

# LICENSING COMMITTEE MEETING

Date: Thursday 17 September 2020

Time: 6.30 pm

Venue: Remote Meeting - The public proceedings of the meeting will be broadcast live and recorded for playback on the Maidstone Borough Council website

Membership:

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

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

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<b><u>AGENDA</u></b>	<b><u>Page No.</u></b>
1. Apologies for Absence	
2. Notification of Substitute Members	
3. Urgent Items	
4. Disclosures by Members and Officers	
5. Visiting Members	
6. Disclosures of Lobbying	
7. To consider whether any items should be taken in private because of the possible disclosure of exempt information.	
8. Minutes of the Meeting Held on 18 June 2020	1 - 5
9. Questions and answer session for members of the public (if any)	
10. Questions from Members to the Chairman (if any)	
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**Issued on Wednesday 9 September 2020**  
**Over/:**

**Continued**

*Alison Broom*

**Alison Broom, Chief Executive**

## **INFORMATION FOR THE PUBLIC**

In order to ask a question at this meeting, please call **01622 602899** or email [committee@maidstone.gov.uk](mailto:committee@maidstone.gov.uk) by 5 p.m. one clear working day before the meeting (i.e. by 5 p.m. on Tuesday 15 September 2020). You will need to provide the full text in writing.

If your question is accepted, you will be provided with instructions as to how you can access the meeting.

In order to make a statement in the relation to an item on the agenda, please call 01622 602899 or email [committee@maidstone.gov.uk](mailto:committee@maidstone.gov.uk) by 5 p.m. one clear working day before the meeting (i.e. by 5 p.m. on Tuesday 15 September 2020). You will need to tell us which agenda item you wish to comment on.

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## MAIDSTONE BOROUGH COUNCIL

### LICENSING COMMITTEE

#### MINUTES OF THE MEETING HELD ON THURSDAY 18 JUNE 2020

**Present:** Councillors Fissenden, Fort, Garten, Mrs Grigg, Hinder, Joy (Chairman), Naghi, Purle, Mrs Robertson, M Rose, J Sams and Springett

20. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor McLoughlin.

21. NOTIFICATION OF SUBSTITUTE MEMBERS

Councillor Purle was present as a substitute for Councillor McLoughlin

22. URGENT ITEMS

There were no urgent items.

23. VISITING MEMBERS

There was no Visiting Members.

24. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members and Officers.

25. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

26. EXEMPT ITEMS

**RESOLVED:** That the Minutes (Part II) of the Licensing Act 2003 Sub-Committee Meeting held on 6 December 2019 with the Part I Minutes under item 9 be agreed without going into Part II.

27. MINUTES OF THE MEETING HELD ON 27 NOVEMBER 2019

**RESOLVED:** That the Minutes of the Meeting held on 27 November 2019 be agreed as a correct record and signed at a later date.

28. MINUTES (PART I) OF THE LICENSING ACT 2003 SUB-COMMITTEE HELD ON 6 DECEMBER 2019

**RESOLVED:** That the Minutes (Part I and Part II) of the Licensing Act 2003 Sub-Committee held on 6 December 2019 be agreed as a correct record and signed at a later date.

29. MINUTES OF THE LICENSING ACT 2003 SUB-COMMITTEE HELD ON 13 JANUARY 2020

**RESOLVED:** That the Minutes of the Licensing Act 2003 Sub-Committee held on 13 January 2020 be agreed as a correct record and signed at a later date.

30. PRESENTATION OF PETITIONS

There were no petitions.

31. QUESTIONS AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC

There were no questions from members of the public.

32. QUESTIONS FROM MEMBERS TO THE CHAIRMAN

There were no questions from Members to the Chairman.

33. HACKNEY CARRIAGE FARE INCREASE 2020

The Senior Licensing Officer introduced the report noting that the Council had the power to set maximum fares for Hackney Carriage Vehicles under Section 65(1) of the Local Government (Miscellaneous Provisions) Act 1976. A correction was made to recommendation two of the report, which should have stated August 2020. It was noted that the current fare tariff had been in operation since 7 December 2013 with increased fares requested on 18 January 2020. During this time period, the rate of inflation had increased significantly more than the requested fare increase which totalled 11.24%.

The Senior Licensing Officer drew particular attention to the requests for a reduction in the initial meterage from 598.5metres to 550metres with an increase in charge to £3, a 47p increase, alongside the reduction from 140.4metres to 125metres for additional distance. A comparison table detailed the difference in the current and proposed fares in section 2.3 of the report.

During the debate, it was confirmed that no other Local Authorities within Kent had increased their fees for Hackney Carriage Vehicles.

The Committee felt that the request for a 'likely fares destination table' should be approved, with the addition of wording to explain that the table be used as a minimum fare guideline.

**RESOLVED:** That

1. The table of fares set out in Appendix 3 to this report be agreed;
2. The Head of Housing and Community Services be authorised to give public notice of the Council's intention to fix this table of fares for Hackney Carriage vehicles in accordance with Section 65(2) of the Local Government (Miscellaneous Provisions) Act 1976, to take effect from August 2020;
3. The matter be brought back to the Licensing Committee if any objections are received; and
4. The request for a 'likely fares destination table' to be displayed alongside the tariff be agreed.

34. STREET TRADING POLICY 2020

The Senior Licensing Officer introduced the report with the draft Street Trading Policy shown in Appendix 2. The Council's existing Street Trading Policy was created in 2010, last reviewed in 2014 and was shown in Appendix 1.

The Senior Licensing Officer noted that there had been several proposed alterations to the policy which included that market consent would be re-phrased to multi-user consent, the introduction of the requirement to check an applicant's criminal record and right to work and the introduction of a non-refundable administration fee. It was noted that the non-refundable administration fee had been included due to the amount of work involved in the assessment of a street trading application, irrespective of acceptance or rejection of the application.

The 30 and 90-day consents were to be removed due to the low levels of demand experienced with the Senior Licensing Officer having clarified that approximately two 30-day consents and five 90-day consents had been granted in the last two years. The conditions that applied to all Street Trading Consents had been revised within the draft policy. The Committee was asked to approve that the Head of Housing and Community Services be given delegated powers to determine applications.

The Committee expressed concerns that the fees were not clearly outlined within the table shown on page 31 of the report. In response to questions, the Senior Licencing Officer confirmed that under the draft policy as proposed, once a 12-day consent had been used within a year and additional days were desired, a year-long consent would need to be applied for to continue trading. The administration fee would have to be paid again as this would involve another application being submitted. It was confirmed that all applications require a 14-day consultation period.

The Committee questioned the available enforcement options in relation to the exclusion of applicants based on criminal conviction. In addition, it

was also felt that further clarity could be provided on what constitutes a Community Event and proposed exemptions within the policy.

The Senior Licensing Officer informed the Committee that should the policy be approved at a later date and implemented; additional guidance would be provided in light of the Covid-19 pandemic if required.

**RESOLVED:** That the feedback provided by the Committee on the draft Street Trading Policy be taken into consideration, before the draft Policy be brought back to the Committee on 17 September 2020.

### 35. BUSKING GUIDELINES 2020

The Senior Licensing Officer introduced the report with the draft voluntary Busking Guidelines shown in Appendix 1. It was noted that whilst the guidelines were voluntary, the Council were obligated by law to reduce noise obstruction and anti-social behaviour. The Licensing Team often received enquiries concerning Busking Guidelines and it was felt that by creating voluntary guidelines, the document would be viewed by potential buskers before the Licensing Team were contacted.

The Senior Licensing Officer confirmed that the draft guidelines included provision for three types of action; verbal, written and enforcement, should buskers choose to act against the guidelines given. Any enforcement actions would be undertaken under Environmental Health concerns. If the document was approved an 8-week consultation would be undertaken.

It was noted that there were some contradictions within the guidelines that concerned the use of amplified music. In addition, the hours of operation were questioned, due to the prevalence of buskers outside the hours of 8 a.m. to 11 p.m. The Senior Licensing Officer confirmed that provisions would be made, if necessary, to the Covid-19 pandemic should the guidelines be agreed at a later date.

**RESOLVED:** That

1. Subject to the document being amended to include the feedback given by the Committee, it be agreed for consultation; and
2. Following the consultation period, the Busking Guidelines together with a summary of key consultation comments, be brought back to the Committee for consideration be agreed.

### 36. LICENSING PARTNERSHIP MAIDSTONE - ANNUAL UPDATE 2020

The Head of Licensing introduced the annual update report on the Licensing Partnership from 1 April 2019 to 31 March 2020. Performance statistics were shown in Appendix 1 and Appendix 2 outlined the Licensing Partnership Service Plan for 2020/21. Actions had been introduced within objectives six and seven of the Service Plan in light of the Covid-19

pandemic, to adapt working methods to ensure service continuity would be maintained.

The Head of Licensing confirmed that the hub team and partnership officers had been efficient in working from home during the Covid-19 pandemic. It was noted that the aged debt, whereby premises license fees were outstanding, had been reduced and would be monitored to ensure it remained as such.

In response to questions, the Head of Licensing confirmed that the relative cost of the Licensing Partnership to each of the partnered authorities would be shared amongst members if appropriate. It was noted that the Council paid the highest financial contribution to the partnership to reflect the level of work generated by the Council. The Head of Housing and Community Services confirmed that the Council's income was reflective of the increased cost.

The Committee wished to express their thanks to the Officers involved within the Licensing Partnership for their hard work.

**RESOLVED**: That the performance of the partnership as contained in the report be noted.

37. DURATION OF MEETING

6.30 p.m. to 8.24 p.m.

# Agenda Item 11

**Licensing Committee**

**17 September  
2020**

## **Code of Conduct Training Requirements**

<b>Final Decision-Maker</b>	Council
<b>Lead Head of Service</b>	<i>Head of Policy Communications and Governance and Head of Housing and Community Services</i>
<b>Lead Officer and Report Author</b>	Ryan O'Connell, Democratic and Electoral Services Manager
<b>Classification</b>	Public
<b>Wards affected</b>	<i>All</i>

### **Executive Summary**

*This report sets out new proposed wording for the Code of Conduct for Councillors and Officers Dealing with Licensing Matters to reduce the complexity and burden of licensing committee training requirements.*

### **Purpose of Report**

*Decision (recommendation to Council)*

### **This report makes the following recommendations to this Committee:**

1. That the new wording set out paragraph 4.2 be recommended to Council for the Code of Conduct for Councillors and Officers dealing with Licensing matters

### **Timetable**

<b>Meeting</b>	<b>Date</b>
Licensing Committee	17 September 2020
Council	30 September 2020



# Code of Conduct Training Requirements

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	The recommendations in the report will not materially impact on the Council's strategic objectives but will improve efficiency in the operation and governance in licensing committee decisions.	Democratic and Electoral Services Manager
<b>Cross Cutting Objectives</b>	The recommendations in the report will not materially impact on the Council's strategic objectives but will improve efficiency in the operation and governance in licensing committee decisions.	Democratic and Electoral Services Manager
<b>Risk Management</b>	<i>Covered in the risk management section below</i>	Democratic and Electoral Services Manager
<b>Financial</b>	There are no financial implications arising out of the report.	Democratic and Electoral Services Manager
<b>Staffing</b>	There are no staffing implications arising out of the report.	Democratic and Electoral Services Manager
<b>Legal</b>	The proposed wording provides clarity to ensure that the Licensing Committee have a mechanism for appropriate training and that new members of the committee receive training. This clarity will ensure that all Members receive the correct training and decisions taken by the committee are robust and in accordance with relevant licensing policy, legislation and guidance.	Team Leader (Corporate Governance), MKLS
<b>Privacy and Data Protection</b>	There are no privacy and data protection implications arising out of the report.	Policy and Information Team
<b>Equalities</b>	The proposed wording has no equalities impacts, however the means of delivering the training in future reports will need to be assessed to ensure it is accessible to all Members and Substitutes of the Licensing Committee	Democratic and Electoral Services Manager

<b>Public Health</b>	There are no public health implications arising from the report.	Public Health Officer
<b>Crime and Disorder</b>	There are no crime and disorder implications arising from the report	Democratic and Electoral Services Manager
<b>Procurement</b>	There are no procurement implications arising from the report	Democratic and Electoral Services Manager

## 2. INTRODUCTION AND BACKGROUND

- 2.1 In June 2016 a report was presented to the Licensing Committee 'Licensing Committee Roles and Responsibilities' that recommended a training programme in accordance with the Code of Conduct for Councillors and Officers Dealing with Licensing Matters ('Code of Conduct') (Part 4.5 of the Constitution) and made a second recommendation that training be refreshed every year (only) **if required**. These recommendations were agreed.
- 2.2 The Code of Conduct sets out training that **is required** under 1(c). (Part 4.5, 1(c) of the Constitution). This states: "Existing members and substitute members of the Licensing Committee should be updated regularly on changes of legislation and procedures **and must receive refresher training on an annual basis.**"
- 2.3 The second resolution of the Licensing Committee in June 2016, to only receive refresher training if required is therefore not able to be put in to practice as the Constitution requires annual training regardless.
- 2.4 This report sets out recommended wording to clarify the training for Licensing Committee and to tighten it up whilst allowing the Committee flexibility to set a training programme annually that suits its specific needs at that time.

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## 3. AVAILABLE OPTIONS

- 3.1 Option 1 – Adopt new wording to simplify the training requirements whilst providing flexibility.
- 3.2 Option 2 - Leave the wording as it is requiring mandatory annual refresher training for all existing Members of the Committee.
- 3.3 Option 3- the Committee can come up with alternative wording to recommend to Council.
-

#### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

4.1 Option 1 is the preferred option as this would deliver a flexible training programme annually and simplify the wording in the Constitution reducing risks for training requirements to be missed or misunderstood.

4.2 The recommended wording is as follows:

*(c) The Council has agreed that no Councillor will be able to serve on this Committee without having agreed to undertake a minimum period of training on the policies, procedures, legislation and guidance relevant to this Committee as specified by the Committee. This training must be completed to an agreed programme set by the Committee annually with a due date for completion. New members must receive training, but the programme may include no training provision for experienced members if there have been no relevant changes to legislation, policies or guidance.*

*If a Councillor has not completed the specified training by the due date, the Councillor will cease to be a member/substitute member of this Committee until the training has been completed. The Head of Housing and Community Services will keep a record of the training requirements of this Committee and of Councillors' compliance with the requirements.*

4.3 Administratively this can be put into practice by having a training report presented to the first meeting of the Committee each year, this could be done at the 'snap committee' meeting where the Chairman and Vice-Chairman are appointed or at the first 'full' meeting of the Committee.

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#### **5. RISK**

5.1 Having an appropriate training programme manages the risk of challenge to a Committee's decisions – this is particularly relevant for regulatory decisions. Having an over complicated or arduous requirement can conversely increase risks of challenge as the Council needs to demonstrate that the Committee is (a) trained appropriately but also (b) trained to the Council's own requirements.

5.2 The recommended wording is considered to be a balance of ensuring Members are trained and flexibility to ensure a fit for purpose training programme that the Council can be confident will be adhered to.

#### **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

6.1 The Licensing Committee have previously agreed to more flexible training arrangements which is covered in this report.

## **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 7.1 If Licensing Committee agree the wording it will be referred to Council to approve the changes to the Constitution on 30 September 2020.
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## **8. REPORT APPENDICES**

None

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## **9. BACKGROUND PAPERS**

Licensing Committee Report – Licensing Committee Roles and Responsibilities –  
16 June 2016

## Licensing Committee

**17th September 2020**

### Street Trading Policy 2020

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

#### **Executive Summary**

The Street Trading Policy was last reviewed in 2014 and the report sets out the document which includes Councillors comments from the 18<sup>th</sup> June Licensing Committee. This will bring the policy up to date with our current practice and regulations.

#### **Purpose of Report**

To consider the amended Draft Street Trading Policy and confirm the new fee tariff and delegation. The recommended consultation period is 8 weeks.

#### **This report makes the following recommendations to this Committee:**

1. Agree for consultation purposes the revised draft Street Trading attached as Appendix 2 to this report.
2. Confirm the draft amended fee structure which introduces a non refundable consultation application fee.
3. To confirm delegated authority is given to the Head of Housing and Community services to make minor amendments to the policy and determine whether appeals go to Licensing Sub Committee.
4. Following the 8 week consultation period the policy together with a summary of key consultation comments is brought back to licensing committee for consideration.

#### **Timetable**

<b>Meeting</b>	<b>Date</b>
Licensing Committee	17 <sup>th</sup> September 2020
Licensing Committee	14 <sup>th</sup> January 2021

# Street Trading Policy 2020

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	<ul style="list-style-type: none"> <li>No implications have been identified</li> </ul>	Head of Service or Manager
<b>Cross Cutting Objectives</b>	<ul style="list-style-type: none"> <li>No implications have been identified</li> </ul>	Head of Service or Manager
<b>Risk Management</b>	<ul style="list-style-type: none"> <li>No implications have been identified</li> </ul>	Head of Service or Manager
<b>Financial</b>	<ul style="list-style-type: none"> <li>There are no financial implications identified within this report. The Council recovers the costs associated with any application and has an agreed approach to determining the application fees.</li> </ul>	Section 151 Officer & Finance Team
<b>Staffing</b>	<ul style="list-style-type: none"> <li>No implications have been identified</li> </ul>	Head of Service
<b>Legal</b>	<ul style="list-style-type: none"> <li>The relevant legislation in relation to street trading is contained within Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended). The policy provides a framework for consistent decision-making.</li> </ul>	Legal Team
<b>Privacy and Data Protection</b>	<ul style="list-style-type: none"> <li>No implications have been identified</li> </ul>	Policy and Information Team
<b>Equalities</b>	<ul style="list-style-type: none"> <li>No implications have been identified</li> </ul>	Policy & Information Manager
<b>Public Health</b>	<ul style="list-style-type: none"> <li>No implications have been identified</li> </ul>	Public Health Officer
<b>Crime and Disorder</b>	<ul style="list-style-type: none"> <li>No implications have been identified</li> </ul>	Head of Service or Manager
<b>Procurement</b>	<ul style="list-style-type: none"> <li>No implications have been identified.</li> </ul>	Head of Service & Section 151 Officer

## 2. INTRODUCTION AND BACKGROUND

- 2.1 Maidstone Borough Council has adopted powers under the Local Government (Miscellaneous Provisions) Act 1982 so that any person selling articles in the 'street' must obtain a street trading consent from the Council.
- 2.2 Maidstone Borough Council has a current street trading policy, which sets out the Council's approach for managing street trading, the process for applications and making decisions. (Appendix 1). However, experience has demonstrated that it lacks clarity and is not very helpful to applicants or Officers when determining applications.
- 2.3 The Policy was last updated in 2010 and has been reviewed in order to make it a more comprehensive informative document, the revised Street Trading Policy will be of more benefit to applicants, officers and residents and ensures improved public safety and protection. It will strengthen decision-making and support the Council's position should issues arise.
- 2.4 The process for applying for a street trading consent has not changed significantly but the draft provides a clearer explanation to assist applicants. The policy was considered at Licensing Committee on 18<sup>th</sup> June 2020 and now includes Councillors feedback where applicable –

### 2.5 **Policy amendments and feedback consideration**

Page no	Amendment/Insertion/removal	Reason
5&6	Remove All reference to public authority owned land has been removed	There is no provision in the legislation to allow for this kind of waiver, it is hoped that it is dealt with by amending Community and Charity Events to reduce the impact.
5	Insert Additional exemption from the requirement of a street trading consent added.	Expanded to provide more information on "services"
6	Amendment Community & Charity Events amended to provide a "light touch" by providing a discretion to charge the full fee or nominal amount	Suggested in order to assist those events that may have previously occurred without the relevant permissions and also Councillor's comment to make the intention less vague
7& 12	Amendment Application process time made clearer	Councillors comment to make it clear to applicants how long it will take to process an application
7	Amendment Description for short term consents amended to be clearer.	Less confusion

7&12	Insertion That the consultation fee is not charged for short term consents	Councillors comment to make it clearer in the document where consultation fees are charged
10	Insertion Street Trading consents are not issued for the purpose of selling vehicles on the highway.	Councillors comment that the document did not address car sales.
Appendix 2	Comment Confusion on the years stated for certain offences, these were typos that have now been removed.  Its usual to set out a consistent approach to dealing with offences and the time the Council will have expected them to lapse before an application is made. Applicants with convictions will not necessarily be refused as 6.4.3 states Each application will be decided on its own merits.	Councillors comment Confusion on the years stated for certain offences. It was also suggested that proportionality be used when considering applicants for street trading and that not all offences should bar applicants.

## **Fees**

The new fee tariff was discussed at Licensing Committee on 18<sup>th</sup> June 2020, it was requested that the fee table was made less confusing, the following fee table is suggested and Councillors are asked to confirm their agreement.

	Proposed Fee
<b>Maidstone Borough Council</b>	
Consultation application fee (applies to 12 month consents only)	£150.00
Short term consent 1 to 12 trading days New only (on grant) (no consultation fee is required)	£32.00
Full year consent (New & Renewal) (on grant)	£255.00
Additional assistants (checks and badges)	£50.00
Additional change (additional products)	£50.00
Copy/replacement Licence	£12.00
Copy/replacement Badge	£12.00

## **Delegation**

1. That the Head of Housing and Community Services is delegated to determine applications, including those that receive objections. The Head of Housing and Community Services in exercising his delegated authority will consider whether it is necessary and proportionate for an appeal to be heard by a Licensing Sub Committee based on criteria set out in the revised policy. Currently all appeals are heard by the Licensing Sub Committee on the basis of a written request from the applicant, irrespective of the merits of the case.



2. At the Licensing Committee on 18<sup>th</sup> June 2020 it was suggested that there was no requirement to give the delegation to the Head of service as there were very few street trading matters referred to Sub Committee, however no decision was made and so confirmation is sought now.
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### **3. AVAILABLE OPTIONS**

- 3.1 To agree to the proposed policy and 8 week consultation period and consult all those listed at page 4 of the draft policy.
  - 3.2 To refuse the proposed policy and consultation process and retain the Council's current policy.
- 

### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 The detailed draft Street Trading Policy provides clear advice and information to all persons involved in the consent process. The policy sets out the Council's expectation of the street traders in the district and provides a clearer understanding of what this Council will consider when administering applications, dealing with issues and undertaking any enforcement activities. It will support Licensing Officers in their day to day role in ensuring the Council's licensing aims within this policy are met and ensuring good standards are met and maintained.
- 

### **5. RISK**

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

### **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 6.1 The Policy is brought back to this Committee with their consultation feedback on 14 January 2021
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### **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 7.1 N/A
-

## **8. REPORT APPENDICES**

1. Current Policy
  - 2 Revised Draft Policy
- 

## **9. BACKGROUND PAPERS**

N/A



**STREET TRADING CONSENT POLICY**

**MARCH 2010**

# MAIDSTONE BOROUGH COUNCIL STREET TRADING CONSENT POLICY

MARCH 2010

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# **MAIDSTONE BOROUGH COUNCIL STREET TRADING CONSENT POLICY**

**MARCH 2010**

## **1. Introduction**

- 1.1 Maidstone Borough Council 'the Council' has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. Since 1, September 1986, a Consent has been required before trading on any street in the Borough area.
- 1.2 Street trading is the selling, exposing or offering for sale any article in a street subject to some exemptions. The term 'street' includes any road, footway or other area to which the public have access without payment (this can include private land).
- 1.3 This does not include activities such as tables for street café operations from a fixed premises or the siting of 'A' boards on the street as this is not within the remit of this legislation.

## **2. Aim of Maidstone Borough Council's Street Trading Consent Policy**

- 2.1 The aim of this statement of Street Trading Consent Policy is to provide a consistent and transparent approach for the method of determining street trading Consent applications and their ongoing position.
- 2.2 To achieve this aim the Council is committed to partnership working with Kent Police, Kent Highways Services, the trade and local fixed premises businesses.
- 2.3 This policy sets out how we intend to manage the Street Trading Consent function and how we will ensure the process is fair.
- 2.4 The Council has an aim to improve the quality of life in Maidstone.

### 3. **Scope of the Policy**

3.1 The Council's policy is concerned with the administration of the street trading Consent functions within the Local Government (Miscellaneous Provisions) Act 1982,

- determining first applications
- renewals
- revocation

#### **4. Interpretation**

- 4.1 Any words or expressions in this policy have the meanings assigned to them under the 1982 Act. Nothing in the policy should be regarded or interpreted so as to prejudice the 1982 Act.



## **5. The Maidstone Act 2006**

- 5.1 This came into force on 7 September 2006. This removed the exemption for pedlars to act with the authority of a Pedlars Certificate to trade within the Borough. Pedlars must now have a Street Trading Consent to trade on the streets within the Borough of Maidstone.
- 5.2 There is power to seize articles, receptacles and equipment by an officer of the Council or Constable if there is reason to suspect an offence has been committed under this Act.

## **6. Application Process**

- 6.1 Applications must be made in writing on the application form provided by the Council as detailed in Appendix A and be accompanied by a Consent fee. An applicant must be aged 17 or over.
- 6.2 Proposed food business should be registered under the Food Regulations with the Local Authority where their vehicle is based and provide documents as evidence that they are so registered.
- 6.3 Applicants are advised to contact the Development Control section of the Council to check whether planning permission is required.
- 6.4 Determining First Applications – The process on receipt of any application will include a consultation period of 14 days with:-  
Ward Members  
Parish Council if relevant  
Town Centre Management if relevant  
Adjacent shops  
KCC Highways  
MBC Planning and Development Control  
MBC Environmental Health Section  
MBC Environmental Enforcement  
Police

If no objections to a Street Trading application are received the Head of Housing and Community Services be given delegated powers to grant consent, subject to consultation with the Chairman and Vice Chairman of the Licensing Committee who might ask for the application to be referred to a Sub-Committee consisting of three Members of the Licensing Committee for decision.

If objections are received the application will be determined by a Sub-Committee consisting of three Members of the Licensing Committee for decision. A hearing will be held following the procedure at page 18.

## **6.5 Determining Additional Applications For An Agreed Site**

Once the application for a site has been agreed in accordance with 6.4 above, the Licensing Manager will be authorised to issue further Street Trading consents for the same site in the exact terms of the

first application subject to a satisfactory Police check being received which would determine good character and their right to work in the United Kingdom.

6.6 Renewals – the process on receipt of a renewal application will be for the Licensing Manager to renew if no complaints have been received following the consultation process the process for first applications will be followed and the matter will be reported to the Licensing Sub Committee (procedure in appendix B).

6.7 Revocation – Any consideration for review of a consent including a decision for revocation will be taken by the Sub-Committee consisting of three Members of the Licensing Committee for decision.

6.8 Applications for Street Trading Consent in Fremlin Walk - Applications must be made in writing on the application form provided by the Council as detailed in Appendix A and be accompanied by a Consent fee. An applicant must be aged 17 or over.

6.9 Proposed food business should be registered under the Food Regulations with the Local Authority where their vehicle is based and provide documents as evidence that they are so registered.

6.10 Applicants are advised to contact the Development Control section of the Council to check whether planning permission is required.

6.11 Applications for Street Trading Consent will be undertaken in 2 stages comprising an application for the site (which could include more than 1 pitch) and then an application from the Street Trader.

6.12 Determining Site Application – An application for a site will be made to the Council and will require a consultation period of 14 days with:-

- Ward Members
- Parish Council if relevant
- Town Centre Management if relevant
- Adjacent shops
- KCC Highways
- MBC Planning and Development Control
- MBC Environmental Health Section
- MBC Environmental Enforcement

## Police

If no objections are received the Licensing Manager has delegated power to grant all applications within the Town Centre area subject to consultation with the Chairman and Vice Chairman of the Licensing Committee who can ask that the Application is referred to a Sub-Committee consisting of three Members of the Licensing Committee for decision.

If objections are received the application will be determined by a Sub-Committee consisting of three Members of the Licensing Committee for decision. A hearing will be held following the procedure at page 18. Each agreed site applicant will allocate the pitches in those sites to Traders agreed by the Council.

- 6.13 Determining Site Application from Traders – Traders will apply to the Council to trade in the approved sites and consent will be given subject to the assessment of the site holder and a satisfactory Police check being received which would determine good character and their right to work in the United Kingdom.
- 6.14 Renewals – the process on receipt of a renewal application will be for the Licensing Manager to renew if no complaints have been received following the consultation process the process for first applications will be followed and the matter will be reported to the Licensing Sub Committee (procedure in appendix B).
- 6.15 Revocation – Any consideration for review of a consent including a decision for revocation will be taken by the Licensing Sub Committee.
- 6.16 Any provisions relating to the River Festival will not apply to any agreed sites in Fremlin Walk.

## **7. Consideration of Applications**

7.1 The Council will consider each application on its individual merits and normally grant a Street Trading Consent **unless**, in its opinion, there is:-

- a) not enough space for each applicant to trade in the manner proposed without causing undue interference or inconvenience to persons using the street,
- b) there are already enough traders in the vicinity (from shops or other stalls) in the goods in which the applicant desires to trade,
- c) there is undue concentration of traders trading in the street in which the applicant desires to trade,
- d) the Consent, if granted, will result in nuisance to members of the public, residents or local businesses, due to the likely noise, smell, litter, obstruction, disturbance, or other problems which will be caused by granting the Consent,
- e) the size, nature or appearance of the proposed stall and any associated equipment is inappropriate for the proposed location in terms of amenity or public or highway safety,
- f) the proposed trading hours are outside the usual business hours of shops in the vicinity, except in relation to a trader wishing to sell hot food, which will be considered on a site by site basis,
- g) any additional issues arising from consultation or the particular circumstances of the application.
- h) previous conviction of the applicant (or an assistant) for relevant offences (dishonesty, food safety, health & safety, licensing or other related issues) or unsuitable for other reasonable cause,
- i) failure on a previous occasion to pay Street Trading Consent fees within agreed timescales,
- j) applications for Street Trading Consent on a site where there is already a Consent granted,
- k) there is an earlier application or an application for renewal has been received which will be determined first by the Licensing Sub Committee.

## **8. Administration, Exercise and Delegation of Function**

- 8.1 The powers and duties of the Council with regard to Street Trading Consent may be carried out by the Licensing Sub Committee or Officers acting under delegated authority. Since many of the functions are administrative or compliance monitoring based in nature, in the interest of speed, efficiency and cost effectiveness, the Council supports the principle of delegating routine matters to Officers.
- 8.2 Applications will normally be dealt with by Officers but can be forwarded to the Licensing Sub Committee for determination (see section 6).

## **9. Conditions applicable to Street Trading Consents**

9.1 Conditions will normally be imposed in all cases specifying:-

- a) the place in which the Consent holder is permitted to trade,
- b) the days and times at which the Consent holder is permitted to trade,
- c) description of the types of articles in which the holder is permitted to trade,
- d) the nature, size and type of stall stand etc. which is to be used,
- e) the Street Trading Consent issued by the Council must be conspicuously displayed on the stall/person,
- f) if food is to be sold, the business shall be Food Safety registered,
- g) restrictions on the means the trader may use to attract custom to his stall,
- h) that the suitable receptacle for litter must be provided,
- i) that the location must be left in a clean and tidy condition at the end of the trading hours each day,
- j) that the stall must be removed each day at the end of trading hours unless agreement in writing is obtained from the Council or the owner of the land,
- k) the trader must comply with any reasonable request of a Police Officer or authorised Officer of the Council,
- l) that the trader must produce, to a Police Officer or authorised Officer of the Council, a copy of the Consent on demand,
- m) operators must cease trading immediately upon expiry of Consent.

9.2 The Council considers that each of the above conditions will be reasonably necessary in relation to the majority of Consents granted for the purposes of protecting public safety and the prevention of nuisance and annoyance to local residents, businesses in the locality and members of the public using the street concerned. The Council may also impose such other conditions as it considers reasonably necessary in each particular case and conditions may be varied at any time.

## **10. Enforcement**

- 10.1 Any enforcement action taken by the Council will be in accordance with any adopted enforcement policy, and failure to comply with the conditions may lead to revocation or non-renewal of a Consent. Any person found trading without Consent in the Borough will be subject to enforcement action by the Council.



## **11. Promotion of Racial Equality**

- 11.1 The Council recognises that the Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000 places an obligation on all Public Authorities to have regard to the need to eliminate unlawful discrimination, and to promote equality of opportunities and good relations between persons and different racial groups.

## **12. Human Rights Act 1998**

12.1 The Council implements the 1982 Act in a manner consistent with the Human Rights Act 1998.

**For enquiries regarding this policy in the Council's area, please contact:-**

**Licensing Office  
Maidstone Borough Council  
Maidstone House  
King Street  
Maidstone  
Kent  
ME15 6JQ**

**01622 602028**

**[licensing@maidstone.gov.uk](mailto:licensing@maidstone.gov.uk)**

## **LICENSING SUB COMMITTEE**

### **ORDER OF PROCEEDINGS**

- a) The Chairman will introduce those present and ensure that everyone understands the procedure to be followed.
- b) The Head of Housing and Community Services will briefly describe the application.
- c) The Applicant will then present his case.
- d) The Objector(s) may then ask the Applicant questions.
- e) Members will then ask the Applicant any questions.
- f) The Objector(s) will then be given the opportunity to present his/her case.
- g) The Applicant may then ask the Objector(s) any questions.
- h) Members will then ask the Objector(s) any questions.
- i) Members may then ask any further questions of clarification from any party.
- j) Both parties will then be asked to sum up, the Objector(s) first followed by the Applicant.
- k) Members will then ask the Head of Housing and Community Services if there are any further matters to be raised before the matter is considered.
- l) The Sub Committee will then decide the appeal and may ask the Applicant, the Objector(s), the Head of Housing and Community Services and any other parties to leave, the Committee Clerk will be the only person apart from Members to be allowed to remain. Any representative of Legal Services (if present) may be requested to remain by the Chairman.
- m) After consideration all parties will be invited to return and the Chairman will announce the decision.

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# MAIDSTONE BOROUGH COUNCIL

## Review of Street Trading Policy 2020

**DRAFT**

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## INTRODUCTION

### 1.1 Introduction

The powers to control Street Trading within the Council's area are conferred by Schedule 4 Local Government (Miscellaneous Provisions) Act 1982, which has been adopted by the Council. Under Schedule 4 of the Act, the Council is able to manage Street Trading by designating streets as Consent Streets, Licence Streets, or Prohibited Streets.

This policy sets out the Council's approach for managing street trading in the district and the process for applications and making decisions.

This new revised policy was approved by the Licensing Committee on ..... and came into effect on.....

Street trading consents are processed and issued by the Council's Licensing Department.

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

Tel: 01622 602028

Email: [licensing@maidstone.gov.uk](mailto:licensing@maidstone.gov.uk)

Web: <https://www.maidstone.gov.uk/business/licensing-permits/street-trading>

### 1.2 Objectives of this Policy

#### 1.2.1 The objectives of this policy are:

a. The Council recognises the valuable contribution that Street Trading can make to the local culture and economy, and the services that Street Traders provide to residents and visitors. Street Trading can provide people with a flexible way of working, to meet the demands of the public where and when such demands arise.

b. Ensure the safety of customers and other persons using the locations where street traders are located.



c. Balance the needs of the wider community, local community and street traders against the needs of those who may be adversely affected by the street trading activities.

d. Provide consistency and transparency in the way in which the Council deals with street trading.

e. Provide applicants and consent holders with advice and guidance on the Council's approach to the administration and enforcement of street trading.

### 1.3 Review of the Policy

1.3.1 This policy will be kept under review and where any significant amendments are considered necessary these will be approved by the Committee that deals with licensing matters after appropriate and relevant consultations have taken place.

Consultees will include

- Kent Police
- Kent Fire and Rescue
- Kent Highways
- Kent Trading Standards
- Maidstone Planning
- Environmental Health
- Community Protection Team
- Economic Development
- Parish Councils
- Ward Members
- Current Street Traders
- Local businesses
- Residents
- Car parks

Minor amendments that do not impact on the aims and objectives of the policy or reflect changes in legislation will be made with the approval of the Head of Housing and Community Services.

## 2 WHAT IS STREET TRADING?

### 2.1 Definitions and Resolution

2.1.1 The Local Government (Miscellaneous Provisions) Act 1982 defines street trading as the selling or exposing or offering for sale any article, including a living thing, in a street.

2.1.2 The Act states that a street includes any road, footway, beach, or other area to which the public have access without payment.

2.1.3 Maidstone Borough Council have designated all land within Maidstone Borough Council's boundary that falls within the above definition of "street", as consent streets

2.1.4 A street trading consent is needed for trading on:

- . Streets, laybys, pavements or any land including verges controlled by Kent Highways unless there is payment for entry
- . Streets, laybys, pavements, or any land, including verges which are privately owned and the public can access, unless payment is made for entry. This includes private car parks such as superstore car parks.

2.2 Exemptions from needing Street Trading Consent

2.2.1 The following are exempted in the legislation and do not need street trading consent:

- a. A market that is granted through a charter or order.
- b. A news vendor selling periodicals or newspapers.
- c. Trading at a petrol station.
- d. Trading at a shop or in a street adjoining a shop as part of the business or shop.
- e. Trading as a roundsman who has defined customers and routes. It has been established in law that mobile ice cream sales are not normally deemed to be roundsmen.
- f. Service Providers, e.g. hair-braiding, face painting and henna tattoos, etc. The Act which governs street trading relates to the selling of articles and as such, it is the Licensing Authority's view, that people who provide a service e.g. hair-braiders, are not considered to be trading for the purposes of the legislation. However, if quantities of accessories used in hair braiding are also offered for sale then this may be street trading and may require consent.

### **Pedlars are not exempt in Maidstone due to the Maidstone Act 2006**

This came into force on 7 September 2006. This removed the exemption for pedlars to act with the authority of a Pedlars Certificate to trade within the Borough. Pedlars must now have a Street Trading Consent to trade on the streets within the Borough of Maidstone. There is power to seize articles, receptacles and equipment by an officer of the Council or Constable if there is reason to suspect an offence has been committed under this Act.

2.3 Exemption for individual charity stalls with a Street Collection Permit

2.3.1 Individual charity stalls in a street can apply for a street collection permit which allows collecting money for a charitable cause (including through the sale of items). If a street collection permit is granted there is no requirement for a street trading consent. Please contact the Licensing Team for further information on applying for street collection permits.

### 2.4 Indoor Market Areas

2.4.1 Indoor market areas do not constitute street trading as they can be classed as shops which are exempt from street trading legislation.

### 2.5 Events with an Entrance Fee

2.5.1 Events that have an entry fee do not constitute street trading and do not need street trading consent

### 2.6 Community and Charitable Events

Community and Charity events are important in terms of promoting local causes and participation in local matters. The Council should assist organisers of these types of events in order to encourage community engagement. These types of events will normally be organised by a Parish Council, Maidstone Borough Council or by a recognised group or charity with aims of engaging with and providing support to the local community. Any trading activity would be incidental to the event and where the event organiser does not charge a pitch or similar fee to trade at the event then it may be possible for the Council to waive the fee, or charge a nominal amount .

## 3 TYPES OF CONSENTS

The Council issues the following four types of street trading consent: All applications for street consent require 21 days notice to be given to the Licensing Department.

### 3.1 Static Unit Consent

3.1.1 Static street trading consents are issued for a stall or vehicle which returns to one place every day or for regular periods of time. The unit or stall must be removed each day at the end of the trading period unless planning rules allow otherwise.

3.1.2 A static street trading consent may be granted for any period not exceeding 12 months.

### 3.2 Mobile Unit Consent

3.2.1 Mobile street trading consents are issued to traders who wish to move from place to place. A mobile consent trader must not remain in one place for more than 30 minutes at a time and not return to the same site within 2 hours. A typical mobile consent would be an ice-cream van.

3.2.2 A mobile street trading consent only permits trading within Maidstone Borough Council's area. If the unit goes into areas outside of Maidstone it will also need consent from the relevant authority.

3.2.3 A mobile street trading consent may be granted for any period not exceeding 12 months.

### 3.3 Short Term Consent

3.3.1 Short Term Consent - Short term consents are issued to traders who wish to consider whether they could be successful at a certain location selling their specific goods. The consent is considered a trial consent and only one will be issued to an individual. They are granted for a period between 1 and 12 days. Any trader who wishes to continue trading after the 12 day period will need to submit a further application for the full 12 months. There is no consultation fee charged for this type of consent

### 3.4 Multi User Consent

3.4.1 Multi User consents are issued to specific individuals managing an event.

3.4.2 A Multi User consents can cover a number of stalls.

3.4.3 The Multi User must meet the criteria set below.

- . It has a nominated organiser.
- . It has the approval of the local public authority/landowner.
- . It adds value to the town's trade through the provision of specialist products.
- . It does not operate in detriment to the local community.

3.4.4 If the application is made by an organisation they must nominate a named individual who will be responsible for managing use of the consent.

3.4.5 The consent will be issued for a maximum of 12 months and can be renewed.

3.4.6 The consent holder will be responsible for ensuring compliance with times and location permitted by the consent and the conditions attached at all times whilst the consent is being used to facilitate street trading as well as any relevant bylaws.

3.4.7 The consent holder will be responsible for ensuring that any local residents, businesses or shops are not obstructed by the stall/stalls and that all emergency exits to buildings are kept clear. The consent holder must ensure that stalls can be moved quickly in the event that access is needed for emergency vehicles.

3.4.8 The consent holder will be required to keep records of all traders that trade under the consent which will include:

Event date

Company Name

Individuals Name

Trader Name

DOB

N.I number

Address

Food registration certificate number

Vehicle registration if relevant

Contact details.

Type of goods sold

This information will be required by the Licensing Department

3.4.9 As part of the application process the Council will consult all businesses in the vicinity of the Multi User consent . If, at any point after the grant of the consent, any existing or new occupiers of businesses or residential properties make objection to stalls being located outside of their premises the consent may be reviewed which could result in it being varied or amended.

3.4.10 It should be noted that Multi User Consents may incur other fees and charges from Maidstone Council if the land used belongs to Maidstone Borough Council. This will be in addition to the street trading consent fees.

#### 4 CHOOSING A TRADING LOCATION/PITCH

4.1.1 Before applying for a street trading consent, applicants must first identify a suitable trading pitch or site. It is for the applicant to identify a suitable pitch having regard to the requirements in this policy and their business needs. The Council does not hold a list of available trading pitches.

4.1.2 A suitable pitch must meet the following criteria:

- . Be safe for other street users including traffic and pedestrians.
- . Be safe for customers using the street trading unit.
- . Not cause any potential for obstruction, interference, inconvenience or nuisance to other street users including other traders, traffic and pedestrians.
- . Not cause any potential for nuisance to residents and other businesses for example noise and/or smell.
- . The goods being sold complement and do not conflict with the goods sold by other established retailers within vicinity.

4.1.3 In particular account must be taken of the following:

- . Access roads on industrial estates, where heavy lorries manoeuvre, are generally unsuitable places for static units.

- . Locations close to residential properties are unlikely to be suitable due to the potential noise and smell nuisance to residents.
- . Lay-bys on main roads must have good visibility to ensure the safety for traffic entering and leaving the trading site/lay-by.
- . There should be suitable parking spaces for customer and trading vehicles.
- . Units should not cause loss of parking spaces to residents or businesses.
- . Units in town centres must not impede the movement of pedestrians or delivery vehicles or block the frontage of shops or access to existing premises.

### 5 OTHER MATTERS TO CONSIDER BEFORE MAKING AN APPLICATION

#### 5.1 Suitability of the Applicant

5.1.1 Applications cannot be considered from anyone under the age of 17.

5.1.2 When determining an application for the grant or renewal of a street trading consent the council will consider all relevant information relating to the suitability of the applicant to hold such a consent including:

(a) Whether the applicant has any unspent convictions under the Rehabilitation of Offenders Act 1974.

5.1.3 Where the criminal conviction certificate provided by the applicant shows current offences (i.e. those that are unspent under the Rehabilitation of Offenders Act 1974, the Council will consider the following:

- . whether the conviction is relevant;
- . the seriousness of the offence;
- . the length of time since the offence occurred;
- . whether there is a pattern of offending behaviour;
- . whether that person's circumstances have changed since the offence occurred;
- . the circumstances surrounding the offence and the explanation offered by that person.

5.1.4 Annex B is a list of the offences that the Council considers relevant to a street trading consent application.

#### 5.2 Goods For Sale

5.2.1 Food - Traders wishing to sell food items must be registered as a food business with the Council in whose area the trading unit is stored when it is not at the trading site. Or, if food is pre-prepared before the unit goes to the trading site, you must be registered with Council in whose area the food preparation is undertaken.

5.2.2 Vehicles on the side of the road -This refers to vehicles placed on the highway and advertised for sale and includes any vehicle displaying signs that name an individual or business; or displays notices/signs intended to sell the vehicle. This

authority may take enforcement action against person who are advertising vehicles for sale on the public highway , currently it is the crime waste team that deal with these matters. For the purposes of this part of the policy public highway includes footpaths and adjacent verges and public open land as well as the road itself. It does not include private land. Where any vehicle is offered for sale on the highway that is not taxed and insured, the Police may also refer it to the DVLA Enforcement Team. Enforcement also may be taken under the Highways Act 1980 and the Clean Neighbourhoods and Environment Act 2005. Street Trading consents are not issued for the purpose of selling vehicles on the highway.

5.2.3 Alcohol - If you intend to sell alcohol you will need authorisation under the Licensing Act 2003 in addition to street trading consent. Please contact the Licensing Section for further advice.

### 5.3 Assistants/Employees

5.3.1 You will be required to check the right to work of any persons you employ to assist you under your street trading consent. Any trader found to allow an illegal worker to work as part of their trading activities is likely to have their street trading consent reviewed and/or revoked.

5.3.2 The Council will require the name, address, date of birth, national insurance number, a basic criminal check (not more than 1 month old) and a photograph of all persons assisting on a regular basis. The basic criminal check must be updated every 3 years. For the purposes of this policy we would consider any person who works on the unit, without the consent holder being present, for more than 14 days a year, as assisting on a regular basis.

### 5.4 Waste

5.4.1 A street trading consent holder is responsible for disposal of refuse and must not use Council, highway or other public waste bins unless there is a specific arrangement in place. The consent holder has a duty of care to dispose of commercial waste lawfully.

5.4.2 There must be no disposal of liquid waste down the drains or onto the pavement, road or grassland. This includes waste cooking oil.

### 5.5 Trading Hours

5.5.1 An application should specify what hours the applicant wishes to trade. Evening and night time hours are likely to have more impact on local residents in terms of noise and disturbance. Applications for later times are more likely to raise objections which may lead to those times being refused or conditions imposed.

5.5.2 The consent holder will be permitted 30 minutes preparation time prior to the start of their trading hours in order to set up the trading vehicle and there will be 30



minutes to close down and pack up. Consent holders are not permitted to trade during set up and closing times. Multi User consent holders will be permitted 90 minutes prior and after trading times to set up and close down the stalls.

5.5.3 Trader's who wish to serve hot food and drink between 23:00 and 05:00 will also need a licence for late night refreshment under the Licensing Act 2003. Please contact the Licensing Team for further information.

### 5.6 Planning Permission

5.6.1 A street trading consent is given to units where the unit is removed every day at the end of the trading period. If a unit is permanently located at a site it is unlikely to require street trading consent but will require planning permission. Units that are removed every day may also require planning permission in addition to street trading consent. This will be dependant on the amount of time and days that the unit is located at the site. Please contact the Planning Section for further advice.

5.6.2 If a unit that holds street trading consent is not removed every day at the end of the trading period and it is considered that the unit is in fact permanently located in one position, then street trading consent may be revoked.

## 6 HOW TO APPLY FOR STREET TRADING CONSENT (All consent types)

### 6.1 Advice for New Applicants

6.1.1 On receipt of an application the Council will undertake a consultation exercise in order to seek the views of other agencies and, if relevant, neighbouring businesses and residents. There is a non-refundable fee to cover the cost of administering the consultation (this is not applicable to short term consents).

6.1.2 The consultation process will normally take at least 14 days and a decision will then be normally made within 7 days of the consultation ending. All applicants should allow a minimum 21 days for their applications to be processed.

6.1.3 Once a decision is made to grant a street trading consent there is a consent fee. This must be paid before the consent is issued and trading can commence.

### 6.2 Submitting an Application

6.2.1 The following must be submitted with the initial application:-

- a. Application form.
- b. Notice of Intention.
- c. Proof of eligibility of the applicant to work in the UK (where applicable).



d. Plan showing the proposed trading location with position of the unit(s) shown in red. (Not required for mobile units).

e. Written permission from a landowner if the street trading activity is to be carried out on any land owned privately.

f. Payment of a non-refundable consultation fee to cover initial administration and consultation costs (this not required for short term consents).

6.2.2 If, following consultation the location is deemed suitable, the following must be submitted before a final decision is made:

a. Third party public liability insurance up to £10,000,000.

b. A Basic Criminal Disclosure check that is not more than 1 month old for the applicant and any person/s that will be assisting on a regular basis. Basic Criminal Disclosure checks can be obtained from the Disclosure and Barring Service. Information can be found online at: <https://www.gov.uk/request-copy-criminal-record> or by calling 03000 200 190. (Not applicable to short term consents).

c. One passport sized photograph of the applicant and any person/s that will be assisting with the trading on a regular basis. (Not applicable to multi user and short term consents).

### 6.3 Consultation

#### Consultation Static Consents and Multi User Consents

6.3.1 On receipt of a valid static or multi user application the Council will consult with the following:-

- . Kent Constabulary.
- . Kent Highways.
- . The relevant Parish Council(s).
- . The Maidstone Borough Councillor(s) for the Ward(s) concerned.
- . Environmental Health Officers at Maidstone Borough Council.
- . Planning Officers at Maidstone Borough Council.
- . Where appropriate local residents and businesses within 100 metres of the proposed site.
- .the relevant department/individual when it's in relation to public owned land.

6.3.2 The Council will allow up to 5 working days to begin the 14 days consultation for people/relevant bodies to make comments in relation to the application.

#### Consultation - Mobile and Short Term Consents

6.3.3 On receipt of a valid mobile or short term consent application the Council will consult with the following:-

- . Kent Constabulary.
- . The relevant Parish Council.
- . Relevant Ward Councillor(s).
- . Environmental Health Officers at Maidstone Borough Council.
- . the relevant department/individual when it's in relation to public owned land.

6.3.4 The Council will allow up to 5 working days to begin the 14 days consultation for people/relevant bodies to make comments in relation to the application.

### 6.4 Determining Applications

6.4.1 The Head of Housing and Community Services has delegated powers to issue or refuse an application following the consultation period.

6.4.2 Account will be taken of objections and/or letters of support made during the consultation period. The authority will consider the suitability of the site and the applicant taking account of, but not exclusively, the criteria in this policy.

6.4.3 Each application will be decided on its own merits.

### 6.5 Street Trading Badges

6.5.1 On grant of a street trading consent a street trading identification badge (except for short term consents and multi user consents) will be issued. The badge must be worn by the person it relates to where it can be clearly seen by the public at all times the person is trading. If the badge is lost or damaged the consent holder must contact the Council as soon as possible. A charge will be made for a replacement badge.

### 7 FEES AND CHARGES

7.1.1 A list of the current street trading consent fees and charges is available by contacting the Licensing Team.

7.1.2 Initial applications (apart from short term consents) must be accompanied by payment of a non-refundable administration fee to cover initial administration and consultation to determine suitability of the site. The consultation exercise will not commence until this payment is made.

7.1.3 Once a decision is made to grant a consent the full consent fee must be paid before the consent will be issued.

7.1.4 The fees will normally be reviewed on an annual basis.

7.1.5 Street trading fees may be waived in relation to charitable or community events at the discretion of the Head of Housing and Community Services. Each event will be judged on its own merits. However the following criteria will be considered:

- . The street trading is part of an organised event with an organising group/committee/individual.
- . The primary purpose of the event is fundraising for a charitable cause or is for the benefit of the community.
- . The event does not take place any more than once a year.
- . Stalls are pre-booked.

### 7.2 Payment Methods

- . Cheque - made payable to "Maidstone Borough Council".
- . Debit or credit card – Can used at the Council Offices or by telephone to the Licensing hub between normal office opening hours on 01732 227001.

### 8 RESPONSIBILITIES OF THE CONSENT HOLDER

8.1.1 The consent holder must act in accordance with the conditions attached to the consent.

8.1.2 A street trading consent entitles the applicant to trade lawfully in the location(s) specified in the consent. Please note there are many other users of streets and the consent does not grant exclusive rights of occupation or ownership of a specific location.

8.1.3 A street trading consent is not a permit to disregard other laws or usual restrictions. For example:

- . Always observe parking restrictions and do not obstruct the highway or entry or exit roads to private property.
- . Other relevant legislation such as the Food Hygiene (England) Regulations 2006, Safety At Work etc Act 1974 and Part II, section 34 of the Environmental Protection Act 1990 (disposing of waste) must be complied with.
- . A consent holder must not cause a nuisance to the occupants of neighbouring properties from noise, litter, disposal of waste or any antisocial activity.

### 8.2 Changes to The Unit

8.2.1 You must contact the Licensing Section if you want to change your unit. You may need to make a new application or a variation application if the change is significant and impacts on the objectives of this policy.

### 8.3 Changes of Assistants

8.3.1 A consent holder must provide the Licensing Section with a photograph and basic criminal record disclosure that is not more than 1 month old for any new persons that assist on a regular basis. See paragraph 5.3.2 for definition of assisting on a regular basis.

## 9 RENEWAL

9.1.1 Applications to renew an existing street trading consent must be made at least 21 days prior to the expiry of the existing consent.

9.1.2 A renewal application may be refused if the renewal application is made late.

9.1.3 The following must be submitted with a renewal application

- . Renewal Application Form
- . Renewal Fee
- . Copy of current third party liability insurance up to £10,000

9.1.4 Additional Requirements at Renewal:

. A Basic Criminal Disclosure for the consent holder and any persons that assist on a regular basis from the Disclosure and Barring Service that is not more than 3 years old.

. 1 recently taken passport size photograph of the consent holder and any persons that assist on a regular basis.(Not required for Multi User Consents)

## 10 TRANSFER OF CONSENTS

10.1.1 Street trading consents are non transferable. If there is an agreement between a current consent holder and a proposed new consent holder to take over an existing unit and location, the original consent holder must surrender their consent and the proposed new consent holder must submit a new application. The proposed new consent holder, who has made the agreement with the existing consent holder, will be given priority in applying for the location provided that the new application is submitted within 5 working days after the current consent holder surrenders their consent. The applicant will need to follow the process for submitting a new application.

## 11 VARIATION OF CONSENTS

11.1 A street trading consent may be varied to change the conditions attached to the consent. This includes conditions relating to trading times and periods. This does not include a change of consent holder or a change of location. A variation application should be submitted with the following:

- a. Variation Application form.
- b. Notice of Intention.
- c. Written permission for the proposed change from the landowner if the street trading activity is carried out on any land owned privately.
- d. Photograph of the new/changed unit if applicable.
- e. Payment of the non-refundable consultation fee.

11.2 Consultation will be in accordance with the new application process. However if the variation is minor the consultation may be reduced at the discretion of the Head of Housing and Community Services.

## 12 CONDITIONS ATTACHED TO CONSENTS

12.1 When granting or renewing a street trading consent the Council may attach such conditions to it as they consider reasonably necessary.

12.2 Street trading consents will usually be granted subject to the standard conditions detailed in Annex A to this Policy.

12.3 Where appropriate, additional conditions may be added to a specific consent.

### 13 REFUSAL, REVOCATION AND APPEALS

13.1 A consent may be revoked at any time by the Council and the Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation.

13.2 The Act does not provide an applicant or a consent holder with any direct right of appeal against a decision to refuse the grant, variation or renewal of a street trading consent, the revocation of a street trading consent, or against any restrictions or conditions imposed on a street trading consent.

13.3 If an applicant or any relevant party wishes to make representations in respect of a decision to grant, refuse or revoke a street trading consent the applicant/consent holder/relevant party should put this in writing with the reasons to the Licensing Section within 28 days of being notified of the decision. The request will be reviewed by the Head of Housing and Community Services, who will consider whether it is reasonable and proportionate for an appeal to be heard by the Licensing Sub Committee. The review of the decision will take account of the reasons for the original decision and the representation or any further evidence put forward by the applicant/consent holder/other party.

### 14 COMPLAINTS AND ENFORCEMENT

#### 14.1 General Principles

14.1.1 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also responsible members of the trade.

14.1.2 All decisions and enforcement actions taken by the Licensing Authority will be in accordance with the Council's Corporate Enforcement Policy and the principles of consistency, transparency and proportionality set out in the Regulator's Compliance Code.

14.1.3 Consent Holders must allow access to Authorised Officers of the Council and Police Officers at all reasonable times.

#### 14.2 Offences

14.2.1 The following are offences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 relevant to the Maidstone area:-

- . Engaging in street trading in a consent street without Consent.
- . Breaches of a condition in relation to trading location or unit or trading period.
- . Breaches of a condition attached to the granted Consent.

14.2.2 A person guilty of the above offences may be liable on conviction to a fine of up to £1000.

### 14.3 Complaints

14.3.1 Where complaints are received regarding the carrying on of street trading activities, these will be investigated in a prompt and professional manner.

14.3.2 If a complaint is found to be justified then the following actions may be taken by Officers:

- . Verbal warning.
- . Written warning.
- . Simple caution.
- . Prosecution.
- . Revoke the Consent.

### ANNEX A

#### STANDARD CONDITIONS APPLICABLE TO HOLDERS OF A STREET TRADING CONSENT THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

It is important that the consent holder should understand and at all times observe these conditions. Any breach of any Condition could result in revocation of the street trading consent.

1 Street trading can only take place in accordance with the times and permissions of the consent.

2 A consent may be revoked at any time by the Council and the Council shall not in any circumstances whatsoever be liable to pay any compensation the holder in respect of such revocation.

3 The consent holder shall return this consent to Maidstone Borough Council immediately on revocation or surrender of the Consent.

4 Any consent holder found to be employing persons who do not have the right to work in the UK will have their consent immediately revoked.

5 A consent cannot be sub-let.

6 Consent holders shall permanently and clearly display on the street trading unit, in a conspicuous position readily visible to the public, the valid consent that has been issued by the Council. (Static and Mobile Consents only).

7 The consent holder and any assistants shall sell/offer for sale only such goods or types of goods as may be specified in the street trading consent granted to the consent holder.

8 The consent holder shall at all times maintain a valid Third Party Public Liability Insurance Policy of at least £10,000,000 to the satisfaction of the Council and shall produce a valid certificate of such insurance at any time upon request by an authorised officer of the Council.

9 The consent holder shall keep his trading site and immediate adjacent area in a clean and tidy condition during permitted trading hours and also leave the site in a clean and tidy condition and unobstructed at the end of each period of use under the terms of this consent. For these purposes the term 'immediate adjacent area' refers to all public land within a 50 metres radius from the trading location over which the public have access.

10 No waste matter shall be discharged into or allowed to enter any highway drain or water course.

11 Every static street trading unit and any vehicles or equipment associated with it shall be removed from the site at the end of the day. The unit must not be left on site when not in use unless explicit written consent has been given by the Head of Housing and Community Services

12 The consent relates only to the unit described in the application or as defined on the certificate of consent.

13 The use of awnings; external display stands and the positioning of tables, chairs and sunshades around the unit are also prohibited without the written permission of the Head of Housing and Community Services.

14 The display of advertising signs, other than on the unit itself, is prohibited without the written permission of the Head of Housing and Community Services. Signage may also require planning permission.

15 Holders of a mobile street trading consent must not trade in one place for more than 30 minutes at a time and must not return to the same location within 2 hours.

16 No street trading unit shall be located and no street trading activity shall be carried on so as to cause obstruction of any street or endanger persons using the street.

17 The consent holder shall not trade in such a way as to cause a statutory or public nuisance to persons using the street, public place, or occupiers of premises in the vicinity. Noise from equipment (including amplified audio equipment) used in connection with the consented street trading activity shall also not give rise to a statutory or public nuisance.



18 The consent holder shall make adequate arrangements to ensure that all persons connected with the operation of the unit have the means and opportunity to visit suitable toilet facilities when necessary. The consent holder shall ensure that the facilities available are made use of.

19 The consent holder shall comply with the requirements of Part II, section 34 of the Environmental Protection Act 1990 with respect to waste resulting from his/her trading. The consent holder will make available the relevant documentation as proof of compliance at the request of an authorised officer of the Council.

20 If, and when required, the consent holder shall present the street trading unit to an officer of the Council for inspection.

21 The Council reserves the right to refuse to renew a static street trading consent if the applicant has not, without reasonable cause, traded at the site on a regular basis in the previous 6 months. In such circumstances the street trading consent may be granted to another applicant.

22 Street trading shall not be carried on at any time unless the appropriate fee for the street trading consent has been duly paid to the Council.

23 The consent Holder shall at all times conduct business in a clean, honest, civil and business like manner without interfering with the business of other traders and consent holders.

24 Nothing contained in these conditions shall relieve the consent holder or their employees or agents from any legal duty or liability and the consent holder shall indemnify the Council in respect of all claims, actions, demands or costs arising from this consent.

25 The Council may vary or make additions to the Conditions applying for any or all street trading consents, at any time.

ANNEXE B

RELEVANT OFFENCES WHEN DETERMINING SUITABILITY OF AN APPLICANT FOR A STREET TRADING CONSENT

a. Dishonesty

A street trading consent will not be granted unless 3 - 5 years have lapsed since a conviction for an offence that involves dishonesty, for example theft or fraud, or completion of any sentence imposed whichever is the later.

b. Violence

If an applicant has been convicted for an offence for violence which involves loss of life, a street trading consent will not be granted.

In other cases a street trading consent will not be granted unless 3 – 10 years have lapsed since a conviction for an offence relating to violence or completion of any sentence imposed whichever is the later.

c. Drugs

A street trading consent will not be granted unless 5 - 10 years have lapsed since a conviction relating to the supply or importation of drugs or completion of any sentence imposed whichever is the later.

A Street trading consent will not be granted unless 3 - 5 years have lapsed since a conviction for an offence relating to the possession of drugs or completion of any sentence imposed whichever is the later.

d. Sexual and Indecency Offences

A street trading consent will not be granted where there are convictions for rape, indecent assault, any sexual offence involving children and any conviction for an offence under the Sexual Offences Act 2003, or for indecent exposure.

e. Exploitation

A street trading consent will not be granted if there are convictions relation to exploitation of another individual. This will include slavery, child sexual exploitation and grooming.

f. Motoring Convictions

In most cases, motoring offences are unlikely to be relevant when considering a street trading consent application. However, there may be instances where the offences are of a very serious

nature or may be relevant to the type of street trading activity. In those cases a street trading consent will not be granted unless 3 - 5 years have lapsed since any such convictions or completion of any sentence imposed whichever is the later.

### g. Street Trading Legislation

The Council takes a serious view on applicants who have been convicted of street trading offences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. In particular, a street trading consent will not be granted unless 2 years have lapsed since any offence under the 1982 Act or if there is more than one conviction then 5 years must have lapsed.

### h. Formal Cautions and Fixed Penalty Notices

For the purposes of these guidelines, the Council will treat Formal Cautions issued in accordance with Home Office guidance and fixed penalty notices as though they were a conviction before the courts.

### i. Existing Consent Holders Convicted Of An Offence

The Council may consider revoking the consent if the consent holder is convicted of an offence and in particular there will be concern if the offence falls into one of the categories detailed above.

DRAFT

# Agenda Item 13

**Licensing Committee**

**17<sup>th</sup> September 2020**

## **Statement of Licensing Policy 2021-2026**

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

### **Executive Summary**

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

### **Purpose of Report**

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

### **This report makes the following recommendations to this Committee:**

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

### **Timetable**

<b>Meeting</b>	<b>Date</b>
Licensing Committee	17 <sup>th</sup> September 2020
Licensing Committee	19 <sup>th</sup> November 2020
Council	9 <sup>th</sup> December 2020

# Statement of Licensing Policy 2021-2026

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

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

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

## 2. INTRODUCTION AND BACKGROUND

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

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

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

	<p>becoming at risk of knife crime and to deter customers from carrying out acts of knife crime. These steps may be either in the form of specific suggested conditions to be attached to the premises licence / certificate if granted or a condition committing the applicant to have in place during the currency of the licence / certificate a documented risk assessment, which specifically addresses the risks of knife crime on the premises which is kept under regular review.</p> <p>The following list may be of assistance to applicants when considering their application:</p> <ul style="list-style-type: none"> <li>• The customer profile and likelihood of persons being attracted to the premises also being persons who are prepared to carry bladed articles</li> <li>• What steps are reasonably practicable to implement at the premises which will be effective in deterring the carrying of a bladed articles into the premises in the first instances – such steps may include screening persons wishing to enter the premises by the installation of walk through metal detecting portals or the use of hand-held metal detecting devices and/or through rub-down searching of persons wishing enter the premises by properly trained staff.</li> <li>• What steps are required to check that all metal detecting devices in use at the premises are fully operational and are regularly maintained and replaced as appropriate and what contingencies are required in the event of any such device developing malfunction.</li> <li>• The documenting of training of all staff engaged in using any metal detecting devices.</li> <li>• The documenting of training of all staff engaged in carrying out searches of customers.</li> <li>• The training of staff to know what procedure to follow in the event of an incident of knife crime on the premises and to ensure that is a First Aider, with specific knowledge of giving first aid to a stabbing victim, on the premises whenever licensable activities are taking place.</li> <li>• The facilities of safe storage of any bladed article found secreted on the premises and the procedure to be followed in promptly notifying Kent Police.</li> <li>• The procedure to be followed in the event that any customer is found in the possession of a bladed article on the premises.</li> <li>• Effective waste management including the prompt removal and safe storage of empty bottles.</li> </ul> <p>The above matters are not intended to be exhaustive, applicants are expected to demonstrate that they have thought very carefully about the risk of knife crime occurring on their premises and the appropriate procedures needed to minimise or mitigate the risk. Applicants are strongly recommended to work closely with Kent Police, the Licensing Authority and Responsible Authorities before submitting their application. When carrying out the required risk assessment applicants are encouraged to take full cognisance of local crime patterns and trends with particular reference to the profile of victims, offenders, key</p>	
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	<p>locations and key times of knife related incidents. Kent Police can assist the applicant in this regard.</p> <p>As far as those premises are concerned which are currently licenced to sell/supply alcohol, the Licensing Authority expects them to have the same degree of consideration as to the risks of knife crime as new applicants. The Licensing Authority would encourage all existing premises licence holders to note the contents within this policy and also consider steps they intend to take to prevent, so far as reasonably practicable, customers on their premises becoming at risk of knife crime and to deter customers from carrying out acts of knife crime.</p>	
17.11 & 17.12 Licence conditions	<p>Wholesale of alcohol. Since 1 April 2017, businesses which sell alcohol (for example, retailers of alcohol and trade buyers) need to ensure that the UK wholesalers that they buy alcohol from have been approved by HMRC under the Alcohol Wholesaler Registration Scheme (AWRS). They will need to check their wholesalers Unique Registration Number (URN) against the HMRC online database.</p> <p>This is an ongoing obligation and if a business is found to have bought alcohol from an unapproved wholesaler, they may be liable to a penalty or could even face a criminal prosecution and their alcohol stock may be seized. Any trader who buys alcohol from a wholesaler for onward sale to the general public (known as a 'trade buyer') does not need to register unless they sell alcohol to other businesses.</p> <p>Examples of trade buyers would be pubs, clubs, restaurants, cafes, retailers and hotels. However, they will need to check that the wholesaler they purchase alcohol from is registered with HMRC.</p>	Inserted to reflect legislation.

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

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

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### 3. AVAILABLE OPTIONS

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

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#### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

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

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#### **5. RISK**

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

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#### **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

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

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#### **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

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

## **8. REPORT APPENDICES**

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

## **9. BACKGROUND PAPERS**

Licensing Act 2003 -

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

S.182 Guidance issued to Licensing Authorities -

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

Current Statement of Licensing Policy 2015

# STATEMENT OF LICENSING POLICY

APPENDIX 1

**DRAFT**

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

**Licensing Act 2003**

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

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# STATEMENT OF LICENSING POLICY

## INTRODUCTION

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **Covid-19 impact and response**

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

We recognise that policy frameworks change, new or emerging issues arise at both a local and national level which may need to be taken into account when applying this Licensing Policy. We may therefore, from time to time, make new applicants and existing licence holders/operators aware of these changes so that they can ensure they meet any future challenges.

## 1 CONSULTATION

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

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

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

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

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



## THE POLICY

### 2. BACKGROUND

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

*The four licensing objectives are the:*

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

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

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

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

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

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

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

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

You also don't need a licence:

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

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

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

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

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

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

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

### 3. LICENSING AUTHORITY GENERAL POLICY CONSIDERATIONS

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

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

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

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

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

3.24 The Licensing Authority, having regard to the evidence available, considers that currently there is no particular part of the Borough where there is a negative cumulative impact of licensed premises on any of the licensing objectives. If residents or a Responsible Authority (in particular the Police) provide relevant evidence through a representation in the future that supports the imposition of a Policy that restricts the number of new and/or later opening premises, this will be considered and consulted on.

3.25 The absence of an existing cumulative impact or saturation policy does not, however, prevent any responsible authority or other person making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. The Licensing Authority will also take into account the effect on resources, including police resources, to cope with any influx of visitors to an area, particularly late at night.

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

4.1 Responsible authorities are public bodies that are statutory consultees that must be notified of applications by the applicant. The full list and contact details can be found at Appendix A and are contained on the Maidstone Borough Council web-site at Responsible Authorities.

3.26 When dealing with applications and variations for licences and reviews of premises licences, the Licensing Authority is obliged to consider representations from two categories of persons, referred to as 'Responsible Authorities' and 'Other Persons'. This allows for a broad range of persons to comment both for and against applications for premises licences and club premises certificates and for reviews.

3.27 The Licensing Authority may only consider representations that are relevant to the promotion of the licensing objectives.

3.28 The Licensing Authority will take care to ensure that concerns raised by Responsible Authorities in relation to their own legislative functions are not taken into account if they are not relevant to the application for a premises licence under the Act, or the promotion of the licensing objectives. It would expect those authorities to use their powers and duties within their statutory roles to control such matters. Any representation made by a Responsible Authority that relates to the promotion of the licensing objectives will be accepted.

3.29 The Licensing Authority must give the appropriate amount of weight to representations made by the Police on crime and disorder matters. The Police are the Licensing Authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. The Licensing Authority will accept all reasonable and proportionate representations made by the Police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives.

3.30 Where an 'Other Person or Persons' request to be represented when seeking to make a representation, the Licensing Authority will require written evidence from the person/s being represented that they have authorised a third party to speak or write on their behalf.



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

## **5. EXCHANGE OF INFORMATION**

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

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

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

3.37 The Licensing Authority will consider the effect upon people's human rights and adopt a principle of proportionality and the need to balance the rights of the individual with the rights of the community as a whole. Action taken by the council which affects another's rights must be no more onerous than is necessary in a democratic society.

6.3 The Equality Act 2010 requires public bodies to consider all individuals when carrying out their day to day work – in shaping Policy, in delivering services and in relation to their own employees. It requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different people when carrying out their activities.

6.4 Equality Duty supports good decision making – it encourages public bodies to understand how different people will be affected by their activities, so that their policies and services are appropriate and accessible to all and meet different people's needs. By understanding the effect of their activities on different people, and how inclusive public services can support and open up people's opportunities, public bodies can be more efficient and effective. The Equality Duty therefore helps public bodies to deliver the Government's overall objectives for public services.

6.5 Immigration Act 2016 and the Modern Slavery Act 2015.  
The Licensing Authority has responsibilities that relate to the prevention of immigration crime, specifically the prevention of illegal working in licensed premises. Licences must not be issued to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from doing work relating to the carrying on of a licensable activity.

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

## **7. COMPLIANCE AND ENFORCEMENT**

7.1 There are a range of offences detailed under Part 7 of the Licensing Act 2003. The Licensing Authority will liaise with the Responsible Authorities to determine enforcement of specific offences on a case by case basis. Offences related to sales of alcohol to minors will be enforced by the Police or Trading Standards Authority unless they form part of a range of offences identified by the Licensing Authority.

7.2 The Licensing Authority has an approved Licensing Enforcement Policy which complies with the Regulators' Code and it has also adopted the Kent and Medway Enforcement Protocol.

7.3 A risk-based inspection programme is in place, which includes the targeting of high risk premises which require greater attention, whilst operating a lighter touch in respect of low risk and well managed premises. The risk-based approach is based on Home Office Guidance; the activities authorised and premises compliance history.

7.4 Annual fees and suspension of licences for non-payment.- The Licensing Authority is required under section 55A of the Licensing Act to suspend premises licenses where the annual fee has not been paid. The Licensing Authority will invoice each licensee when the



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

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

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## **CONSIDERATION OF APPLICATIONS**

### **8 NEW PREMISES LICENCES**

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

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

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

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

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

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

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

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

### **9 VARIATIONS TO LICENCES**

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

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

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

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

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

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

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

## **8 PROVISIONAL STATEMENTS FOR PREMISES**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **16 HEARINGS**

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



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

## **17. LICENCE CONDITIONS**

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **18. PERSONAL LICENCES**

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

## **19. TEMPORARY EVENT NOTICES**

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

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

## 20. OTHER RELEVANT MATTERS

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



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

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

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

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

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

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

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

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

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

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

## **21. INFORMATION**

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

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## APPENDIX A

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

### SOUTH EAST ENGLAND



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

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

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

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

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

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

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

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

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

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## Appendix B

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

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

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

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

**Appendix C  
Responsible Authorities**

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

Kent Area Office  
Orchard House  
Endeavour Park  
London Road  
Addington  
West Malling  
Kent ME19 5SH  
Tel: 08708 506506  
Website: [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)  
Email: [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk)

Kent Area Office  
Orchard House  
Endeavour Park  
London Road  
Addington  
West Malling  
Kent ME19 5SH  
Tel: 08708 506506  
Website: [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)  
Email: [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk)

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## Appendix D

### References to guides of best practice

Revised guidance issued under section 182 of Licensing Act 2003

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

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

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

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

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

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

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

Maidstone Borough Council Event Planning (SAG)

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

The National Alcohol Harm Reduction Strategy Toolkit

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

The Point of Sale Promotions published by BBPA

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

Public Places Charter

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

National Pubwatch

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

## Appendix E

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

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

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

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



## **LIST OF CONSULTEES**

- The chief officer of police for the Licensing Authority's area via email;
- The fire and rescue authority, via email;
- Premises licence holders issued by the authority, via email;
- Club premises certificate holders issued by authority, via email.
- Community Safety Unit
- All Members
- All Parish Councils within the borough
- All neighbouring Licensing Authorities

The draft Policy will be placed in the public consultation section on the Council's website.

Any other person who wishes to be consulted will be provided with a link to the documents or sent hard copies where preferred.

This is not an exhaustive list