaming machine permit evidence that the machines to be provided are or were supplied by a legitimate gambling operator who holds a valid gaming machine technical operating licence issued by the Gambling Commission together with a plan of the premises to which the permit is sought showing the following items:

- The boundary of the building with any external or internal walls, entrances and exits to the building and any internal doorways where any category D gaming machines are positioned and the particular type of machines to be provided (e.g. Slot machines, penny falls, cranes)
- The location where any prize gaming will take place (including any seating and tables) and the area where any prizes will be displayed
- The positioning and types of any other amusement machines on the premises
- The location of any fixed or semi-fixed counters, booths or offices on the premises whereby staff monitor the customer floor area the location of any ATM/cash machines or change machines the location of any fixed or temporary structures such as columns or pillars
- The location and height of any stages in the premises; any steps, stairs, elevators, balconies or lifts in the premises
- The location of any public toilets in the building.

(Unless agreed with the Council, the plan should be drawn to a standard scale with a key showing the items mentioned above. The standard scale is 1:100)

6. Child Protection Issues

The Council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations.

The Council will assess these policies and procedures on their merits, and they should (depending on the particular permit being applied for) include appropriate measures / training for staff as regards the following:

- Maintain contact details for any local schools and or the education authority so that any truant children can be reported
- Employ policies to address the problems associated with truant children who may attempt to gain access to the premises and gamble when they should be at school
- Employ policies to address any problems that may arise during seasonal periods where children may frequent the premises in greater numbers, such as half terms and summer holidays
- Maintain information at the premises of the term times of any local schools in the vicinity of the premises and also consider policies to ensure sufficient staffing levels during these times
- Display posters displaying the 'Child Line' phone number in discreet locations on the premises e.g. toilets
- Maintain an incident register of any problems that arise on the premises related to children such as children gambling excessively, truant children, children being unruly or young unaccompanied children entering the premises (The register should be used to detect any trends which require attention by the management of the premises.)
- Ensure all young children are accompanied by a responsible adult
- Maintain policies to deal with any young children who enter the premises unaccompanied
- Enhanced criminal records checks for all staff who will be working closely with children

NB: Any supporting evidence of the above measures e.g. Training manuals or other similar documents/written statements should be attached to the application.

7. Protection of Vulnerable Persons.

The Council will expect the applicant to show that there are policies and procedures in place to protect vulnerable persons.

The Council will assess these policies and procedures on their merits; however they may (depending on the particular permit being applied for) include appropriate measures / training for staff as regards the following:

- Display Gamcare helpline stickers on all gaming machines
- Display Gamcare posters in prominent locations on the premises
- Training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect persons who may be vulnerable
- Consider appropriate positioning of ATM and change machines (including the display of Gamcare stickers on any such machines)

NB: Any supporting evidence of the above measures e.g. Training manuals or other similar documents/written statements should be attached to the application.

8. Miscellaneous Matters

The applicant should also be mindful of the following possible control measures (depending on the particular permit being applied for) to minimise crime and disorder and the possibility of public nuisance as follows:

- Maintain an effective CCTV system to monitor the interior and exterior of the premises
- Keep the interior and exterior of the premises clean and tidy
- Ensure the external lighting is suitably positioned and operated so as not to cause nuisance to neighbouring and adjoining premises
- Consider the design and layout of the outside of the premises to deter the congregation of children and youths
- Restrict normal opening hours to 8.45am to midnight daily
- Not permit any person who is drunk and disorderly or under the influence of drugs, to enter or remain on the premises
- Take such steps as are reasonably practicable to eliminate the escape of noise from the premises
- Ensure, where possible the external doors to the premises remain closed, except when in use, by fitting them with a device for automatic closure or by similar means
- Ensure that the premises are under the supervision of at least one responsible, adequately trained person at all times the premises are open

NB: Any supporting evidence of the above measures e.g. Training manuals or other similar documents/written statements should be attached to the application.

Applicants may obtain an enhanced Disclosure Barring Service disclosure on application to Disclosure Scotland on 0870 609 6006 or online at www.disclosurescotland.co.uk

From: REDACTED [mailto:]
Sent: 10 August 2018 13:04
To: Lorraine Neale
Subject: Draft Gambling Act Policy.

Hi Lorraine,

This is a response to the recent Consultation email fro MBC. I have not read the policy.

I just wanted to say that gambling is for many people an addiction that is harmful to them and to others.

I have seen it destroy marriages, often with severe adverse effects on children, and lead people into crime and imprisonment.

Since the 1950s we have moved on from gambling that for many was largely based on low stake football pools and 'penny in the slot' machines in amusement arcades. Now we have lottery entries on sale in many newsagents and elsewhere, gambling machines that can milk hundreds in a short period of time, casinos and on line gambling that almost invariable leave people severely out of pocket, and 'competitions' on various TV shows and elsewhere that make large sums for their organisers (is that covered by gambling law? it definitely should be,)

I will not attempt to go into the psychology of the gambler here. I just wanted to say that anything that the Council can do to limit this terrible disease would be most welcome.

Thank you,
REDACTED,

From: Clerk Boxley PC [mailto:clerk@boxleyparishcouncil.org.uk]
Sent: 07 September 2018 19:40
To: Lorraine Neale
Subject: Draft Gambling Act Statement of Principles Policy for 2019-2022

At its meeting on 3 September the parish council made the following comments

The Draft Statement of Principles are supported.

Regards

Pauline Bowdery

Pauline Bowdery
Clerk

Web: www.boxleyparishcouncil.org.uk

From: gamblingcommission.gov.uk]
Sent: 10 September 2018 08:38
To: Licensing (MBC)
Subject: Comments on Maidstone's Draft Statement of Principles for Gambling

The Commission has been sent a copy of Maidstone's draft Statement of Principles for Gambling. I have had the opportunity to read the document and have some comments to make which may assist. This is not a representation, and there is no need to treat it as such – the comments are for your advice only.

1. Unlicensed FEC Permits - You should specify here that a uFEC Permit is only where the applicant wishes to make Cat D gaming machines available (i.e. machines that may be played by children). It is not for any other type of gaming machine.
2. Prize Gaming Permits - these considerations should also apply to uFEC permits, as these are premises which primarily cater to children and which are not regulated by the GC, only via a permit from the LA
3. Requirement for gaming machines to be in a separate area (for Premises Licences) - this only applies to Licensed FEC's and Bingo premises and not to AGC or Betting premises, which are only for adults anyway. This should be clarified.
4. Provisional Statements – gambling premises do not have to be complete before a Premises Licence can be granted. **The GLA states:**

Consideration of planning permission and building regulations

7.58 In determining applications, the licensing authority should not take into consideration matters that are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. Licensing authorities should bear in mind that a premises licence, once it comes into effect, authorises premises to be used for gambling. Accordingly, a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use. Equally, licences should only be issued where they are expected to be used for the gambling activity named on the licence. **This is why the Act allows a potential operator to apply for a provisional statement if construction of the premises is not yet complete, or they need alteration, or he does not yet have a right to occupy them.** [Part 11](#) of this guidance gives more information about provisional statements.

7.59 As the Court has held in a 2008 case¹⁹, **operators can apply for a premises licence in respect of premises which have still to be constructed or altered, and licensing authorities are required to determine any such applications on their merits.** Such cases should be considered in a two stage process; first, licensing authorities must decide whether, as a matter of substance after applying the principles in s.153 of the Act, the premises ought to be permitted to be used for gambling; second, in deciding whether or not to grant the application a licensing authority will need to consider if appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

5. Self-exclusion: the term "self-barring" used in the draft should be replaced by "self-exclusion", which is the correct term.

I hope this is helpful to you.

Best wishes

(REDACTED)

Compliance Manager

Gambling Commission
Victoria Square House
Victoria Square
Birmingham B2 4BP

Telephone: 0121 230 6603
www.gamblingcommission.gov.uk

Agenda Item 14

Licensing Committee

22 November 2018

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Emission standards and suitability for use of Maidstone Hackney Carriage and Private Hire Vehicles

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

This report makes the following recommendation:

1. That the Committee agrees to defer decision on implementation of the Taxi Emissions Policy following the consultation received to enable clarification of certain points with the Hackney and Private Hire Trade.

This report relates to the following Five Year Plan Key Objectives:

- Keeping Maidstone Borough an attractive place for all

Timetable

Meeting	Date
Licensing Committee	22 November 2018

Emission standards and suitability for use of Maidstone Hackney Carriage and Private Hire Vehicles

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 Maidstone Borough Council is committed to ensuring the taxi and private hire sector remains integrated in our sustainable transport network and for them to continue to move passengers to destinations safely, whilst contributing to the economy with minimal environmental impact.

The aim is to provide an achievable action plan for the taxi and private hire trade in Maidstone for the next 5 years and beyond and a strategy that will help us understand where we want the taxi system to be in the future and how we are going to get there with the co operation of the Taxi trade.

2. INTRODUCTION AND BACKGROUND

- 2.1 At the Licensing Committee on 29 March 2018 Members were asked to consider a proposed Taxi low emission standards policy Appendix 1 and agree to put the draft policy out to consultation. The report and minutes of that meeting are attached as Appendix 2.

- 2.2 The consultation took place between the 3 August and 7 October 2018. The survey was carried out online and by e-mail to approximately 8000 customers, a total of 674 people responded (including 39 taxi drivers or representatives of taxi businesses). The report on responses is attached at Appendix 3 and demonstrates that there is a lack of understanding from those in the industry who responded about how the phased policy will work, with some assuming that they will need to buy a car in 2021 and then another in 2025.

- 2.3 The low response rate from the trade and lack of understanding shown by those affiliated with the industry suggests that further clarification is required with this group to improve understanding and obtain a more representative sample of responses. This would be best undertaken face to face with focus groups or public meetings.

- 2.4 The first phase of the Policy was proposed to be in place by the 1st January 2019 but would need to be deferred in order to undertake the further meetings with the trade. Also detailed investigation into the Hackney Carriage and Private Hire vehicles currently licensed with Maidstone Borough Council is required in order to establish how many vehicles may be affected by phase 2 of the policy.

- 2.5 It is important that, any policy that is adopted should have a long term aim and should avoid frequent changes that may impact upon the proprietor's financial investment into particular vehicles.

- 2.6 The approach taken in the proposed policy is aimed at working with the trade

to encourage the take up of low emission vehicles and did suggest an almost immediate improvement by preventing the new registration of higher polluting vehicles coming into Maidstone from January 2019, however the further work required with the trade will require this date to be deferred.

3. AVAILABLE OPTIONS

- 3.1 Note the survey and report and agree to defer phase 1 of the Taxi Emissions Policy in order to undertake clarification with the trade.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 To defer Phase 1 in order to undertake the further work and ensure the trade understand the proposed policy.

5. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off (name of officer and date)
Impact on Corporate Priorities	Unnecessary delay in obtaining clean/green benefits would not be in keeping with the Council's adopted Low Emission Strategy and miss the opportunity to contribute to reducing poor air quality.	[Head of Service or Manager]
Risk Management	No implications have been identified	[Head of Service or Manager]
Finance and other resources	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	[Head of Service]
Legal	<p>The Local Government (Miscellaneous Provisions) Act 1976, allows the Local Authority to set conditions that they consider reasonable necessary for the granting of taxi and private hire vehicle licences.</p> <p>There is a legal requirement to improve and maintain air quality standards. Air Quality Directive 2008/50/EC13 sets out the obligations for Member States in terms of assessing ambient air quality and ensuring Limit Values (LV) for</p>	Jayne Bolas, Solicitor Team Leader(Contentious)

	certain pollutants are not exceeded.	
Equality Impact Needs Assessment	There are no equality issues identified as this policy would apply equally to any proprietor of a Hackney or Private Hire vehicle in similar circumstances.	[Policy & Information Manager]
Environmental/Sustainable Development	No implications have been identified	[Head of Service or Manager]
Community Safety	No implications have been identified	[Head of Service or Manager]
Human Rights Act	No implications have been identified	[Head of Service or Manager]
Procurement	No implications have been identified	[Head of Service & Section 151 Officer]

6. REPORT APPENDICES

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

Appendix 1 – Taxi Low Emissions Policy

Appendix 2 – 29 March 2018 Report and Minutes

Appendix 3 - Taxi Emissions Survey Results 2018

7. BACKGROUND PAPERS

None

Appendix 1

1st Phase

New Private Hire & Taxi Vehicles Licence Applications

Euro 4 Petrol (Jan 2006) & Euro 6 Diesel (Sept 2015) or higher standard

Applies to all applications from

1st January 2019

2nd Phase

Renewal Private Hire & Taxi Vehicles Licence Applications

Euro 4 Petrol (Jan 2006) & Euro 6 Diesel (Sept 2015) or higher standard

Applies to all applications from

1st January 2021

3rd Phase

New & Renewal Taxi/Private Hire Vehicle Applications

Full Electric, Range Extended Electric, Hybrid Electric, Plug-in Hybrid & Hydrogen

Applies to all applications from

1st January 2025

Delegated Powers

Officers discretion to depart from this policy in exceptional circumstances

Licensing Committee**29 March 2018**

Is the final decision on the recommendations in this report to be made at this meeting?

Yes**Emission standards for Maidstone Hackney Carriage and Private Hire Vehicles**

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

This report makes the following recommendation:

1. That the Licensing Committee give delegated authority to the Head of Housing & Community Services to draft a consultation document for the Hackney and Private Hire Trade, in accordance with paragraph 3.2 of this report; and to report back to the Licensing Committee in the new municipal year with the result of the consultation together with recommendations for the next steps.

This report relates to the following Five Year Plan Key Objectives:

- Keeping Maidstone Borough an attractive place for all

Timetable

Meeting	Date
Licensing Committee	29 March 2018

Emission standards for Maidstone Hackney Carriage and Private Hire Vehicles

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 Maidstone Borough Council is committed to ensuring the taxi and private hire sector remains integrated in our sustainable transport network and for them to continue to move passengers to destinations safely, whilst contributing to the economy with minimal environmental impact.

The aim is to provide an achievable action plan for taxi and private hire vehicle emissions in Maidstone for the next 6 years and beyond. By considering an emissions standard for vehicles encouraging a shift towards low and ultra low emissions vehicles. The present taxi policy sets a vehicle age standard and a proposed standard based on vehicle emissions and encouragement of use of hybrid, electric and hydrogen vehicles would appear to represent a significant improvement.

2. INTRODUCTION AND BACKGROUND

- 2.1 At the Licensing Committee on 4 December 2017 Officers were asked to produce a report reviewing the Taxi Policy which would cover the age and mileage restrictions and types of vehicles and alternative fuels used that would also link into the Low Emissions Strategy.

- 2.2 The Department for Transport's best practice guidance on Taxi and Private Hire Licensing (2010), states that all modes of transport including taxi and private hire services have a valuable part to play in overall transport provision, and so local licensing authorities have input into delivering the local transport plan (LTPs). The key policy themes for such services include availability and accessibility. LTPs can cover:

- Quantity controls (via number of licences issued) and plans for the review of licensing conditions, with a view to safety but also to good supply of taxi and private hire services.
- Fares (Hackneys only)
- On-street availability, especially through provision of taxi ranks.
- Vehicle accessibility for people with disabilities.
- Encouragement of flexible services, which MBC don't have in place currently.

The main legal provisions under which flexible services can be operated are:

- Shared taxis and PHVs – advance bookings (section 11, Transport Act 1985): licensed taxis and PHVs can provide a service at separate fares for up to eight passengers sharing the vehicle. The operator takes the initiative to match up passengers who book in advance and agree to share the vehicle at separate fares (lower than for a single hiring). An example could be passengers being picked up at home to go to a shopping centre, or returning from the shops to their homes. The operator benefits through increased passenger loadings and total revenues.
- Shared taxis – immediate hirings (section 10, Transport Act 1985): such a scheme is at the initiative of the local licensing authority, which can set up

schemes whereby licensed taxis (not PHVs) can be hired at separate fares by up to eight people from ranks or other places that have been designated by the authority. (The authority is required to set up such a scheme if holders of 10% or more of the taxi licences in the area ask for one.) The passengers pay only part of the metered fare, for example in going home after a trip to the local town, and without pre-booking, but the driver receives more than the metered fare.

- Taxibuses (section 12, Transport Act 1985): owners of licensed taxis can apply to the Traffic Commissioner for a 'restricted public service vehicle (PSV) operator licence'. The taxi owner can then use the vehicle to run a bus service for up to eight passengers. The route must be registered with the Traffic Commissioner and must have at least one stopping place in the area of the local authority that licensed the taxi, though it can go beyond it. The bus service will be eligible for Bus Service Operators Grant (subject to certain conditions) and taxibuses can be used for local authority subsidised bus services. The travelling public have another transport opportunity opened for them, and taxi owners have another business opportunity. The Local Transport Act 2008 contains a provision which allows the owners of PHVs to acquire a special PSV operator licence and register a route with the traffic commissioner. A dedicated leaflet has been sent to licensing authorities to distribute to PHV owners in their area alerting them to this new provision.

2.3 There are currently 48 hackney carriage vehicles licensed in Maidstone which consist of 39 TX's, 2 Mercedes Vito taxi's and 7 Peugeot E7's all of which are diesel vehicles. There are approximately 220 private hire vehicle licensed.

2.4 There are 9 fairly large private hire companies (operators) licensed within Maidstone and they currently control 72% of all the private hire licensed vehicles. The largest operator controls 44% of those vehicles.

2.5 The current age and mileage requirements for licensed vehicles in Maidstone are:

When licensing a vehicle for the first time whether it is hackney carriage or private hire, the vehicle should not have more than 30,000 miles on the clock or be older than 3 years.

When renewing a vehicle licence, hackney carriage vehicles can be licensed until they are fifteen years old as long as they remain roadworthy and have 6 monthly compliance tests after 10 years of age. Private hire vehicles are licensed up to six years old.

2.6 The average age, from date of first vehicle registration, of a Private Hire Vehicle in Maidstone is 4 years compared to 7 years for Hackneys (demonstrating an age differential of +3 years). On average, Hackney Carriage vehicles are almost twice as old as Private Hire Vehicles. The two oldest Hackney Carriages still licensed are both 14 years old and are a London Taxi International TX2 and a TX4 and will have to be replaced in 2019 with newer vehicles which comply with the hackney carriage and private hire licensing policy.

2.7 At the Strategic Planning, Sustainability and Transportation Committee on 5 December 2017 the Maidstone Low Emission Strategy (LES) was approved and includes a strategy to improve the emissions for the private hire and taxi vehicles. The LES is attached as Appendix A, the actions for Licensing are found within Appendix 1 of that document at Transport 5, 6 and 8.

2.8 Where the Council has declared an Air Quality Management Area in any part of the Borough and air quality standards are being breached as a result of vehicle emissions, then local vehicle emission controls may be brought in as part of a plan to improve air

quality standards. Air pollution is recognised as a significant health issue with Air Quality Management Areas (AQMA) being declared in Maidstone in 2008 on the grounds that annual mean nitrogen dioxide levels exceeded permissible limits in heavily trafficked parts of the town. A new AQMA was approved by members at the same time as they approved the Low Emission Strategy. The existing AQMA will be revoked in the next few days, but to all intents and purposes the new AQMA at Appendix B is already in effect. One of the areas of concern in both the old and new AQMA is the High Street, which is only open to buses and taxis, and which gives us special reason for focusing on taxis.

- 2.9 The standards set for Clean Air Zones (CAZ) expressed according to DEFRA's European vehicle emission standards. Buses, coaches and heavy goods vehicles must all be compliant with Euro 6. Diesel powered vans, hackney carriages and private hire vehicles will also have to meet the Euro 6 standard. Vans, hackney carriages and private hire vehicles powered by petrol will have to meet the lower Euro 4 standard because petrol is less polluting than diesel.
- 2.10 Taxis and private hire can be part of the solution, by show-casing the potential for low-emission vehicles and "normalising" their use to the thousands of passengers they carry each year. The LES sets out a need to encourage and support taxi and private hire operators to switch to low emission alternatives and consider what policy incentives will support taxi and private hire operators to make the change in order to improve air quality.
- 2.11 It is important that, any policy that is adopted now should have a long term aim, in order to avoid frequent changes that may impact upon the proprietor's financial investment into particular vehicles. However whilst it is proposed that there is a gradual implementation towards an improved fleet to allow the time for financial adjustments, the policy also aims to reflect an almost immediate improvement by preventing the new registration of higher polluting vehicles coming into Maidstone.
- 2.12 It is recognised that many proprietors buy vehicles as a long term investment, particularly hackney vehicles, the investment might be over 15 years and therefore this policy aims to strike a balance between improving the emission standards, whilst still allowing time for drivers to make financial adjustments and decisions about vehicles that they may be purchasing in the near future.
- 2.13 In order to achieve a balance the proposed policy is aimed at different timescales for those vehicles being licensed for the first time in Maidstone and those vehicles already licensed by this authority. It is also important to set standards that are common to all within the taxi and private hire fleet, to ensure consistency and a level playing field for all licence holders.
- 2.14 In the first phase of the policy it is proposed that from the 1st January 2019 only vehicles licensed for the first time with this authority must meet one of the emission standards as shown in the proposed policy at Appendix C.
- 2.16 In the second phase, it is proposed that from 1st January 2021, renewal and transfer applications will be subject to the same standard.
- 2.17 In the third phase it is proposed that from the 1 January 2025 all newly licenced vehicles upon first application must be electric or electric hybrid, hydrogen or have emissions of an equivalent or better standard.
- 2.18 The third phase will also apply to existing vehicle licence holders upon the

renewal application, in order that from the 1 January 2025 all vehicles on the fleet will be an electric/hybrid and hydrogen vehicles.

- 2.19 The approach taken in the proposed policy is aimed at working with the trade to encourage the take up of low emission vehicles, rather than at this present time applying the 1st Phase criteria immediately to all currently licensed vehicles. Details of how the authority intend to promote the uptake of low emission vehicles is detailed later in this report.
- 2.20 Proprietors of new vehicles from 1 January 2019 will still be able to consider purchasing poor emission vehicles, providing that the vehicle is adapted to meet the new proposed standards. Adaptions to these vehicles may include:
- Having the vehicle adapted / modified to meet the standard
- 2.21 It is also recommended that officers are given discretion to licence vehicles outside of any agreed vehicle emissions policy, in order to allow for exceptional circumstances that may arise.
- 2.22 Many other local authorities and Transport for London have and will adopt maximum age limits and emissions standard policies for their taxi and private hire trade, this could result in vehicles being removed from fleets in surrounding areas and introduced into Maidstone if we do not adopt a similar or better emission standard policy sooner rather than later.
- 2.23 If Maidstone adopts a Clean Air Emission Standard for Taxis and Private Hire Vehicles that is comparable to other authorities, it will deal with the risk that their redundant poor emission vehicles are moved to be licensed by this local authority.
- 2.24 The table below shows a snapshot of other local authorities that have already adopted emission policies and shows that other authorities are also aiming to licence only electric or hybrid electric etc. for all vehicles from 2025. Currently it appears there are no Local Taxi Emissions policies in place to include in the table.

2.25

Local Authority	Emission Policy Private Hire	Emission Policy Hackney Carriage	Electric/Hybrid/Hydrogen Vehicles Only	Comments
York	Euro 5 Diesel	Euro 6 Diesel, or ultra low emission		From 1/11/2016
Transport for London	Euro 4 Petrol or Euro 6 diesel by 1 st Jan 2018 for new registrations 1 st jan 2020 New registrations must be zero emission capable 1st Jan 2023 all vehicles licensed for first time must be zero emission capable	1 st Jan 2018 no diesel taxis will be licensed 1 st Jan 2018 all first registrations must be zero emission capable mid 2017 – 2020 diesel taxi decommissioning scheme		

Leicester			All new registrations from 2025 to be ULEV 8 year age limit to be introduced 2017	
Rotherham	Euro 5	Euro 5		Euro 6 from April 2020 – Vehicles allowed with adaptations
Birmingham	All taxis to be Euro 6 diesel or Euro 4 petrol by 2020 or sooner	All taxis to be Euro 6 diesel or Euro 4 petrol by 2020 or sooner		Mandated Clean Air Zone
Leeds	All taxis to be Euro 6 diesel or Euro 4 petrol by 2020 or sooner	All taxis to be Euro 6 diesel or Euro 4 petrol by 2020 or sooner		Mandated Clean Air Zone
Southampton	All taxis to be Euro 6 diesel or Euro 4 petrol by 2020 or sooner	All taxis to be Euro 6 diesel or Euro 4 petrol by 2020 or sooner		Fixed penalty notices for idling (HC's) Mandated Clean Air Zone
Nottingham	All taxis to be HC's 100% be Euro 6 diesel or Euro 4 petrol by 2020 or sooner	All taxis to be Euro 6 diesel or Euro 4 petrol by 2020 or sooner		100%electric from 2020, 25% of PHV's by 2020 Mandated Clean Air Zone
Derby	All taxis to be Euro 6 diesel or Euro 4 petrol by 2020 or sooner	All taxis to be Euro 6 diesel or Euro 4 petrol by 2020 or sooner		Mandated Clean Air Zone

2.26 As with other commercial operations we have a limited influence over the types of car which taxi and private hire operators buy. However, the local authority can implement an emission policy and there may be opportunities to apply for funding from the Government's Office for Low Emission Vehicles and investigate offer financial incentives. Areas which could include the following;

- Work with HC and private hire companies to apply for Government funding (for example the £20m ULEV Taxi Grant Scheme announced in 2015) to support ULEV taxis and private hire vehicles.

- Using our taxi licensing function to promote incentives to encourage the uptake of ultra-low emission taxis and private hire vehicles, for example by designating ULEV taxi ranks in high demand areas and by providing dedicated charging points with the cost of electricity for charging being subsidised.

- Demonstrating the potential fuel savings and financial benefits from operating ULEV taxis and private hire vehicles.

- Working with taxi and private hire operators to develop rapid or fast electric charge point network in suitable locations.

2.27 At the moment the majority of any incentives that are introduced will be more beneficial to the private hire trade as they will bring on electric vehicles a lot sooner than the Hackney trade due to the age limits applied to vehicles, it is anticipated that more cost efficient Hackney Carriage vehicles will be available to the Hackney trade in the near future.

2.28 Consideration has been given to applying different licence fee levels for different types of vehicles, to offer incentives to purchase newer and more eco-friendly vehicles, similar to how the road tax duties are calculated on emissions. However, it is not clear at this present time if it will be practical to set the licence fee level based on the emissions of the vehicle as any fee set needs to cover the cost of the service. The process of issuing a licence for a low emissions vehicle would be no different to issuing a licence for any other vehicle and so it follows that a deficit would occur if we were to reduce the licence fee.

2.29 It has also been suggested that the taxi policy be amended to include conditions/ penalty points that could be applied to the drivers of vehicle's who allow the idling of engines. This is more usually done by hackney drivers. Unfortunately, the Hackney Byelaws do not include this and conditions are not applicable to Hackneys at this time. Any approach to tackle the issue would need to focus on the education of the trade and/or the issue of penalty notices.

3. AVAILABLE OPTIONS

3.1 Decide not to progress with a consultation about reducing emissions at this time. However, to do so would not be in keeping with the Council's adopted Low Emission Strategy and miss the opportunity to contribute to reducing poor air quality.

3.2 Agree that a consultation document is produced to include the proposed low emission standards set out at Appendix C together with the proposed implementation dates, and alternative proposals for low emission standards as set in paragraphs 2.26 to 2.29 (inclusively) above.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 The option set out at paragraph 3.2. is preferred in order for the Council to address the issue of air quality and to deliver the relevant actions in the Low Emission Strategy.

5. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off (name of officer and date)
Impact on Corporate Priorities	Should the emissions standards be agreed for hackney carriage and private hire vehicles then this would promote improvements to a clean and safe environment	[Head of Service or Manager]
Risk Management	No implications have been identified	[Head of Service or Manager]
Finance and other resources	It is necessary for the Council to deliver a balanced budget and cover the costs of providing this service. Proposals within the consultation documents around fee incentives for zero-emission vehicles and the budget implications will be considered in the follow up report.	[Section 151 Officer & Finance Team]
Staffing	No implications have been identified	[Head of Service]
Legal	<p>The Local Government (Miscellaneous Provisions) Act 1976, allows the Local Authority to set conditions for the granting of taxi and private hire vehicle licences.</p> <p>There is a legal requirement to improve and maintain air quality standards. Air Quality Directive 2008/50/EC13 sets out the obligations for Member States in terms of assessing ambient air quality and ensuring Limit Values (LV) for certain pollutants are not exceeded.</p>	Jayne Bolas, Solicitor Team Leader(Contentious)
Equality Impact Needs Assessment	There are no equality issues identified as this policy would apply equally to any proprietor of a Hackney or Private Hire vehicle in similar circumstances.	[Policy & Information Manager]
Environmental/Sustainable Development	Reference is made to the Low Emission Strategy adopted by MBC in 2017.	Head of Housing & Community Services
Community Safety	No implications have been identified	[Head of Service or

		Manager]
Human Rights Act	No implications have been identified	[Head of Service or Manager]
Procurement	No implications have been identified	[Head of Service & Section 151 Officer]

6. REPORT APPENDICES

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

Appendix A – Low Emissions Strategy

Appendix B – AQMA 2017

Appendix C - Taxi Low Emissions Policy

7. BACKGROUND PAPERS

None

MAIDSTONE BOROUGH COUNCIL

LICENSING COMMITTEE

MINUTES OF THE MEETING HELD ON THURSDAY 29 MARCH 2018

Present: Councillor Mrs Joy (Chairman), and
Councillors Mrs Grigg, McLoughlin, Naghi,
Mrs Robertson, J Sams and Mrs Wilson

15. **APOLOGIES FOR ABSENCE**

It was noted that apologies had been received from Councillors Cuming, Garten, Harvey, Mrs Hinder, Newton and Mrs Springett.

16. **NOTIFICATION OF SUBSTITUTE MEMBERS**

It was noted that Councillor Mrs Wilson was substituting for Councillor Harvey.

17. **URGENT ITEMS**

There were no urgent items.

18. **NOTIFICATION OF VISITING MEMBERS**

There were no Visiting Members.

19. **DISCLOSURES BY MEMBERS AND OFFICERS**

There were no disclosures by Members and Officers.

20. **DISCLOSURES OF LOBBYING**

There were no disclosures of lobbying.

21. **EXEMPT ITEMS**

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

22. **MINUTES OF THE MEETING HELD ON 4 DECEMBER 2017**

RESOLVED: That the minutes of the meeting held on 4 December 2017 be approved as a correct record and signed.

23. **PRESENTATION OF PETITIONS**

There were no petitions.

24. **QUESTIONS AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC**

There were no questions from members of the public.

25. EMISSION STANDARDS FOR MAIDSTONE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

The Committee considered the report of Mr John Littlemore, the Head of Housing and Community Services. The report informed Members of an intention to provide an achievable action plan for taxi and private hire vehicle emissions in Maidstone for the next 6 years and beyond, and was linked to the Council's Low Emissions Strategy.

Mr Littlemore explained that a consultation document would be produced and the Hackney and Private Hire Trade would also be consulted and a report, together with responses, would be brought back to the Committee in July or September for consideration to be given to a policy to be recommended to Communities, Housing and Environment Committee for adoption.

In response to questions from the Committee, Officers advised that:-

- A proposal would be included on how to deal with the practice of taxis still running their engines whilst in the taxi bays.
- The provision of electric charging points was sporadic at present and rural areas would be an issue. However, it was a national issue and it was hoped that this would be something that central government would be addressing in time.
- That a shared taxis service options would be explored further.
- That it was proposed that the consultation includes that all private hire and taxi vehicles were required to meet the Euro 4 Petrol (Jan 2006) and Euro 6 Diesel (Sept 2015) or higher standard by 1st January 2021.
- That the Department for Transport (DFT) guidance stated that it would be better to define a vehicle on its emission specification, rather than its age. The age of a vehicle was more relevant to taxis.
- Currently, provided that a vehicle had a compliance test twice a year, a hackney carriage vehicle can be licensed until they are 15 years old.
- That more clarity would be provided within the consultation document on what Officers believe may be exceptional circumstances that may give rise to discretion being operated to waive the policy.

- That the options for the flexible services as detailed on Pages 5 and 6 of the report would be included in the consultation document.

It was noted that once this Committee had agreed the policy, it would need to be recommended to the Communities, Housing and Environment Committee for adoption.

RESOLVED:

- 1) That delegated authority be given to the Head of Housing and Community Services to draft a consultation document for the Hackney and Private Hire Trade in accordance with paragraph 3.2 of the report and to report back to the Committee in the new municipal year with the results of the consultation, together with recommendations for the next steps.
- 2) That the flexible services as detailed in Pages 5 and 6 of the report be included in the consultation document, together with reference to the age of vehicle and a definition of exceptional circumstances where the policy may be waived.

Voting: Unanimous

26. GAMBLING ACT 2005: LICENCE FEES 2018/2019

The the report of Mr John Littlemore, the Head of Housing and Community Services was considered by the Committee which set out the proposed fees for the administration of the Gambling Act 2005.

In response to a question by a Member, Mr Littlemore advised that if the proposed fees did not meet the Council's costs despite reaching the prescribed maximum, the General Fund would have to be used.

It was noted that representations had been made by Local Authorities to central government sometime ago following a consultation, in relation to shortfalls in Licensing Act 2003 fees which are prescribed, but nothing had come of it. In view of this it was proposed that this issue should be raised for the next agenda of the Kent Leaders meeting to ascertain whether other Councils were experiencing shortfalls, with a view to collectively lobbying central government via the Local Government Association should this be an issue.

RESOLVED:

- 1) That the Gambling Act 2005 fee levels as set out in Appendix A to the report be approved and implemented with effect from 1st April 2018.
- 2) That this issue also be raised for inclusion on the Kent Leaders' agenda to ascertain what experiences other authorities have with a view to collectively lobbying central government via the Local Government Association in regard to the prescribed fees for

licensing matters if they do not meet costs.

Voting: Unanimous

27. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING LICENCE FEES AND CHARGES 2018-19

The Committee considered the report of Mr John Littlemore, the Head of Housing and Community Services which related to the fees and charges for Hackney Carriage and Private Hire Licensing: Licence Fees and Charges Fees 2018/19.

RESOLVED: That the fees and charges as agreed at Licensing Committee on 23 November 2017 be continued as the fees for 2018-19.

Voting: Unanimous

28. MBC ANIMAL ESTABLISHMENT FEES 2018 - 19

The Committee considered the report of Mr John Littlemore, the Head of Housing and Community Services which related to the fee levels for Animal Establishments as set out in paragraph 2.6 of the report.

In response to a question from a Member, Mr Littlemore advised that the inspections were governed by DEFRA and the more animals there were, the more inspections it would necessitate and therefore the fees would increase.

RESOLVED: That the fee levels for Animal Establishments as set out in paragraph 2.6 of the report be approved and implemented with effect from 1st April 2018.

Voting: Unanimous

29. MBC SEV FEES 2018 - 19

The Committee considered the report of Mr John Littlemore, the Head of Housing and Community Services which related to the Licence Fees for Sexual Entertainment Venues 2018/19.

In response to a question from a Member, Mr Littlemore advised that there was no more work involved in transferring an application than creating a new application, so the fee should reflect this.

RESOLVED: That the fee levels for Sexual Entertainment Venues as set out in paragraph 2.4 of the report be approved and implemented with effect from 1st April 2018.

Voting: Unanimous

30. DURATION OF MEETING

6.30 p.m. to 7.20 p.m.

Taxi Emission Survey 2018

Methodology

Maidstone Borough Council undertook a consultation between 3rd August 2018 and 7th October 2018.

The survey was carried out online and by email, with a direct email to approximately 8,000 customer who had consented to being contacted by email and was promoted on the Council's website, social media and in the local press. A direct email was sent to licensed taxi operators using customer details provided by the licensing team. Paper copies of the survey and alternative formats were available on request.

The survey was open to all Maidstone Borough residents aged 18 years and over and visitors to the borough. The data has not been weighted, however the top two and bottom two age brackets were combined to give the groups 65 years and over and 18 to 34 years.

All survey respondents were asked their opinions about the proposed requirements as part of each phase of the revised policy. There was opportunity throughout to provide additional comments. Hackney and private hire drivers were asked an additional question about if they have vehicle on street or off-street parking currently.

A total of 674 people (including 39 taxi drivers or representatives of taxi businesses) responded to the questionnaire, this report discusses unweighted results. Please note not every respondent answered every question; therefore the total number of respondents refers to the number of respondents for that question not to the survey overall.

With a total of 674 responses to the survey, the overall results in this report are accurate to $\pm 3.8\%$ at the 95% confidence level. This means that we can be 95% certain that the results are between $\pm 3.8\%$ of the calculated response, so the 'true' response could be 3.8% above or below the figures reported (i.e. a 50% agreement level could, in reality, lie within the range of 46.2% to 53.8%).

Please note the following:

- 18 to 34 years age group is under-represented
- 55 to 64 years and 65 years and over age groups are over-represented
- Taxi Drivers are under-represented

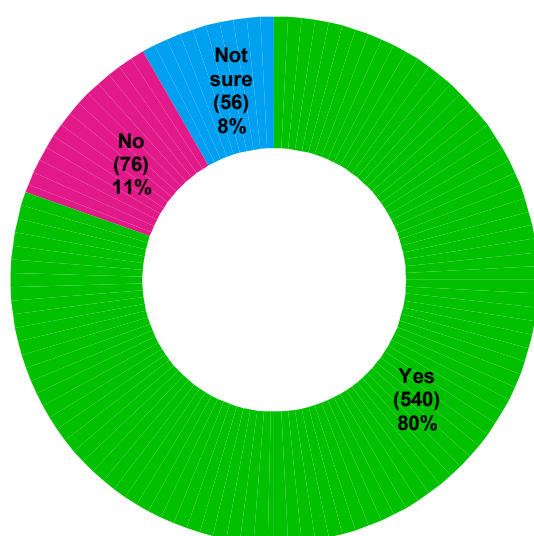
Findings & Recommendations

The results show that respondents from BME groups and those from the taxi industry are more likely than other groups to disagree with the proposed requirements. It should be noted that there is overlap between these groups hence similar out-turns, 31% of respondents in the BME group are within the taxi industry and 41% of respondent within the taxi industry are from a BME group.

The comments demonstrate a lack of understanding from those in the industry about how the phased policy will work with some assuming that they will need to buy a new car in 2021 and then another in 2025. This coupled with the low response rate from respondents affiliated with the industry suggests further consultation is required with this group which would be best undertaken face to face through focus groups or public meetings.

The comments and data show there is support from resident on improving air quality in the borough therefore anonymous data will be made available to the Environmental Health Team who is responsible for the management of air quality in the borough.

Do you think it is appropriate to use licensing policies to improve air quality on the borough?



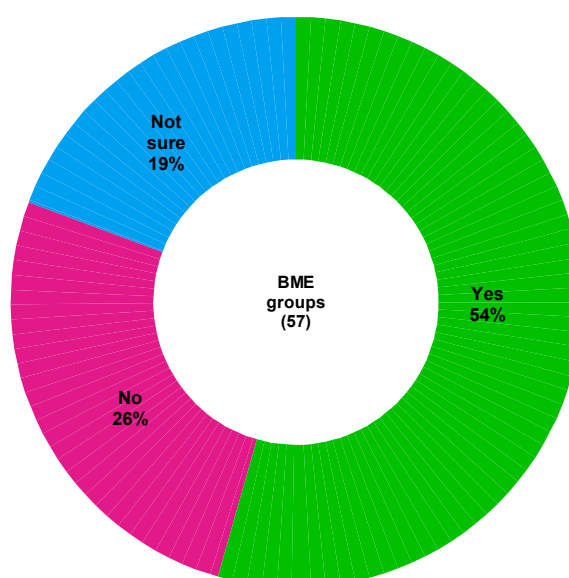
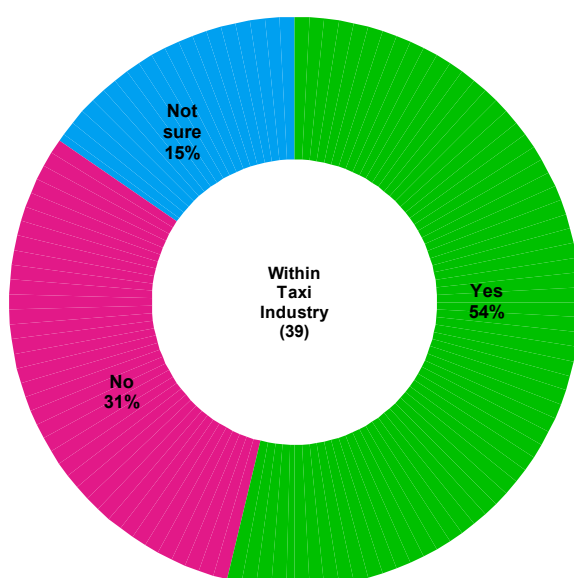
Overall, four out of five respondents said they thought it was appropriate for the Council to use licensing policy to improve air quality in the borough.

The data doesn't show any significant difference in the response levels between men and women, carers and non-carers or between respondents with a disability and those without a disability.

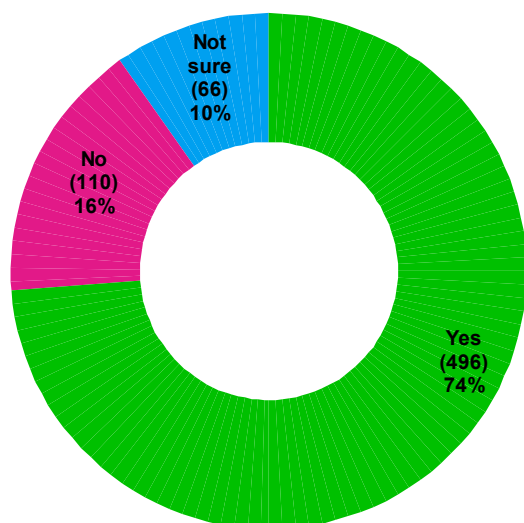
Across the different age groups the 55 to 64 years group has the lowest proportion agreeing at 71.9% and the greatest proportions responding no and not sure at 18.0% and 10.2% respectively. The 65 years and over group had the greatest proportion agreeing that the Council should use licensing policy to

improve air quality in the borough at 84.0% and the lowest proportion disagreeing at 6.3%.

There is a significant difference in the proportions agreeing between respondents from white groups and those from BME groups. Respondents from BME groups were less likely than those from white group to agree that licensing policy should be used to assist in improving air quality in the borough as are the respondents affiliated with the taxi industry. The out-turns from these two groups are broadly similar as a result of cross over between these groups and low response levels to the survey overall from people in these groups.



Do you agree that Maidstone should aim for all of its licensed hackney and private hire taxi vehicles to be zero emission by 2025?



Survey respondents were asked if they thought that Maidstone should be aiming for all its licensed taxi hackney and private hire taxis to be zero emission by 2025. Almost three out every four respondents agreed that that Maidstone should aim for zero emission taxis by 2015.

The data shows that women are more likely than men to agree. There is a significant difference between the proportion of men and women responding no with almost one in five men selecting this response compare to one in ten women.

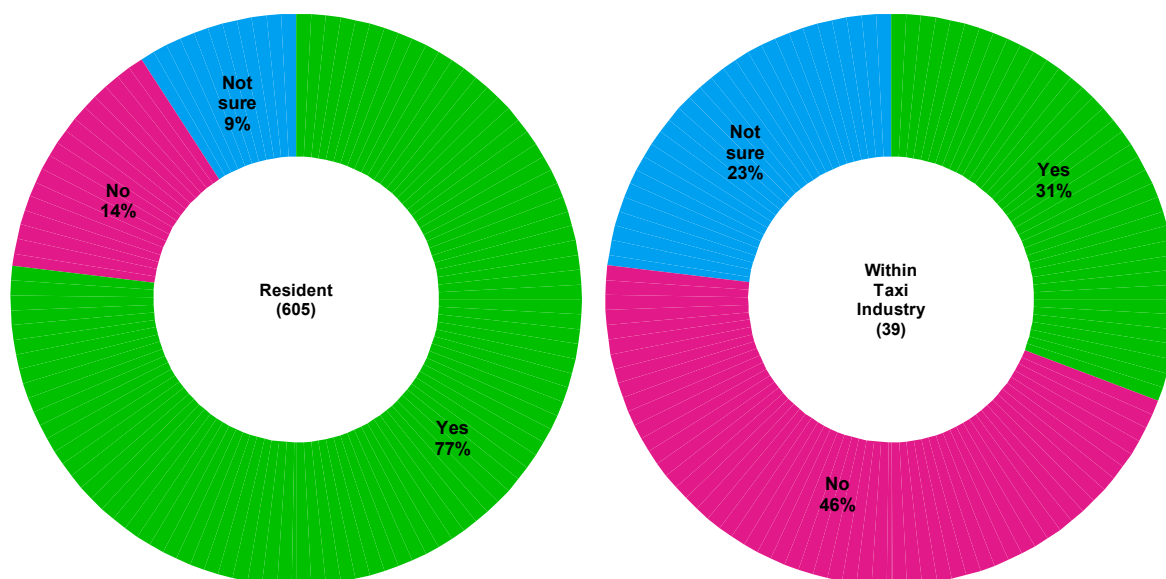
There are significant differences in the response levels between respondents from white groups and

those from BME groups. Just over half of all respondents from BME groups agreed that Maidstone should be aiming for all its hackney and private hire vehicles to be zero emission by 2025, compared to three quarters of respondents from white groups.

In terms of age groups the 65 years and over group had the greatest proportion that agreed at 79.7%. The 55 to 64 years group had the greatest proportion responding no at 23.8%, this group also had the greatest proportion responding not sure at 12.5%.

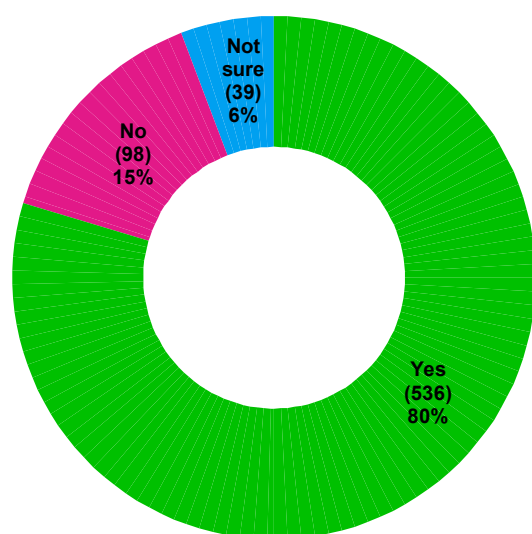
There were no significant differences between respondents with a disability and those without when responding to this question. However, carers were more likely than non-carers to answer that they do not agree with the aim with 22.3% of this group answering this way compared to 15.0% of non-carers.

The chart below shows the responses for resident compared to those affiliated with the taxi industry, there are significant differences with those in the industry more likely to respond no and not sure compared to residents.



Phase 1

Phase 1 of the policy proposes that from 1st January 2019 all new applications for hackney carriage and private hire vehicles will only be accepted for Euro 4 Petrol (January 2006) or Euro 6 Diesel (September 2015) or a higher standard. This means that the existing fleet will continue to be licensed until a replacement/new vehicle is required, or until 1st January 2025, whichever is sooner.



Respondents to the survey were asked if they agree with the requirement proposed for phase 1.

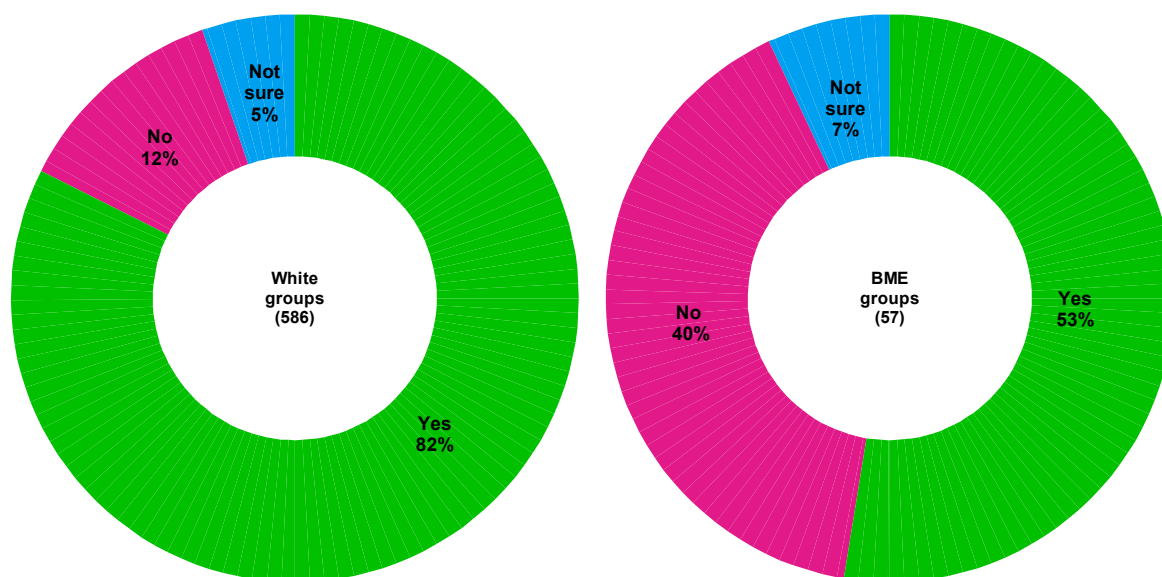
Overall, four out of five respondents (80%) said they agree with the requirement for the proposed phase 1.

The data shows no significant differences in the response levels between men and women and between carers and non-carers.

Respondents with a disability were less likely to agree with the proposed requirement than respondents without a disability and had a greater proportion that were not sure with 11.0% of

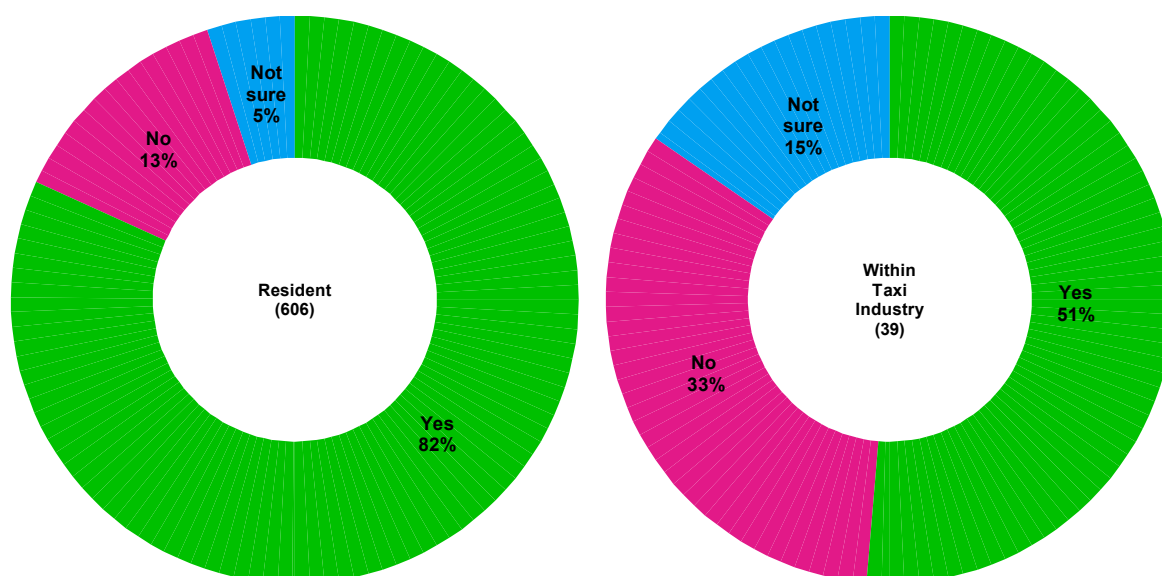
disabled respondents answering this way compared to 5.1% of non disabled respondents.

Respondents from BME backgrounds have comparable levels of respondents saying they are not sure to respondents from white groups. However, respondents from BME groups were significantly more likely to say they do not agree with the proposed requirements for phase 1 with 40.4% responding this way a 28.1% difference compared to the response levels for white groups.



There were some variances across the different age groups with the 65 years and over group having the greatest proportion agreeing with the proposed requirement at a 87.0%. The 55 to 64 years age group had the lowest proportion agreeing at 71.4%, this group had the greatest proportion that did not agree with the proposed requirement at 20.2%. The 35 to 44 years group had the greatest proportion responding not sure at 11.0% - significantly higher than the overall result.

The data shows that there is a significant difference between the responses from residents and those from the taxi industry. Respondents in the taxi industry were significantly less likely than residents to be in favour of the proposed requirement for phase 1 with 51.3% of the taxi industry in favour compared to 81.8% of residents.



Respondents from the taxi industry also had a greater proportion that responded not sure with 15.4% responding this way compared to 5.0% of residents.

Phase 1 - Disagree Comments

Respondents that said they do not agree with the proposed requirement for phase 1 were asked to what were the reasons they disagreed, 92 provided further comments. These have been allocated themes, with some comments relating to more than one theme.

There were 8 respondents who said there was not a need for the policy, giving reasons that the air is fine, the emissions from taxis are overstated and there are more important things for the Council to concentrate on. A further four respondents said that the current regulations around emissions for taxis were sufficient, with one mentioning that central government already has proposals for introducing low emission vehicles.

There were four respondents that said that the current policy of 15 years should remain, particularly for existing licensees. Twelve respondents said they felt that the deadline for change should be later and fifteen said the date should be sooner.

"It's too long to phase out older more polluting vehicles, with all the current knowledge about the effects of traffic pollution on health and development. Maidstone air is very poor and needs tackling sooner."

Eight queried the impact of this change on emission

"The cost would cause so much hardship for cab drivers and ultimately cause a steep increase in fares."

levels – with most considering that taxis account for a small percentage of road traffic and therefore the proposals would have little impact, while six said that diesel vehicles shouldn't be licensed.

Eighteen responders made comments concerning the impact the proposals could have on a driver's ability to earn a living and a further eight expressed concern about costs being passed on the customers.

There were fourteen comments that have been classed as general, these are comments which did not fit in another theme, where the intention was unclear or ask a question. None of these comments were supportive of the proposals.

Eight said the proposals should go further with a number of suggestions put forwards such as extending the proposal to all council vehicles and banning diesel vehicles from the town centre including HGVs.

Four respondents made comments about revenue generation/alternative tax with the feeling that the proposals are an excuse to charge more.

There were three respondents who made comment about the existing transport network and planning having an impact on levels of pollution (i.e congestion in the town centre). One person mentioned infrastructure (charging points) to support the proposals and one person said that pensioner should be allowed to use the Park & Ride.

"Most pollution is caused through inadequate roads. Poor housing planning policy which obviously which leads to an increase in population which equals pollution."

Phase 1 Additional Comments

To give everyone the opportunity to comment all respondents were also asked if they had any additional comments about the proposed requirement for phase 1. A total of 124 respondents made comment.

There were eleven commenters that were positive towards the proposed phase 1 and one who said that aggressive measures to combat pollution are required in Maidstone. Eight respondents made negative comments that the proposal was a waste of time as there are central government proposals in this area, the current legislation is sufficient or not required due to taxis accounting for a very small proportion of traffic. A further ten commenters queried the environmental impacts of the proposals with several citing concerns about the environmental

"Excellent idea and seemingly a reasonable time schedule"

"But this will NOT address the current heavy levels of pollution - particularly alongside the river. I appreciate this is down to government policy but tinkering around the edges" is totally useless.

impacts in producing low emission vehicles or just querying the environmental impacts.

There were seventeen people that made comments to the effect that the date should be sooner for introducing this phase and seven who said it should be later.

There were eleven respondents that queried the impact the proposals would have the taxi industry, concerned that journey prices could rise or that the availability of taxis could reduce.

There were six respondents that queried the support available to taxi driver to assist them with the changes and two mentioned the need for infrastructure in terms of charging points throughout the town.

Eleven respondents made comments to the effect that the proposals could go further, of these two mentioned buses (which are outside of the council's control), three mention public sector vehicles, four mention enforcement for idling and two suggest higher standards as a starting point. There were also thirteen

"The main problem in the town centre is buses there are too many coming through the day what Maidstone needs is a modern bus station like Chatham. If you do that and the pollution will go right down in the town centre."

respondents that made suggestions including banning taxis from the town centre, filling potholes, having an appeals process for exceptional cases and improving the bus services. In addition there were four queries, of these three queried how the implementation of the proposals would work and the fourth queries the statistics surrounding the impact of the proposals.

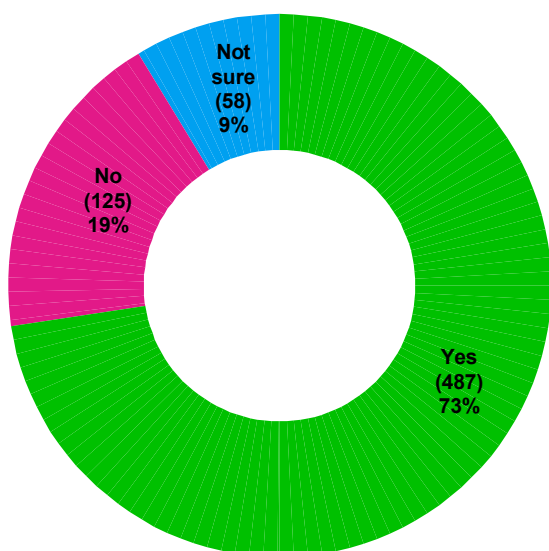
There were twenty-five comments that have been classed as general; these are comments which did not fit in another theme or where the intention was unclear. Several of these urge caution when

"Given that there is a 3 year/30,000 mile restriction at first licensing it would seem this proposal would make little difference to the current arrangements."

implementing the proposals and several mention existing traffic issues in the town. Two mention needing more time ('like London') and two respondents identify that given the age of the current taxi fleet and licensing policy this proposal would incur little change at phase 1 for those in the industry.

Phase 2

Phase 2 of the policy proposes that from 1st January 2021 all renewal applications for hackney carriage and private hire vehicles will only be accepted for Euro 4 Petrol (January 2006) or Euro 6 Diesel (September 2015) or a higher standard. This means that all of the fleet need to comply with these standards from January 2021.



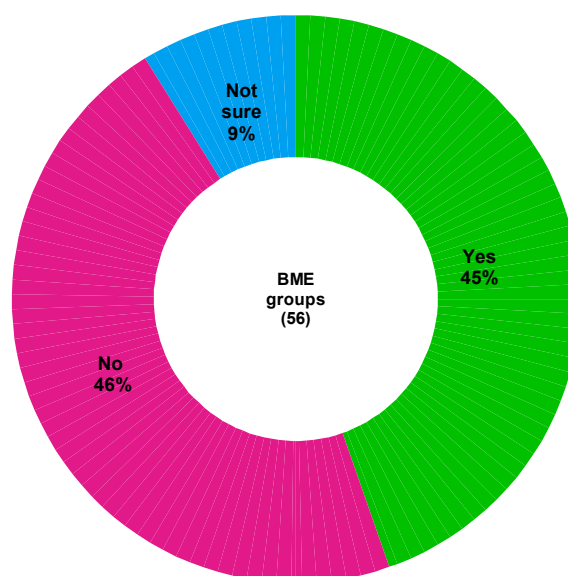
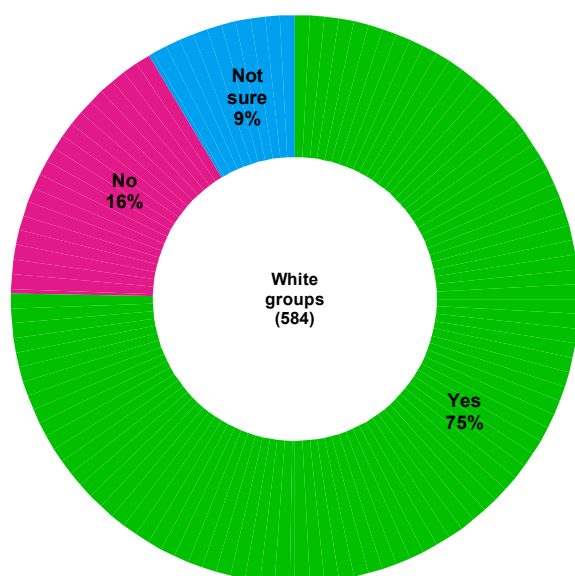
Respondents to the survey were asked if they agree with the requirement proposed for phase 2, just over seven in ten respondent said they agree with the proposed requirement for phase 2 and just under one in five said they do not agree with the proposal.

The data show there are no significant differences in the response levels between men and women or between respondents with a disability and those without a disability.

Although not significant the data suggests that carers are slightly more likely to say respond no when asked if they agree with the proposal with

23.7% of this group selecting this response compared to 17.1% of non-carers.

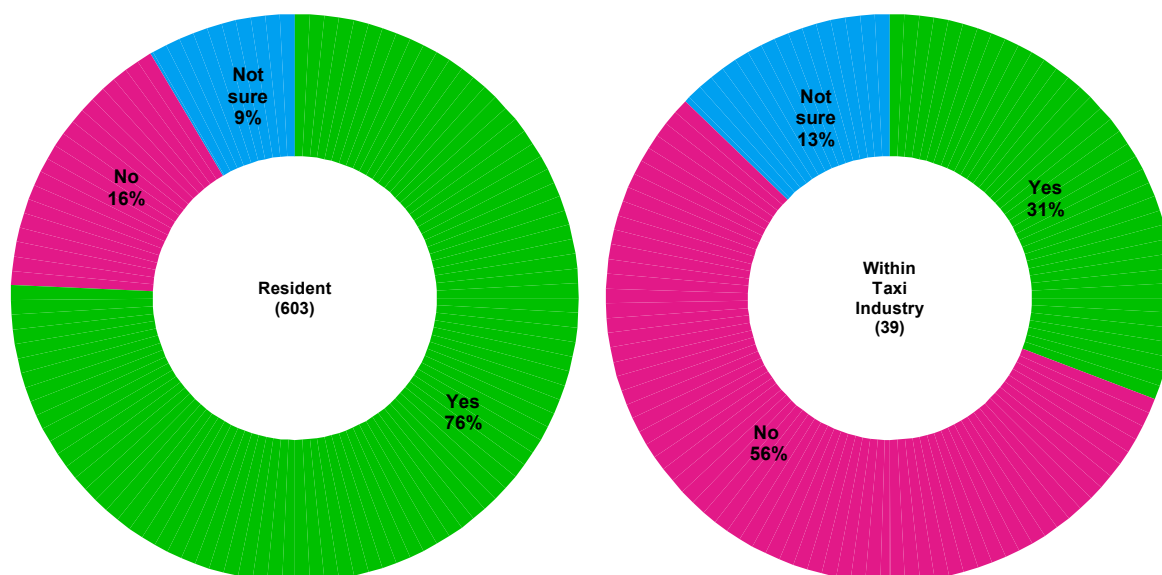
While there is no significant difference between the proportion of respondents from BME groups and the proportion of people from white groups answering not sure however there are significant differences between these groups for the responses yes and no. As the charts below show respondents from BME groups were split between agreeing with the proposal and disagreeing with it whereas three out of four respondents from white groups were in favour of the proposals.



Across the different age groups the proportions agreeing with the proposal are comparable to the overall result however, there are some variations in the proportions responding no and not sure

however these can all be accounted for within the confidence interval and therefore are not thought to be significant.

More than half of respondents that work within the taxi industry were not in favour of the proposed requirement for phase 2. Overall there is a difference of 45% in the proportions agreeing between residents and those within the taxi industry. Maidstone has 325 licensed drivers only 12% (39) responded to the consultation; therefore further consultation with this group may be required to gain a representative picture of the views of this group.



Phase 2 - Disagree Comments

Respondents that said they do not agree with the proposed requirement for phase 1 were asked to what were the reasons they disagreed, 90 respondent provided comments about why they disagree with the proposals.

There were seven respondents that make comments to the effect that no policy is required with reasons given that there are too few taxis, there is national policy and regulations to cover change to low emission vehicles or that there is no issue with air quality in the borough.

“all taxi vehicles already have to undertake stringent safety and emissions tests. Why are you picking on them alone?”

There were sixteen respondents that said that the date of 2121 for phase two should be later and seven stated the date should be earlier. A further ten suggested that the proposals should go further, with four making suggesting areas outside of the Council’s control such mentioning lorries and private vehicles. There were also a further five respondents that made comment that the

proposals are a waste of money or a way to generate revenue for the Council.

Hackney Carriage Taxis are currently licensed for 15 years under current Maidstone Borough Council Policy. All owners bought and financed their investment on the basis that their vehicle would be licensed for 15 years.

There were 16 respondents that made comment about driver’s ability to earn a living, with concerns about drivers who may have recently purchased a new vehicle and how affordable new vehicles are. There were also six comments that

mentioned the current policy (of 15 years lifespan for vehicles), saying it is unfair to change the rules as vehicles have been purchased on this basis.

“Licensed vehicles represent only a tiny proportion of the vehicles on the road. It is just tinkering. What it needs is a wholesale reduction in car traffic. But you will never attempt this because it will alienate the voters.”

There were eight respondents that queried the proposals impact on the environment, stating the amount of emissions from these vehicles are small compared with all vehicle emissions and that it will only have a small impact on pollution in the town. There were also four respondents that made comment about planning and the transport network in Maidstone. There were also four suggestions including one suggesting that a ‘natural phasing out’ of unacceptable vehicles.

There were four respondents that raised concerns about the costs of going electric being passed onto customer through fares, making taxis more expensive.

Fifteen comments have been classed as general, these are comments which did not fit in another theme or where the intention was unclear. Several of these made comments that the proposals should allow current vehicle to get to the end of their lifelines before they are replaced.

Phase 2 - Additional Comments

Respondents were also asked if they had any additional comments about the proposed requirement for phase 2, a total of 88 comments were provided.

There were eight respondents that were positive about the proposals and thirteen said the policy should go further, including ten respondents that made suggestions that fall outside of the Council’s remit mentioning other vehicles that the proposals should apply to such as HGV’s, buses and motorbikes.

“Very weak commitment when compared to other large south east towns and cities.”

There were three comments that said the policy was not needed. As with previous comments of this nature existing regulations and standards for taxis were mentioned.

“Providing options are available and costs for customers remain competitive.”

Nine respondents that said the proposals should be brought in sooner and seven said the date should be later. Two commenters mentioned banning diesel and six concerned that the cost of getting a taxi would be increased.

There were also two commenters that queried the impact of the proposals on air quality / pollutions as with previous comments of this nature it was highlighted that taxis make up a small proportion of the traffic in the borough.

There were fourteen comments that expressed concern about the ability of drivers to make a living or how they will afford the new vehicles required; several of these commented that the proposals would force some drivers and smaller companies out of business.

“Good to use rules to improve air but only if it will still be possible for enough taxis to be licensed / to be able to afford to run. Already lack of taxis in town centre quite often: problematic for those with limited mobility.”

There were five comments which mention the age of vehicles, with one stating they will lose more than 5 years trading and another that said they don't believe that the proposals will have a big impact on drivers as most of the fleet will be euro 6 by 2021. There were also an additional four commenters that raised the issue of infrastructure for charging electric vehicles or queried what support was available for those making the switch.

"We don't believe this affects the private hire fleet significantly as by January 2021 the vast majority of the fleet will be Euro 6 diesels by then. Only a small number of older vehicles will be left to be replaced."

There were two comments that mentioned that as the UK will be outside of the European Union by 2025 therefore new measurement/directives will apply.

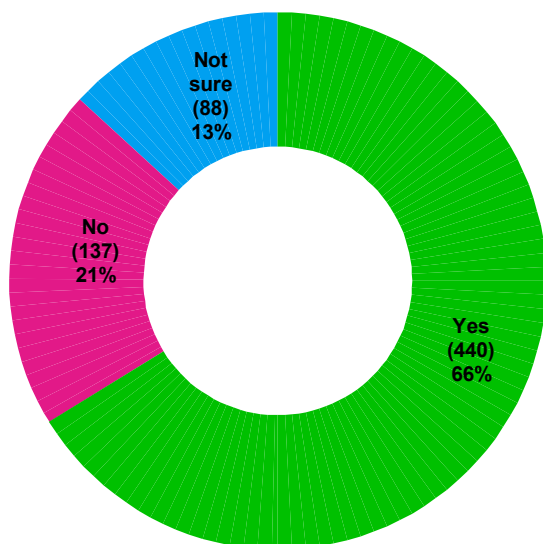
"Children in pushchairs and prams are in danger from the heavy pollution in parts of Maidstone"

Twelve comments have been classed as general, these are comments which did not fit in another theme or where the intention was unclear. Of these twelve one referred the existing policy of 15 years vehicle lifetime, another said the problem would be moved elsewhere, one just stated that they didn't think the proposals were possible and another stress the dangers of pollution to children.

Phase 3

Phase 3 of the policy proposes that from 1st January 2025 all renewal and new applications for hackney carriage and private hire vehicles will only be accepted for full electric, range extended electric, plug-in hybrid and hydrogen vehicles (or an equivalent low emission system).

This means that all of the fleet need to comply with these standards from January 2025.



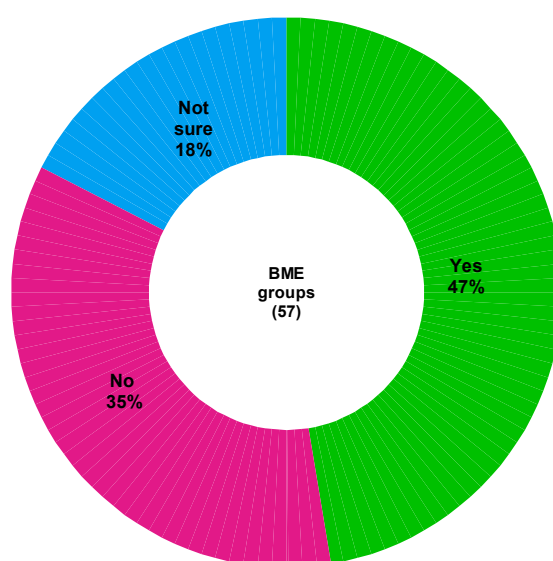
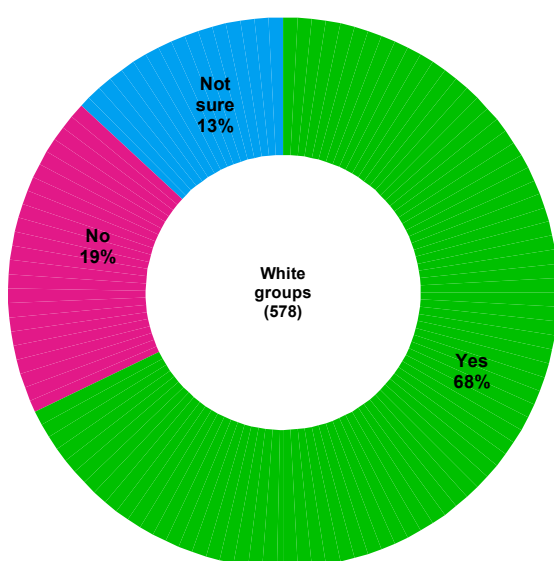
Overall, two thirds of respondents agreed with the requirement proposed for phase three and one in five were not in favour of the proposed requirement.

The data doesn't show any significant difference between men and women.

The proportions agreeing and disagreeing with the proposed requirement for phase 3 for respondent with and those without a disability are in line with the overall result. However, a lower proportion of respondents with a disability responded not sure compared to those with a disability at 6.2% compared to 15.5%.

There are variations in response levels across the different age groups, most of these variations are accounted for within the confidence interval. Though it should be noted the 55 to 64 years group had the lowest proportion agreeing with the proposal at 56% ($\pm 7.6\%$).

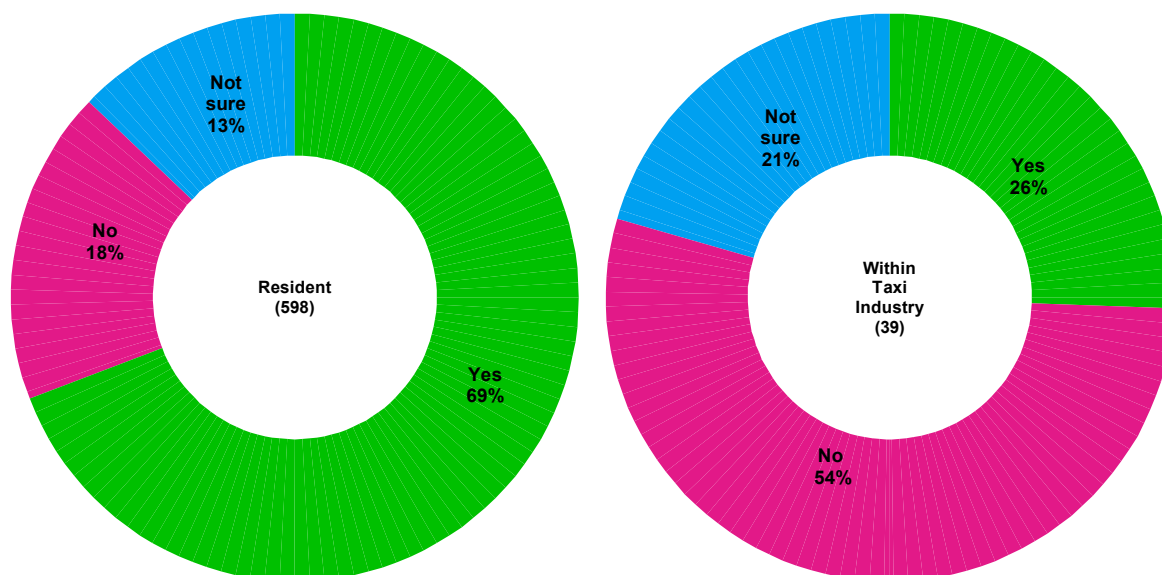
There are significant differences in the response levels between respondents from white groups and those from BME groups, as is shown from the charts below. Respondents from BME groups were more likely to disagree with the proposed requirements for phase 3.



Overall, people from BME backgrounds make up 8.9% of the survey respondents compared to 5.9% in Maidstone¹.

¹ 2011 Census

For phase three there are significant differences between respondent within the taxi industry and residents. More than half of survey respondents within the taxi industry were not in favour of the requirement proposed at phase three compared with less than one in five for respondents that are residents. Phase three had a greater proportion of respondents from the taxi industry respondent not sure than for the other phases with one in five from the industry selecting this answer.



Phase 3 Disagree Comments

Respondents that said they do not agree with the proposed requirement for phase 3 were asked to what were the reasons they disagreed, a total of 116 comments were submitted.

There were eight comments that inferred that a policy was not required, with one stating that every car should be subject to the same restrictions and another stating there is already too much regulation. Two commenters said the proposals should go further applying to other vehicles.

“Because every car should be subject to the same restrictions. Lorries driving down Queens Road and so on”

Twenty respondents made comments in relation to the timescales for change, set out in the proposals; with eleven stating that the date should be later and nine stating that the date for phase 3 should be sooner.

There were sixteen comments that expressed concern around how those in the industry would be able to afford new vehicles with some stating the proposals are unfair on taxi drivers. Comments that appear to be from those within the industry suggest there is some confusion about the proposals with one commenter stating that they would need to buy to new vehicles between 2021 and 2025.

“I give priority to the issue of global warming. I believe that electric cars increase emissions unless the electricity is from a renewable source.”

There were 21 comments that queried the environmental impact of the proposals in addition to the previous theme of the air in Maidstone not being that bad and taxis accounting for a small proportion of traffic other issues raised here included concern over the disposal and recycling of batteries for electric cars, the

environmental impact of producing the cars and that although electric the electricity is still derived from fossil fuels.

There were three respondents then mentioned that the current policy of 15 year lifetime for taxis should be honoured. One commenter mentioned the need for a ring road.

There were ten comments that express concern about how the proposals will impact on the cost of getting a taxi in the borough.

"The absurd costs to consumers"

There were twenty respondents that made comment about the infrastructure for electric vehicles. These commenters said that there were currently not enough points for charging in the town centre, querying when and who should provide them. A couple of commenter stated that with on-street parking they would not be able to install facilities at home to charge their vehicles.

"I do not think that the current technology is sufficiently proven to sustain the proposed requirement."

There were also 24 comments about the nature of the technology currently available. Here respondents queried the range of vehicles available, the distances they can travel between charges and that the technology is untested. Several of these commenters stated that there was only one suitable vehicle available at present and that even that was not sufficient for use having only 70 mile between charges.

Twenty comments have been classed as general, these are comments which did not fit in another theme or where the intention was unclear. Of these six were negative about the proposals stating that they are unrealistic or won't work.

Phase 3 – Additional Comments

Respondents were also asked if they had any additional comments about the proposed requirement for phase 3, a total of 122 comments were received.

There were sixteen comments classified as positive where the respondent said that the proposals were a good idea, that they agree or comments that are supportive of the proposals. There were three comments that said the proposal were not required. A further eight respondents made reference in their comment to areas which are outside the Council's control including single occupancy cars, buses and lorries.

"I think this is a great idea! It would be great if it applied to busses as well."

There were sixteen respondents that made comment that the date set out in the proposals should be brought forward and three saying it should be put back.

"I am concerned with the environmental impact that making the batteries for cars has an their relatively short life when compared to the vehicles themselves"

There were thirteen comments that were concerned about the environmental impacts of the proposals in addition to the areas previously outlined in this report several respondents query the lifetime of electric vehicle batteries and how they are disposed of and the environmental cost of producing electric vehicle batteries. There were also four respondents that said diesel should be banned.

There were twenty-two respondents that made comments in relation to the technology in relation to electric vehicle. These highlighted concerns about the availability of technology and a concern that newer technology will come along in the meantime.

"Just need to be careful that another new technology doesn't come in after retro fitting for charge points"

"Make sure you don't price all the polite, honest and conscientious drivers off the road, leaving the public with an overpriced and substandard service."

There were six respondents that expressed concern at the impact the proposals could have on the cost of getting a taxi and a further ten that express concern about how affordable these proposals are for taxi drivers and their ability to earn a living.

There were five respondents that mention transport in Maidstone generally, mentioning stationary traffic and congestion. One considers that if taxi prices increase as a result of the proposals more people will use private vehicles which in turn will increase congestion. There was also one respondent that mentioned development saying that housing building should stop.

There are nine comments that have been classified as containing suggestions these included changing the Council's fleet, providing incentives of these nine, three suggested that the current policy of 15 years should be honoured.

Fourteen comments have been classed as general; these are comments which did not fit in another theme or where the intention was unclear. One of these made comment to the changes to the Park and ride Service, one said the proposal will not happen, another commented that three years ago they were advised that diesels were the future and one said the early notification should assist with dealing with complaints from drivers.

"7 years notification should remove justified complaints from licence holders."

Additional Comments – All Respondents

At the end of the survey all respondents were given the opportunity to provide any additional comments. A total of 212 comments were submitted.

I agree strongly with all these proposals. I am heavily involved in air pollution initiatives and see this as an important policy to help reduce air pollution from what is at present a significant source.

There were 58 comments classified as positive or supportive of the proposals. These respondents said they welcomed the change or expressed that they thought the proposals were a good idea. Several of these also had caveats such as the proposals should be brought forward or that they should also apply to other road vehicles such as buses and commercial lorries. There were a further nine comments that said that pollution was bad and emissions should be cut.

There were six respondents that were negative about the proposals implying that the Council has better things to do and that the proposals are a waste of money. A further three respondents were concerned about how fair the policy is and another four said it was unfair not to honour the current licensing policy of 15 years lifetime for vehicles used by the industry.

"It will not be fair for existing license holder to enforce this rule. They must allow to keep their cabs until their term run out (15 yrs)"

There were 38 respondents that made reference to the widening the scope of the policy to include vehicles that are not in the Council's remit such as HGV's, buses and commercial vehicles. There were eighteen comments that said the proposals should be sooner or come into effect earlier and five said that there should be a longer lead in time to implementing the policy. There were also two others that simply said the timescales need to be carefully considered.

"Not sure what Electric vehicles effect will have on a increased power supply, country need more power stations based on existing supplies"

There were nineteen respondents that made comment about the possible impact the proposals could have on the environment. Here respondents mentioned the availability of electricity, that taxis only make up a small proportion of the traffic in the borough and that we should be targeting greater polluters such as HGV's and buses.

There were thirteen respondents that raised issues around how the proposals would impact those in the industry with several saying that this could put some drivers/taxi firms out of business. Several of these respondents also highlighted the cost of suitable low emission vehicles and queried how affordable these vehicles are. There were a further two comments that were concerned that the proposals could increase the cost of fares for users and a further two were concerned that suitable technology to provide taxi services to support the proposals would not be ready in time.

"I assume that the council will install charging points for the electric taxis."

There were eighteen respondents that made comment about infrastructure and/or support available for drivers making the switch. There seems to be an assumption that the Council is responsible for providing charging points.

There were twenty-seven respondents that made comment about the transport network and planning in the borough, many of these mention having a bypass or ring road. These comments were

mixed with several saying there should be more cycling infrastructure, other commented on the number of housing being built. There were also a couple of respondents that expressed disappointment and/or anger about the changes to the park and ride services in the borough.

There were four queries, three of these asked a question about proposals will work practice, and the fourth query was not related to the proposals or consultation.

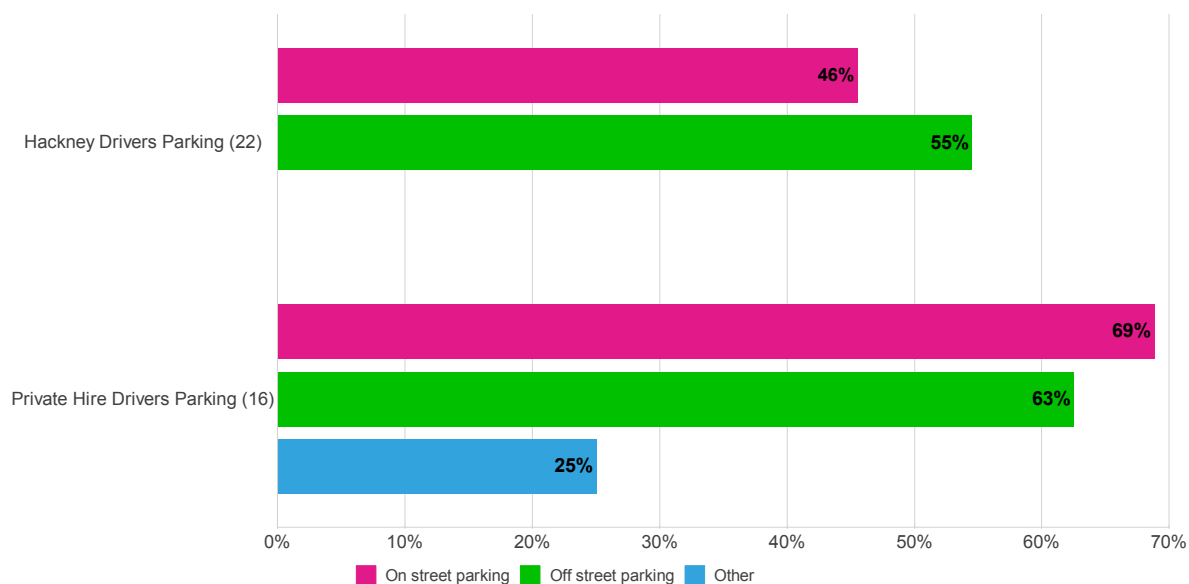
There were twenty-three comments classed as containing a suggestion. These including enforcement for idling vehicles, increasing cycle paths, banning taxis from the town centre and driver training.

“As well as introducing emissions restrictions on taxi/private hire vehicles - can something be done to keep traffic on the move and thereby prevent idling when emissions are greatest?”

Twenty-five comments have been classed as general; these are comments which did not fit in another theme or where the intention was unclear. Of these three were negative about the proposals with one saying that the proposals make it look like the Council are doing something, one saying they are a fad and the final one saying the proposals may be well intended but are ill-informed. There were also three comments that urged caution with one saying the timescales may need adjustment and one saying there may be occasion when an exception is required.

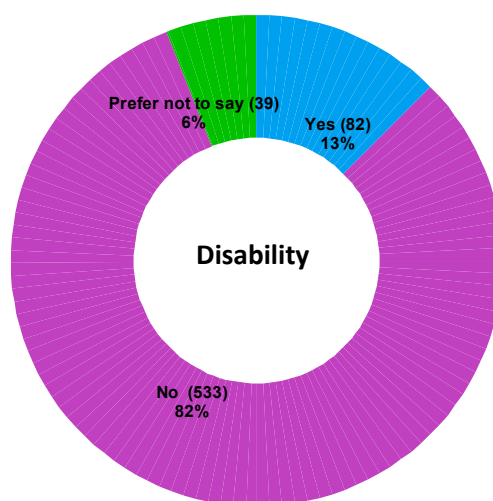
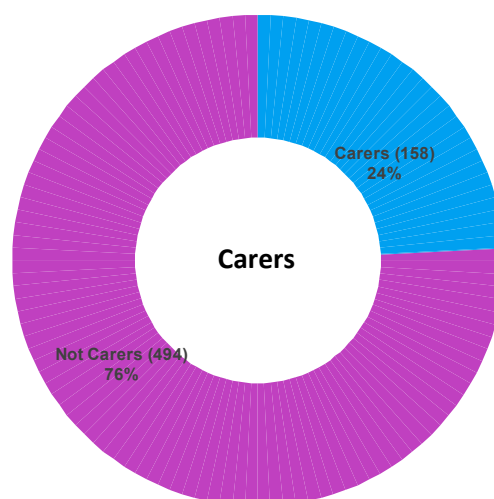
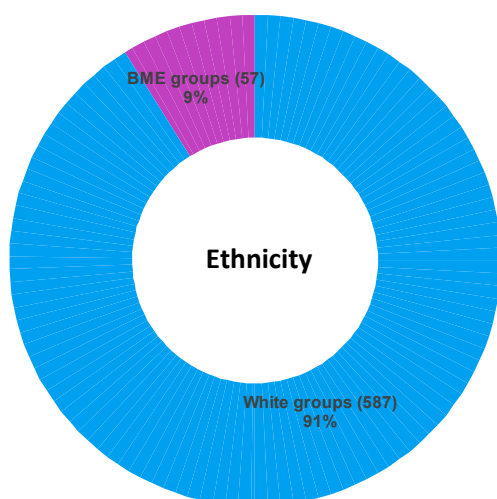
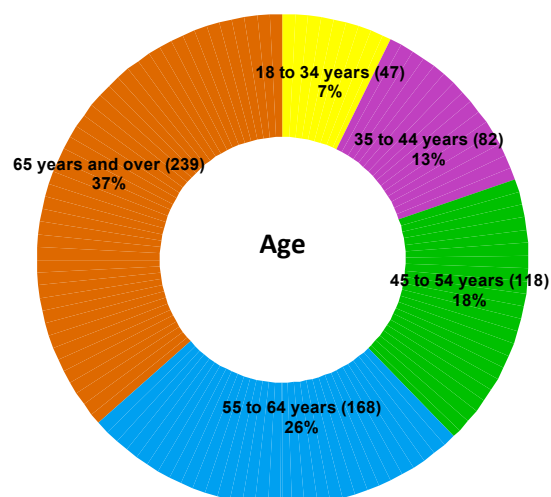
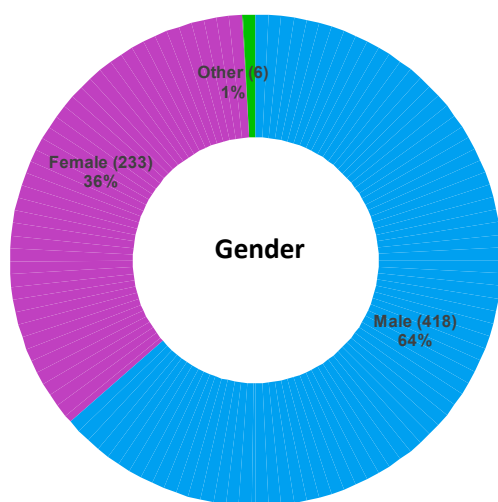
Park Situation – Hackney & Private Hire Drivers Only

In order to assist in the planning of infrastructure we asked drivers what access to parking they had, please note there may be some dual license holders responding as well as respondents that have access to both on-street and private parking as there were a total of 47 responses to the question, from 38 respondents.



The overall data for this question shows a fairly even split with 46.8% of respondents having off street parking and 44.7% having on street parking. The chart below shows the breakdown for hackney and private hire drivers. A total of four respondents selected other (in addition to other responses) but did not provide any further details.

Survey Demographics



Agenda Item 15

Licensing Committee

22 November 2018

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Licence Fees 2019/2020

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

This report makes the following recommendations to the final decision-maker:

1. That the Licensing Committee approve fee levels as set out at 2.7, 2.9, 2.11, 2.13, 2.15 and 2.17 of the report for implementation on 1 April 2019 subject to the consideration of any representations following consultation

This report relates to the following Five Year Plan Key Objectives:

- Securing a successful economy for Maidstone Borough

It is proposed to set fees which enable the authority to be self-financing with respect to this service.

Timetable	
Meeting	Date
Licensing Committee	22 November 2018

Licence Fees 2019/2020

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The authority is required to review and set the fees and other relevant charges for the various licences that fall within the remit of the Licensing Committee. This ensures the Council complies with its statutory duty and that licensing is self-financing, in accordance with the Council's Financial Strategy. Set out at 2.7, 2.9, 2.11, 2.13, 2.15 and 2.17 of this report are the proposed fees for 2019 - 2020 for the various licences issued by the Licensing Department. The agreed fees will take effect on 1st April 2019

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 all fees have been subject to a 2.5% inflationary increase in line with this Council's Medium Term Financial Strategy 2018/19 – 2022/23 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 has been a slight decrease to the fees for Hackney Carriage Driver and Vehicle fees as the cost of the taxi monitor has been met and so has been removed from the overall fee.

Public Notice to advertise proposed variation 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 2019 are:

	Current Fees	Proposed Fees
Knowledge test	£32 per test	£33 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>	£332 for three years (this includes £22.04 towards the Demand Survey & £29.43 for TV monitor and maintenance) £152 for one year	£ 319 for three years (this includes £22.60 towards the Demand Survey & £8.00 for maintenance of TV monitor) £134 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)	£44 every one or three years depending on licence (or £13 per year if they sign up to the online service)
Total (including DBS fee)	£376 for three years £196 for one year	£363 for three years £178 for one year
<u>On renewal</u>	£325 for three years (this includes £22.04 towards the Demand Survey & £29.43 for TV monitor and maintenance) £135 for one year (due to age or medical)	£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)
Disclosure Barring Service search fee	£44 every one or three years depending on licence (or £13 per year if they	£44 every one or three years depending on licence (or £13 per year if they

	Current Fees	Proposed Fees
	sign up to the online service)	sign up to the online service)
Total (including DBS fee)	£369 for three years £179 for one year	£355 for three years £160 for one year
<u>Private Hire Driver Licence</u>		
On initial application	£237 for three years £142 for one year	£243 for three years £146 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)	£44 every one or three years depending on licence (or £13 per year if they sign up to the online service)
Total (including DBS fee)	£281 for three years £186 for one year	£287 for three years £190 for one year
On renewal	£232 for three years £125 for one year (due to age or medical)	£238 for three years £128 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)	£44 every one or three years depending on licence (or £13 per year if they sign up to the online service)
Total (including DBS fee)	£276 for three years £169 for one year	£282 for three years £172 for one year
<u>Hackney Carriage Vehicle Licence</u>		
New & Renewal	£365 for one year (this includes £22.04 towards the Demand Survey & £29.43 for monitor and maintenance)	£352 for one year (this includes £22.60 towards the Demand Survey & £8.00 for maintenance of TV monitor)
<u>Private Hire Vehicle Licence</u>		
New & Renewal	£315 for one year	£324 for one year
<u>Private Hire Operator Licence</u>		
5 year licence – Initial application	£485 for five years	£497 for five years
5 year licence - Renewal	£405 for five years	£415 for five years
3 year licence – Initial application	£340 for three years	£348 for three years
3 year licence -	£275 for three years	£282 for three years

	Current Fees	Proposed Fees
Renewal		
1 year licence – Initial application	£195 for one year	£200 for one year
1 year licence - Renewal	£130 for one year	£133 for one year
<u>Other Costs</u>		
Change of ownership of licensed vehicle	£70	£72
Replace external vehicle plate	£23	£24
Replace driver badge	£10	£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	£21	£22
Vehicle exemption certificate or general administration fee	£45	£46
Vehicle re-test	£48	£49

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)	8000	4575	(5000)	4465
New Large Casino		9475	(10,000)	9245	7395	(10000)	7215
Bingo Club		2925	(3500)	2855	830	(1000)	810
Betting Premises (excluding Tracks)		2945	(3000)	2875	600	(600)	600
Tracks		1793	(2500)	1750	830	(1000)	810
Family Entertainment Centres		1793	(2000)	1750	670	(750)	655
Adult Gaming Centre		1793	(2000)	1750	750	(750)	750
Temporary Use Notice		235	(500)	230	N/A		
	Applicati on to Vary	Applicati on to Transfer	Applicati on for Re- Instate ment	Applicati on for Provisio nal Stateme nt	Licence Applicat ion (provisi onal Statem ent holders)	Copy Licence	Notificati on of Change
	£	£	£	£	£	£	£
Existing Casinos	n/a	n/a	n/a	n/a	n/a	n/a)	n/a)
New Small Casino	4000 (4000) 3915	1727 (1800) 1685	1727 (1800) 1685	8000 (8000) 7950	2967 (3000) 2895	13 (25) 12	29 (50) 28
New Large Casino	4495 (5000) 4385	2150 (2150) 2140	2150 (2150) 2140	9460 (10000) 9230	4325 (5000) 4220	13 (25) 12	29 (50) 28
Bingo Club	1750 (1750) 1710	1200 (1200) 1200	425 (1200) 415	2332 (3500) 2275	1200 (1200) 1200	13 (25) 12	29 (50) 28
Betting Premises (excluding tracks)	1500 (1500) 1500	1200 (1200) 1200	405 (1200) 395	1824 (3000) 1780	1200 (1200) 1200	13 (25) 12	29 (50) 28
Tracks	1250 (1250) 1250	950 (950) 950	405 (950) 395	1994 (2500) 1945	950 (950) 950	13 (25) 12	29 (50) 28
Family Entertain	1000 (1000)	950 (950)	410 (950)	1819 (2000)	950 (950)	13 (25)	29 (50)

ment Centres	<i>1000</i>	<i>950</i>	<i>400</i>	<i>1775</i>	<i>950</i>	<i>12</i>	<i>28</i>
Adult Gaming Centre	1000 (1000) <i>1000</i>	1200 (1200) <i>1200</i>	410 (950) <i>400</i>	1819 (2000) <i>1775</i>	1200 (1200) <i>1200</i>	13 (25) <i>12</i>	29 (50) <i>28</i>
Temporary Use Notice	n/a	n/a	n/a	n/a	n/a	13 (25) <i>12</i>	29 (50) <i>28</i>

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 2.5% inflation increase.

2.11

	Current Fee	Proposed Fee
Maidstone Borough Council		
Site licence – grant	£460	£472
Site licence – renewal	£390	£400
Collector's licence – grant or renewal	£280	£287
Minor administrative change to licence	£30	£31
Variation - change of site manager	£165	£169
Variation from collector to site licence	£200	£205
Variation from site to collector licence	£130	£133

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	£4,280	£4,387
Renewal Licence Application	£4,280	£4,387
Transfer of Licence	£2,090	£2,142

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)	£126	£129
Row Boats (New & Renewal)	£25	£26
Boatmen (New & Renewal)	£15	£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	£30	£31
Up to 30 trading days (New & Renewal)	£65	£67
Up to 90 trading Days (New & Renewal)	£180	£185
Full year consent	£385	£395

3 AVAILABLE OPTIONS

- 3.1 Members may decide to leave the fee levels as they are and not increase the fees 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 surplus or deficit is carried forward to the next year's budget, , any surplus in one area cannot be used to subsidise a shortfall in another.
- 3.2 Members may approve the fees as set at 2.7, 2.9, 2.11, 2.13, 2.15 and 2.17
- 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.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 To approve the fees set out at 2.7, 2.9, 2.11, 2.13, 2.15 and 2.17 to ensure that the fee income reflects the cost of providing the service.

5. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 5.1 The fees will be charged from 1st April 2019. With respect Hackney and Private hire fees they will be advertised in accordance with 2.6 of this report

6. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off (name of officer and date)
Impact on Corporate Priorities	No implications have been identified	[Head of Service or Manager]
Risk Management	No implications have been identified	[Head of Service or Manager]

Finance and other resources	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	[Head of Service]
Legal	Legal implications are set out in the body of the report.	Jayne Bolas, Solicitor Team Leader (Contentious)
Equality Impact Needs Assessment	No implications have been identified	[Policy & Information Manager]
Environmental/Sustainable Development	No implications have been identified	[Head of Service or Manager]
Community Safety	No implications have been identified	[Head of Service or Manager]
Human Rights Act	No implications have been identified	[Head of Service or Manager]
Procurement	No implications have been identified	[Head of Service & Section 151 Officer]

7. REPORT APPENDICES

N/A

8. BACKGROUND PAPERS

N/A

Agenda Item 16

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted