

# LICENSING COMMITTEE MEETING

Date: Thursday 14 January 2021  
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, Newton, 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 19 November 2020	1 - 3
9. Minutes of the Licensing Act 2003 Sub-Committee Meeting held on 3 December 2020	4 - 7
10. Questions and answer session for members of the public (if any)	
11. Questions from Members to the Chairman (if any)	
12. Licence Fees and Charges 2021-22	8 - 19
13. Busking Guidelines Consultation Results 2020	20 - 37

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**Issued on Wednesday 6 January 2021**

**Continued Over/:**

*Alison Broom*

**Alison Broom, Chief Executive**

### **INFORMATION FOR THE PUBLIC**

In order to ask a question at this remote 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 12 January 2021). 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 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 12 January 2021). You will need to tell us which agenda item you wish to speak on.

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## MAIDSTONE BOROUGH COUNCIL

### LICENSING COMMITTEE

#### MINUTES OF THE MEETING HELD ON THURSDAY 17 SEPTEMBER 2020

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

38. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Fort.

39. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

40. URGENT ITEMS

There were no urgent items.

41. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members and Officers.

42. VISITING MEMBERS

There was no Visiting Members.

43. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

44. EXEMPT ITEMS

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

45. MINUTES OF THE MEETING HELD ON 18 JUNE 2020

**RESOLVED:** That the Minutes of the meeting held on 18 June 2020 be agreed as a correct record and signed at a later date.

46. QUESTIONS AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC

There were no questions from Members of the Public.

47. QUESTIONS FROM MEMBERS TO THE CHAIRMAN

There were no questions from Members to the Chairman.

48. CODE OF CONDUCT TRAINING REQUIREMENTS

The Democratic and Electoral Services Manager introduced the report and referenced the 'Licensing Committee Roles and Responsibilities' report presented to the Committee in 2016, where it was agreed that refresher training would be provided annually if required. However, the Council's Constitution did require existing Members of the Committee to receive annual refresher training and the proposed new wording within the report would remove this requirement and enabled the previously sought flexibility.

The Democratic and Electoral Services Manager confirmed that the online training recently provided to Members was to ensure compliance to the Constitution prior to a recent Licensing Act 2003 Sub-Committee Hearing. The Committee would be able design and agree a suitable training programme at a later date.

Several Members expressed concern with the online training provided as it was not agreed by the Committee but understood its necessity for Constitutional compliance and to avoid legal challenge.

**RESOLVED:** That the new wording set out in paragraph 4.2 be recommended to Council for the Code of Conduct for Councillors and Officers dealing with Licensing Matters.

49. STREET TRADING POLICY 2020

The Senior Licensing Officer introduced the report on the revised draft Street Trading Policy, which had been updated in recognition of the feedback received from the Committee from the draft's consideration at the 18 June 2020 meeting.

It was confirmed that the 8-week consultation proposed was considered a reasonable time frame and that the application fee reflected the use of officer time in assessing the application. In relation to Community and Charitable Events, the previous wording used had been removed due to legal constraints that prohibited its use, but that the use of multi-user consents and further considerations to waive the fees could be considered.

**RESOLVED:** That

1. The revised Street Trading Policy, attached at Appendix 2 of the report, be agreed for consultation purposes;
2. The draft amended fee structure which introduces a non-refundable consultation application fee, be agreed;

3. Delegated authority be given to the Head of Housing and Community Services to make minor amendment to the policy; and
4. Following the 8-week consultation period, the policy together with a summary of key consultation comments is brought back to the licensing committee for consideration, be agreed.

50. STATEMENT OF LICENSING POLICY 2021-2026

The Senior Licensing Officer introduced the report which contained the proposed Statement of Licensing Policy at Appendix 1 to the report. The Licensing Act 2003 required that a statement be published every five years with the existing policy to expire on 6 January 2021. It was confirmed that deterrence of knife crime measures and the Covid-19 impact and response had been included within the statement.

The Senior Licensing Officer confirmed that the longest consultation period could be 7-weeks, instead of the 6-weeks proposed, due to the internal processes involved in the Statement's approval and implementation for 7 January 2021.

**RESOLVED:** That

1. The Statement of Licensing Policy attached at Appendix 1 to the report be agreed for consultation purposes, subject to the amendment of the following:
  - a. The 'Covid-19 Impact and Response' sub-heading be amended to read 'Highly Contagious Communicable Diseases Impact and Response' and that the second 'Covid-19' within the section be replaced by 'Highly Contagious Communicable Diseases';
  - b. The typographical error within the section on the Deterrence of knife crime measures be corrected; and
2. The 6-week consultation period be agreed.

51. DURATION OF MEETING

6.30 p.m. to 7.40 p.m.

# Agenda Item 9

## MAIDSTONE BOROUGH COUNCIL

### LICENSING ACT 2003 SUB COMMITTEE

#### MINUTES OF THE MEETING HELD ON THURSDAY 3 DECEMBER 2020

**Present:** Councillors Hinder, Naghi (Chairman) and J Sams

44. APOLOGIES FOR ABSENCE

There were no apologies for absence.

45. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

46. ELECTION OF THE CHAIRMAN

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

47. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures.

48. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

49. EXEMPT ITEMS

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

50. STREET TRADING APPEAL

The persons participating in the hearing were identified as follows:

Chairman – Councillor Naghi  
Committee Member – Councillor Hinder  
Committee Member – Councillor J Sams

Legal Advisor – Mr Robin Harris

Online Facilitator/Democratic Services Officer – Miss Oliviya Parfitt

Democratic Services Officer (in attendance for training purposes) – Mrs Lara Banks

Applicant – Mr Adrian Ghinea

Objector – Councillor Dan Daley

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

The Sub-Committee agreed to proceed in the absence of the applicant and confirmed that they had read the papers.

The Chairman explained that:

- The Sub-Committee would allow all parties to put their case fully and make full submissions within a reasonable time frame.
- The procedure would take the form of a discussion led by the Sub-Committee and they would usually permit cross-examination conducted within a reasonable timeframe.
- Any person attending the hearing who behaved in a disruptive manner may be directed to leave the hearing by the Sub-Committee (including temporarily) after which, such person may submit to the Sub-Committee over the Instant messaging facilitating any information which that person would have been entitled to give orally had the person not been required to leave the meeting. If this is not possible, they may be permitted to speak at the Chairman's Invitation.

The Chairman enquired whether any draft conditions had been agreed between the applicant and other parties; no draft conditions had been agreed.

The Senior Licensing Officer introduced the application, which had been refused by officers due to the two objections received from the public consultation period, as per the Council's Street Trading Policy. The public consultation ran between 14 October 2020 to 28 October 2020, with the applicant having exercised their right to appeal through a Sub-Committee meeting. The applicant had referenced the minimum noise generated and licences for similar locations.

The objections concerned the proposed location being a traffic hazard, that would cause obstructions to pedestrians, with specific reference made to disabled and partially sighted members of the public, disturbance and food odours.

The Senior Licensing Officer confirmed that each application should be dealt with singularly by the Sub-Committee Members.

The Objector was invited to make their opening remarks and referenced the location proposed was used as a pedestrian walkway and cycleway with no parking for customers.

A satellite image of the location was shared amongst attendees.

The Objector did not wish to make a closing statement. The Chairman advised that the Sub-Committee would retire for deliberation with the legal advisor present.

The Sub-Committee returned and the Chairman outlined the decision to refuse the application on the grounds that it would cause a nuisance which breached the Council's Street Trading Policy. The full written decision and reasoning would be provided to all parties within 5 working days. There was no ordinary right of appeal to a magistrate's court, however the decision could be judicially reviewed by any party if they wished to do so.

The meeting closed at 11.04 a.m.

**RESOLVED:** That the Sub-Committee's decision and reasons be provided within the Notice of Determination attached as an Appendix to the Minutes.



## Maidstone Borough Council

### Local Government (Miscellaneous Provisions) Act 1982

#### Schedule 3

#### Notice of determination of an appeal to the sub-committee for refusal of a street trading consent

**Applicant:** Mr Adrian Ghinea

**Date of Determination:** 3<sup>rd</sup> December 2020

I hereby give you notice that Maidstone Borough Council has decided to REFUSE your application for a street trading consent to trade at the corner of London Road and Hildenborough Crescent, Allington.

The sub-committee noted that the applicant did not attend the hearing but agreed that there was sufficient evidence to proceed in their absence.

The sub-committee had regard to all the evidence presented prior to the hearing and in the absence of the applicant had particular regard to the responses they had provided to the objections in advance of the hearing. The Sub-committee also had regard to the representations made during the hearing.

Having considered all of the available evidence the sub-committee was not satisfied that the proposed location was capable of meeting the requirements of the Council's street trading policy with regard to obstruction and nuisance.

The sub-committee considered that the specific nuisance was that caused to motorists seeking to exit Hildenborough Crescent, who would have their view of the London Road impeded by the vehicle on the pavement and the customers queueing, particularly whilst practising social distancing. This would cause safety issues for other road users and was therefore not acceptable.

The sub-committee were clear that they were, in principle, in favour of applications of this nature, but the proposed location was not acceptable, due to the impact on other road users.

**Signed:**

**Date of Notice:** 08th December 2020

Councillor David Naghi  
Chairman of the Licensing Sub-Committee

# Agenda Item 12

**Licensing Committee**

**14 January 2021**

## **Licence Fees and Charges 2021/2022**

<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, Senior Licensing Officer
<b>Classification</b>	Public
<b>Wards affected</b>	All

### **Executive Summary**

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

### **Purpose of Report**

To seek Member approval of the licence fees and charges for the financial year 2021/22 where the Council has discretion over the level of fee as set out at **2.8, 2.9, 2.11, 2.13, 2.15, 2.17, and 2.18** of the report for implementation on 1 April 2021

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

1. That the Licensing Committee approve fee levels as set out at **2.8, 2.9, 2.11, 2.13, 2.15, 2.17, and 2.18** of the report for implementation on 1 April 2021 subject to the consideration of any representations following consultation

### **Timetable**

<b>Meeting</b>	<b>Date</b>
Licensing Committee	18 March 2021

# Licence Fees and Charges 2021/2022

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

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

	fees to contribute towards the recovery of costs of the service	
<b>Crime and Disorder</b>	No implications have been identified, this report is limited to reviewing and setting of fees to contribute towards the recovery of costs of the service	Lorraine Neale, Senior Licensing Officer
<b>Procurement</b>	No implications have been identified, this report is limited to reviewing and setting of fees to contribute towards the recovery of costs of the service	Lorraine Neale, Senior Licensing Officer

## 2. INTRODUCTION AND BACKGROUND

- 2.1 The Council's fees and charges are reviewed on an annual basis as part of the budget setting process. The individual licence, consents and permits fees are calculated to recover the cost of issuing the licence, consent or permit and ensuring compliance with the requirements of the relevant legislation. There are other Licences issued by the Licensing Department where the fees are set by statute and are fixed or are within parameters and these cannot be changed, these are Licensing Act 2003 fees and some Gambling fees such as Lotteries and permits.
- 2.2 The fees that the Council can set were subject to a robust review in 2016 where each licence type was examined and calculated by examining the time it takes to carry out the various tasks in processing each type of application and who in the authority was likely to carry each action out. The hourly rates of staff were fed into a spreadsheet (originally produced by LACORS) to calculate costs for each type of activity.
- 2.3 There has been no significant change in the time taken or the various tasks required to produce each licence, consent or permit since 2016. Previous years demonstrate that the service recovers its costs and does not make a profit, therefore a 2% inflationary increase has been applied to all fees (in line with this Council's Medium Term Financial Strategy 2020/21 – 2025/26 which allows consideration of overall inflation assumptions (the RPI for 2021 is higher at 2.6%).
- 2.4 Members are asked to consider the proposals for increases to the fees and charges for which this Committee is responsible for reviewing at a local level.

### Proposed Fees

#### Taxis and Private Hire Fees and Charges

- 2.5 There have been changes made since the fees for Hackney Carriage Driver and Vehicle were last set. To comply with the new national standards the authority is required to introduce a further mechanism to evaluate drivers understanding of:

- Child Sexual Exploitation/Safeguarding.

- Disability Awareness; and
- Gangs & County Lines

This will be delivered via an online test undertaken at the Council offices utilising an external software product, therefore all new applicants and future renewal drivers will be required to undertake this for a one-off fee (this fee entitles the applicant to have up to 10 attempts at no additional cost). Once an applicant or driver renewal has passed the test there will be no requirement to re-take this at their next renewal date.

2.6 It will be a requirement that once a driver has received their initial DBS disclosure certificate, they will be required to sign up to the DBS online checking service as this will enable us to undertake the periodic checks required in accordance with the new National Standards for the Taxi and Private Hire vehicle sector across England and Wales.

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

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

2.8 Proposed Hackney Carriage and Private Hire Licensing fees from 1 April 2021 are:

	Current Fees	Proposed Fees
Knowledge test	£33.50 per test	£34 per test
EQUO online test	—	£66
<b>Hackney Carriage Driver and Dual (Hackney &amp; Private Hire) Driver Licence</b>		
<u>On initial application</u>	£ 325 for three years (this includes £23.00 towards the Demand Survey & £8.00 for maintenance of TV monitor)  £136 for one year	£ 331.50 for three years (this includes £23.50 towards the Demand Survey & £8.00 for maintenance of TV monitor)  £138.50 for one year
Disclosure Barring Service search fee	*£40 every one or three years depending on licence (or £13 per year if they sign up to the online service)	*£40 every one or three years depending on licence (or £13 per year if they sign up to the online service)
<b>Total (including DBS fee)</b>	<b>£365 for three years</b> <b>£176 for one year</b>	<b>£371.50 for three years</b> <b>£178.50 for one year</b>
<u>On renewal</u>	£317 for three years	£323.for three years

	Current Fees	Proposed Fees
	(this includes £23.00 towards the Demand Survey & £8.00 for maintenance of TV monitor)  £118 for one year (due to age or medical)	(this includes £23.50 towards the Demand Survey & £8.00 for maintenance of TV monitor)  £120 for one year (due to age or medical)
Disclosure Barring Service search fee	*£40 every one or three years depending on licence (or £13 per year if they sign up to the online service)	*£40 every one or three years depending on licence (or £13 per year if they sign up to the online service)
<b>Total (including DBS fee)</b>	<b>£357 for three years</b> <b>£158 for one year</b>	<b>£363 for three years</b> <b>£160 for one year</b>
<b>Private Hire Driver Licence</b>		
On initial application	£248 for three years £149 for one year	£253 for three years £152 for one year
Disclosure Barring Service search fee	*£40 every one or three years depending on licence (or £13 per year if they sign up to the online service)	*£40 every one or three years depending on licence (or £13 per year if they sign up to the online service)
<b>Total (including DBS fee)</b>	<b>£288 for three years</b> <b>£189 for one year</b>	<b>£293 for three years</b> <b>£192 for one year</b>
On renewal	£243 for three years £131 for one year (due to age or medical)	£248 for three years £133.50 for one year (due to age or medical)
Disclosure Barring Service search fee	*£40 every one or three years depending on licence (or £13 per year if they sign up to the online service)	*£40 every one or three years depending on licence (or £13 per year if they sign up to the online service)
<b>Total (including DBS fee)</b>	<b>£283 for three years</b> <b>£171 for one year</b>	<b>£288 for three years</b> <b>£173.50 for one year</b>
<b>Hackney Carriage Vehicle Licence</b>		
New & Renewal	<b>£301 for one year</b>  (this includes £23.00 towards the Demand Survey & £8.00 for maintenance of TV monitor)  (Vehicle testing fees have been removed from MBC fees and are now paid directly to the Garage))	<b>£307 for one year</b>  (this includes £23.50 towards the Demand Survey & £8.00 for maintenance of TV monitor)
<b>Private Hire Vehicle Licence</b>		

	Current Fees	Proposed Fees
New & Renewal	<b>£277 for one year</b> (Vehicle testing fees have been removed from MBC fees and are now paid directly to the Garage)	<b>£282.50 for one year</b>
<b>Private Hire Operator Licence</b>		
<b>5 year licence – Initial application</b>	£506 for five years	£516 for five years
<b>5 year licence - Renewal</b>	£423 for five years	£431 for five years
<b>3 year licence – Initial application</b>	£354 for three years	£361 for three years
<b>3 year licence - Renewal</b>	£287 for three years	£292.50 for three years
<b>1 year licence – Initial application</b>	£204 for one year	£208 for one year
<b>1 year licence - Renewal</b>	£135 for one year	£137.50 for one year
<b>Other Costs</b>		
Change of ownership of licensed vehicle	£73	£74
Replace external vehicle plate	£24	£24.50
Replace driver badge	£11	£11
Replace internal plate holder	£1.75	£1.75
Copy of existing paper licence	£12	£12
Change of address details for a replacement licence	£12	£12
Change of name for a vehicle or operator licence	£12	£12
Change of name and address for a driver badge	£22	£22.50

	Current Fees	Proposed Fees
Vehicle exemption certificate or general administration fee which will include any additional DBS checks required for drivers not signed up to the DBS online checking service.	£47	£48
Vehicle re-test	N/A testing fees are now paid directly to the Garage	N/A

### Gambling Act 2005

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

Premises Type	New Application			Annual Fee		
	£			£		
Existing Casinos	n/a			n/a		
New Small Casino	<b>8000</b>	<i>(8,000)</i>	<b>8000</b>	<b>4759</b>	<i>(5000)</i>	<b>4666</b>
New Large Casino	<b>9857</b>	<i>(10,000)</i>	<b>9664</b>	<b>7694</b>	<i>(10000)</i>	<b>7543</b>
Bingo Club	<b>3042</b>	<i>(3500)</i>	<b>2983</b>	<b>863</b>	<i>(1000)</i>	<b>846</b>
Betting Premises (excluding Tracks)	<b>3000</b>	<i>(3000)</i>	<b>3000</b>	<b>600</b>	<i>(600)</i>	<b>600</b>
Tracks	<b>1865</b>	<i>(2500)</i>	<b>1829</b>	<b>863</b>	<i>(1000)</i>	<b>846</b>
Family Entertainment Centres	<b>1865</b>	<i>(2000)</i>	<b>1829</b>	<b>697</b>	<i>(750)</i>	<b>683</b>
Adult Gaming Centre	<b>1865</b>	<i>(2000)</i>	<b>1829</b>	<b>750</b>	<i>(750)</i>	<b>750</b>
Temporary Use Notice	<b>245</b>	<i>(500)</i>	<b>240</b>	<b>N/A</b>		

	Application to Vary	Application to Transfer	Application for Re-Instatement	Application for Provisional Statement	Licence Application (provisional Statement holders)	Copy Licence	Notification of Change
	£	£	£	£	£	£	£
Existing Casinos	n/a	n/a	n/a	n/a	n/a	n/a	n/a
New Small Casino	<b>4000</b> <i>(4000)</i>	<b>1797</b> <i>(1800)</i>	<b>1797</b> <i>(1800)</i>	<b>8000</b> <i>(8000)</i>	<b>3000</b> <i>(3000)</i>	<b>13</b> <i>(25)</i>	<b>30</b> <i>(50)</i>

	4000	1761	1761	8000	2967	13	29
<b>New Large Casino</b>	<b>4677</b> (5000) 4585	<b>2150</b> (2150) 2150	<b>2150</b> (2150) 2150	<b>9842</b> (10000) 9649	<b>4499</b> (5000) 4411	<b>13</b> (25) 13	<b>30</b> (50) 29
<b>Bingo Club</b>	<b>1750</b> (1750) 1750	<b>1200</b> (1200) 1200	<b>442</b> (1200) 433	<b>2427</b> (3500) 2379	<b>1200</b> (1200) 1200	<b>13</b> (25) 13	<b>30</b> (50) 29
<b>Betting Premises (excluding tracks)</b>	<b>1500</b> (1500) 1500	<b>1200</b> (1200) 1200	<b>421</b> (1200) 413	<b>1897</b> (3000) 1860	<b>1200</b> (1200) 1200	<b>13</b> (25) 13	<b>30</b> (50) 29
<b>Tracks</b>	<b>1250</b> (1250) 1250	<b>950</b> (950) 950	<b>421</b> (950) 413	<b>2075</b> (2500) 2034	<b>950</b> (950) 950	<b>13</b> (25) 13	<b>30</b> (50) 29
<b>Family Entertainment Centres</b>	<b>1000</b> (1000) 1000	<b>950</b> (950) 950	<b>426</b> (950) 418	<b>1892</b> (2000) 1855	<b>950</b> (950) 950	<b>13</b> (25) 13	<b>30</b> (50) 29
<b>Adult Gaming Centre</b>	<b>1000</b> (1000) 1000	<b>1200</b> (1200) 1200	<b>426</b> (950) 418	<b>1892</b> (2000) 1855	<b>1200</b> (1200) 1200	<b>13</b> (25) 13	<b>30</b> (50) 29
<b>Temporary Use Notice</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>	<b>13</b> (25) 13	<b>30</b> (50) 29

### Scrap Metal Dealers Act 2013

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

#### 2.11

	Current Fee	Proposed Fee
<b>Maidstone Borough Council</b>		
Site licence – grant	£481	£491
Site licence – renewal	£408	£416
Collector’s licence – grant or renewal	£293	£299
Minor administrative change to licence	£32	£32.50

Variation - change of site manager	£172	£175
Variation from collector to site licence	£209	213
Variation from site to collector licence	£136	£139

### **Sexual Entertainment Venue fees**

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

2.13

	Current Fee	Proposed Fee
<b>Maidstone Borough Council</b>		
New Licence Application	£4475	£4564.50
Renewal Licence Application	£4475	£4564.50
Transfer of Licence	£2185	£2229

### **Boats and Boatmen**

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

2.15

	Current Fee	Proposed Fee
<b>Maidstone Borough Council</b>		
Pleasure Boats	£132	£134.50

(New & Renewal)		
Row Boats (New & Renewal)	£27	£27.50
Boatmen (New & Renewal)	£16	£16

### **Street Trading**

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

2.17

	Current Fee	Proposed Fee
<b>Maidstone Borough Council</b>		
Up to 12 trading days New only	£32	£32.50
Up to 30 trading days (New & Renewal)	£68	£69
Up to 90 trading Days (New & Renewal)	£189	£193
Full year consent	£403	£411

### **2.18 Licensing Act 2003 & Gambling Act 2005**

#### **PRE-APPLICATION ADVICE**

This initiative was introduced this year and to date there has been limited take up, it is anticipated that it will become better utilised as we move forward into 2021

	Current 2019/2020	Proposed 2021/2022
<b>Small Application-</b> Up to one hour of advice regarding small licence applications, <b>Excludes events – see below</b>	£66	£67
<b>Medium Application-</b> Up to 2 hours advice for medium size applications including a site visit <b>Excludes event – see below</b>	£138	£141
<b>Large Application-</b> Up to 4 hours advice for large applications including multiple (if necessary) site visits <b>Excludes events – see below</b>	£258	£263

<b>Events up to 1000 capacity:</b> Category A - up to 3 hours advice for extra-large public events includes the cost of specialist officers and site visits	£354	£361
<b>Events between 1001 and up to 1999 capacity -</b> Category B – up to 7 hours advice for extra-large public events includes the cost of specialist officers and site visits	£498	£508
<b>Events between 2000 and up to 4999 capacity –</b> Category C – up to up to 14 hours advice for extra-large public events includes the cost of specialist officers and site visits	£690	£704
<b>Extra-large events - 5000 people or more -</b> Category D - up to 21 hours advice for extra-large public events includes the cost of specialist officers and site visits	£1026	£1047

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### 3. AVAILABLE OPTIONS

- 3.1 Members may decide to leave the fee levels as they are and not apply an inflationary increase to cover the full cost of delivering the licensing function. This would mean there would be a shortfall in income against the budget set for the function. Authorities cannot make a profit from the system and must ring-fence income from licensing fees so that any surplus or deficit is carried forward to the next year's budget, any surplus in one area cannot be used to subsidise a shortfall in another.
- 3.2 Members may approve the inflationary increase fees as set at **2.8, 2.9, 2.11, 2.13, 2.15, 2.17, and 2.18**
- 3.3 Members may require a fee higher than the cost of delivering the service. However, the fee is statutorily required to be reasonable and case law indicates that compliance with the EU Services Directive and Regulations requires that only the cost of administering the application and monitoring compliance be included in the fee. If the Council were to exceed this without justification it may be subject to challenge.

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### 4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Members are requested to approve the proposed inflationary fee increases as set out at **2.8, 2.9, 2.11, 2.13, 2.15, 2.17, and 2.18** of the report to ensure that the fee income reflects the cost of providing the service.

## **5. RISK**

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

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

- 6.1 The fees set out at 2.8 are subject to consultation and any responses from consultation will be brought to a future Licensing Committee for consideration before adopting these fees.
  - 6.2 The fees set out at **2.8, 2.11, 2.13, 2.15, 2.17, and 2.18** are not subject to consultation
- 

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

- 7.1 The fees will be charged with respect to new, existing and renewal applications from 1 April 2021 and published on our website.
- 

## **8. REPORT APPENDICES**

N/A

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## **9. BACKGROUND PAPERS**

N/A

# Agenda Item 13

**Licensing Committee**

**14 January 2021**

## **Busking Guidelines Consultation Results 2020**

<b>Final Decision-Maker</b>	Council
<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**

This report provides a summary of the Council's recent consultation on the draft Busking Guidelines and asks the Committee to recommend the draft document for adoption by CHE Committee.

### **Purpose of Report**

This report summarises the results of the Council's recent consultation on the draft Busking Guidelines and outlines the next steps to take. The full consultation report is attached as Appendix 1.

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

1. To consider the options given at 3.1 and 3.2 and advise accordingly

### **Timetable**

<b>Meeting</b>	<b>Date</b>
Licensing Committee	14 January 2021
Communities, Housing and Environment Committee	2 February 2021

# Busking Guidelines Consultation Results 2020

## 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>	Senior Licensing Officer
<b>Cross Cutting Objectives</b>	<ul style="list-style-type: none"> <li><i>No implications have been identified</i></li> </ul>	Senior Licensing Officer
<b>Risk Management</b>	<ul style="list-style-type: none"> <li><i>Street entertainers and buskers must take full responsibility for their performance taking reasonable steps to ensure that the performance does not put the public at risk of injury, that the law is observed at all times. It is recommended that all entertainers carry suitable Public Liability insurance.</i></li> </ul>	Senior Licensing Officer
<b>Financial</b>	<ul style="list-style-type: none"> <li><i>Staff resource may be required for enforcement purposes in exceptional circumstances. There may be financial costs involved where legal action may be required.</i></li> </ul>	Senior Licensing Officer
<b>Staffing</b>	<ul style="list-style-type: none"> <li><i>There are no licensing implications but this could be subject to review following a trial period</i></li> </ul>	Senior Licensing Officer
<b>Legal</b>	<ul style="list-style-type: none"> <li><i>Busking does not generally require a licence under the Licensing Act 2003. Use of legislation under: The Environmental Protection Act 1990, The Highways Act, 1980, The Public Order Act 1986, The Noise and Statutory Nuisance Act 1993, The Anti-Social Behaviour, Crime and Policing Act 2014, Control of pollution Act 1974, Children under the age of 14 are not allowed to busk by law.</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>Common-sense, care and judgement will be critical in deciding on performance space. Performance should not cause any distress, offence or similar. The Voluntary Guidelines seeks to promote positive community engagement.</i></li> </ul>	Senior Licensing Officer
<b>Public Health</b>	<ul style="list-style-type: none"> <li>• <i>No implications have been identified</i></li> </ul>	Senior Licensing Officer
<b>Crime and Disorder</b>	<ul style="list-style-type: none"> <li>• <i>There are public spaces where people live and work and as such there is a greater potential for performances to cause unintentional disturbance. The Police also have powers where they consider a public nuisance, obstruction or anti-social behaviour is being caused and may also take action, on receiving a complaint. To minimise the potential impact entertainers and buskers are advised to follow the Voluntary Guidelines</i></li> </ul>	Senior Licensing Officer
<b>Procurement</b>	<ul style="list-style-type: none"> <li>• <i>No implications have been identified.</i></li> </ul>	Senior Licensing Officer

## 2. INTRODUCTION AND BACKGROUND

2.1 The Council recognises the contribution that busking and street entertainment brings to the vibrancy and character of our town but there must be a balance with the needs and rights of local residents and workers so they are not adversely impacted by it, especially for those near to popular busking locations.

2.2 On 18th June 2020, this Committee heard the Council's proposal to adopt new Busking Guidelines which are intended to encourage good community practice in shared spaces for performers, business and residents alike. Committee agreed that the document be consulted on and the consultation period ran from 9 September to the 1 November 2020.

### **Busking Guidelines Consultation**

2.3 The consultation was launched on the Council website and promoted through social media by the Policy, Communications and Governance Team. Alternate arrangements were made for those unable to access online services.

2.4 The consultation sought feedback on the whether they were in favour of the introduction of Busking Guidelines, out of a total 93 responses, 79 (84.9%) answered yes.

2.5 They were also asked if the proposed Guidelines were proportionate, again out of 93 responses, 67 (72.0%) answered yes.

2.6 The detailed consultation report can be found at Appendix 1, a small percentage of the respondents made comments where they felt the Guidelines did not adequately address some areas and may require further consideration:-

1. **Set performance spaces and set the distances between them.**

Do not currently specify pitches/areas for performances to take place in, we could consider having specific performance areas with set distances between them. (2 set performance spaces, 3 set distances)

2. **Limit the length of a performance.**

Do not specify time durations for performances but does imply that 2 hours should be a maximum and that a break should be taken after 45 minutes, we could consider setting the performance times for entertainers. (2)

3. **Deal with amplification issues**

There are no fixed levels for volume and it is expected most street entertainers would use battery powered portable amps, we have dealt with noise levels in the Guidelines by including "If your volume is loud enough to be heard inside buildings in the surrounding area or from the opposite side of a street, it is likely this is too loud and would be considered unreasonable" However, we could consider banning any amplification or specifying the acceptable decibel levels in the Guidelines. (6 in total, 2 problem, 1 ban, 3 clarify)

4. **Concern that the principles outlined in the Guidelines are too vague and could not be enforced against.**

The Busking Guidelines are a set of rules which are purely voluntary and gives a picture of how the Council expects all parties to behave, currently as they are written it expects all buskers to comply with our requested recommendations. In any first instance where a busker does not, we expect the business or member of the public to remind the busker of the guidelines. If it becomes clear that a busker shows regular non-compliance then they will be dealt with by the relevant Council department dependant on the offence deemed committed.

District Councils do not benefit from the provisions found in the London Local Authorities Act (LLAA) 2000, which enables London Councils to adopt enforceable policy around busking. For Maidstone to have similar powers would require a bye-law, which is time-consuming and expensive to achieve. In view of the relatively low number of complaints about busking, this would not be a proportionate course of action to pursue.

Given the lack of enforcement powers the Licensing Department have over street entertainers the Guidelines stipulate what actions can be taken by other departments/parties. (4)

## **Next Steps**

- 2.7 The Council does not take the introduction of regulating busking and street entertainment lightly, but considers it necessary due to complaints received about some buskers and the detrimental impact it can have on the daily lives of our residents and workers. Our current lack of licensing enforcement powers over buskers and not having a dedicated resource to respond to any impact effectively needs to be considered if we make the Guidelines too prescriptive.
- 2.8 Currently there is nothing in place to regulate street entertainment in Maidstone and the Guidelines are considered the starting point and will be kept under review. Overall the majority of the respondents agreed with the Guidelines and only a small number made comments or suggestions.
- 

## **3. AVAILABLE OPTIONS**

- 3.1 To recommend that CHE Committee agrees the proposed draft voluntary Busking Guidelines as attached at Appendix 2.
- 3.2 To further investigate the matters raised from the consultation and decide whether to incorporate all or some into the Guidelines. The amended document will be subject to a further consultation.
- 

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

- 4.1 To recommend that CHE Committee agrees to the proposed draft voluntary Busking Guidelines, although we have received complaints about street entertaining in Maidstone it tends to be in relation to specific individuals rather than busking as a whole. As we have not managed busking or street entertainers before in Maidstone it's felt that this voluntary document be implemented as the starting point which will be kept under review and replaced with a more prescriptive version if future circumstance determine it should be.
- 

## **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 Guidelines.
- 

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

- 6.1 Consultation results are addressed in this document and attached as Appendix 1

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

- 7.1 Officers will update the Council Webpages to include the minutes of the meeting.
- 

**8. REPORT APPENDICES**

1. Consultation response summary
  2. Draft Busking Guidelines
- 

**9. BACKGROUND PAPERS**

N/A

## Busking Guidelines Consultation

### Methodology

The consultation on the draft busking guidelines was open from 9 September until 1 November. It was promoted online through the Council’s website and social media channels. Residents who have signed up for consultation reminders were also notified about the consultation. In addition, residents in receipt of Council Tax Support were emailed and notified of the consultation (as part of a reminder about Council Tax Support Consultation taking place within the same time period).

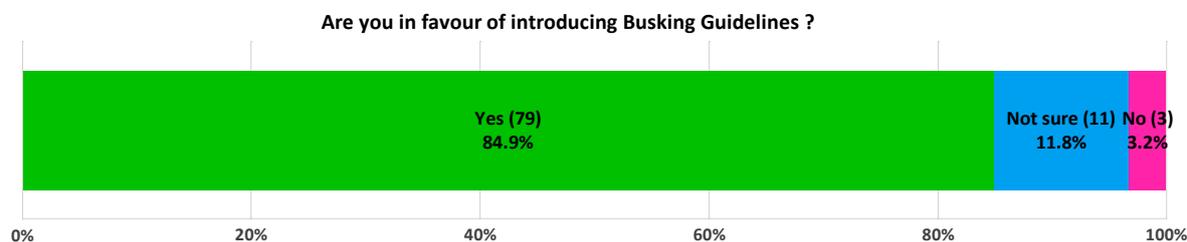
Participants in the consultation were invited to view the draft guidelines for busking in Maidstone and asked for feedback on them. An online survey is a self-selection methodology, with residents free to choose whether to participate or not. Due to the sample size results have not been weighted.

There was a total of 93 responses. Based on Maidstone’s population, aged 18 years and over, overall results are accurate to approximately  $\pm 8.5\%$  at the 90% confidence level. This means that if the same survey was repeated 100 times, 90 times out of 100 the results would be between  $\pm 8.5\%$  of the calculated response. Therefore the ‘true’ response could be 8.5% above or below the figures reported (i.e. a 50% agreement rate could in reality lie within the range of 41.5% to 58.5%).

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### Introduction of Busking Guidelines

Survey respondents were asked if they were in favour of introducing guidelines for Busking in Maidstone. A total of 93 respondents answered this question.



The most common response was ‘Yes’ with 79 respondents answering this way.

Just over one in ten respondents said they were not sure about introducing guidelines for busking.

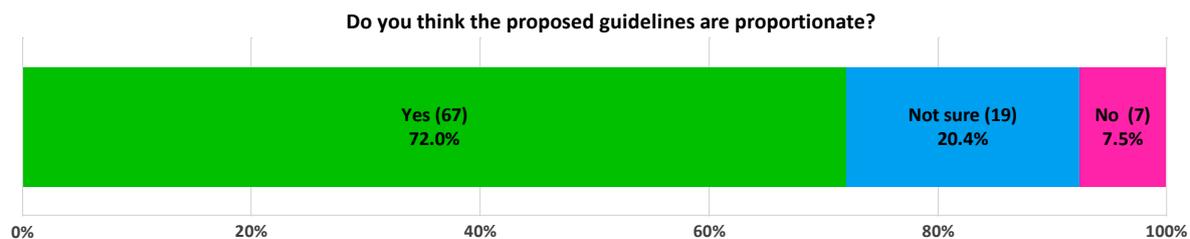
Economically active respondents were significantly more likely to agree with the introduction of Busking guidelines. 97.5% ( $\pm 4.8\%$ ) responding ‘Yes’ to this question compared to 76.6% ( $\pm 12.1\%$ ) of economically inactive respondents answering the same.

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### Proposed Guidelines

Survey respondents were next asked if they thought the guidelines being proposed were proportionate. A total of 93 respondents answered this question.

## Busking Guidelines Consultation



The most common response was 'Yes' with 67 answering this way.

One in five respondents said there were not sure the proposed guidelines were proportionate.

Female respondents were significantly more likely to respond 'Not sure' with 32.6% ( $\pm 14.0\%$ ) answering this way compared to 8.9% ( $\pm 8.3\%$ ) of male respondents.

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### Comments

Survey respondents were asked if they felt anything was missing from the guidelines and were provided with a free text box to write in their response.

A total of 32 comments were submitted. In addition, direct comments were emailed to the consultation by a local street entertainer.

Ten of these simply said 'No', confirming that they didn't believe that there was anything missing from the guidelines.

Eight comments contained a suggestion. There were two suggestions for set performance spaces, three about buskers competing with each other, with the suggestion that having set distances between performers would help avoid overlapping sound. Two specified limiting the length of performances to 30 minutes. The last comment in this section was a specific addition/amendment to the wording of the introduction (addition in italics) to:

"The Live Music Act 2012 took effect from 1 October 2012 with further amendment on 6 April 2015 and allows for certain types of entertainment. *The changes introduced through the Act were designed to increase the provision of live music without negatively impacting on the 2003 Act's licensing objectives*"

Six respondents commented on amplified music. Two said that it was a problem. One stated that there should be an outright ban on amplified music, Three respondents requested further clarity, expressing that the elements relating to amplification in the guidance was ambiguous, with one stating that it needed to be more specific about volume levels and suggesting that a limit be given in decibels.

Four responders made comments that suggested that they felt the guidelines were too lenient. Two said there was little point in introducing guidelines if they weren't going to be enforced, and another said it was not realistic to expect buskers to follow the guidelines.

Three respondents were positive about busking in generally with one saying they love to hear the music when they go shopping and another stating, they wouldn't want the guidelines to be so restrictive that they prevent busking. One respondent was generally negative, stating that all forms of busking should be prohibited.

## Busking Guidelines Consultation

Two respondents made comments that have been classified as 'other' as they do not fit with any of the groupings outlined above. One of these stated that performances should not include 'adult themes' or swearing, the other said buskers should not have animals with them when performing.

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### **Other comments**

Survey respondents were given the opportunity to make comments in relation to the guidelines and busking in Maidstone in general. A total of 27 comments were received.

There were five comments that expressed support for having guidelines or were positive about the proposed guidelines, with two respondents stating that the guidelines seemed fair and the remaining three stating that the introduction of guidelines for busking was a good idea.

Five respondents made positive comments about busking generally, stating that they enjoyed music in the town centre and that they add to the atmosphere of the town.

Five comments contained a suggestion:

- Using Benchley Gardens as a performance space (Bandstand)
- Creating set performance spaces in the town centre that are bookable
- Introducing a licensing scheme
- Restricting the numbers of buskers
- Formal programme of street entertainment with different types of entertainment

Three respondents made negative comments about busking in general with these respondents stating that buskers should not be allowed and that they were a nuisance.

Three comments mentioned amplified music, with two respondents stating that it should not be allowed and one stating the guidelines were confusing in this respect, in particular the reference to 'unobtrusive level' regarding pre-recorded backing tracks.

Three respondents made comments about enforcement, stating that adherence to the guidelines should be monitored, and that action should be taken against breaches to the guidelines.

There were two comments that expressed doubt about the guidelines with one stating that they seemed vague and the other that they were 'too reasonable', the implication being that the guidelines should be stricter.

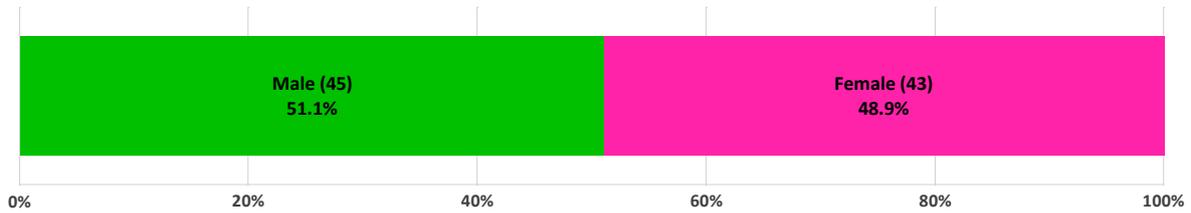
Two comments were categorised as 'other', one referring the busking while Covid-19 restrictions are in place stating that performers can hinder social distancing and the other expressed concern about access, stating that the pavements should be accessible, particularly for people with mobility issues or disabilities.

## Busking Guidelines Consultation

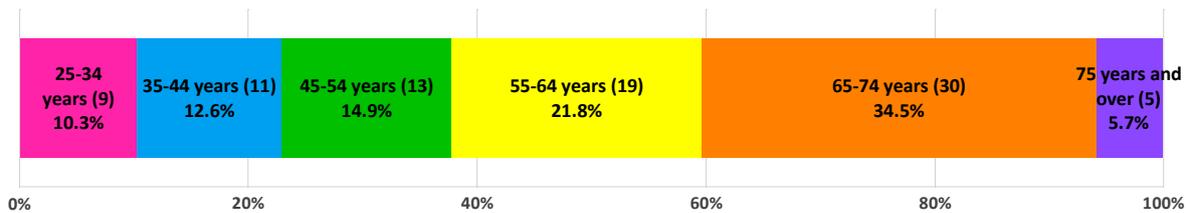
### Demographics

The charts below show the proportions of responders across demographic groups.

#### Gender

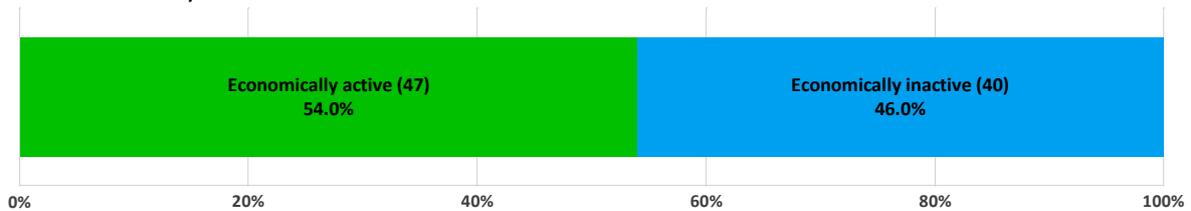


#### Age



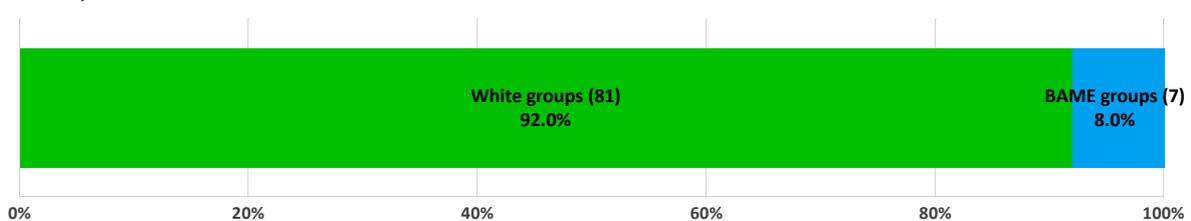
- There were no respondents to the survey that were under 25 years.

#### Economic Activity



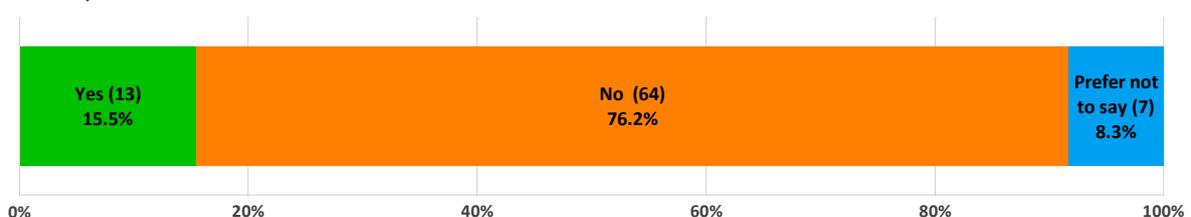
- Economically inactive respondents are over-represented compared to the population of Maidstone overall.

#### Ethnicity



- 5.9%<sup>1</sup> of Maidstone's population are from a BME background.

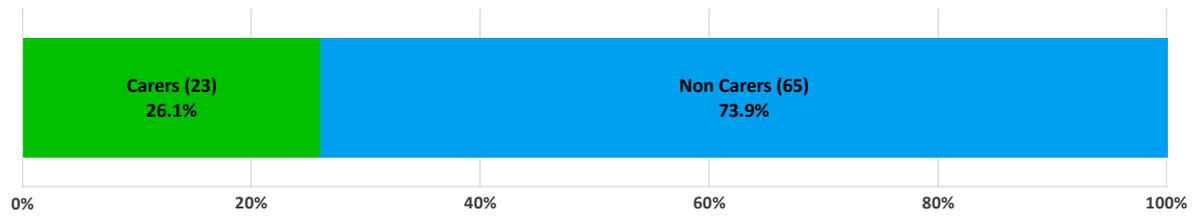
#### Disability



<sup>1</sup> 2011 Census

## Busking Guidelines Consultation

### Carers



- Carers are over-represented compared to the population of Maidstone where 10.2%<sup>2</sup> of the population are providing unpaid care.

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<sup>2</sup> 2011 Census



# **BUSKING GUIDELINES**

**[www.maidstone.gov.uk](http://www.maidstone.gov.uk)**

## **Busking**

We categorise 'busking' as any performance of music, dance, street theatre or art in a public space for the purpose of receiving voluntary contributions from members of the public. Busking is an important part of creating a vibrant, exciting, and cosmopolitan atmosphere for residents, visitors, and businesses in Maidstone. As a town we encourage busking and we want to welcome buskers from across the country and beyond. However the council are receiving an increasing number of complaints, often regarding amplified busking, repetitive busking and/or obstructions to highways/access points. This guidance is intended for use by buskers, residents, businesses, the police and the local authority alike. It sets out some key recommendations to promote positive and neighbourly relations between users of shared public spaces in the Town, and will enable the busking community to flourish and exist harmoniously alongside local businesses

These busking guidelines are to be used as a reminder of what the council considers reasonable and neighbourly behaviour. Any behaviour which is deemed to be unreasonable will be investigated and may result in enforcement action.

This best practice guide has been produced collaboratively through engagement and support from a wide range of organisations such as the Musicians' Union, Keep Streets Live Campaign, the Business Improvement District (BID), Kent County Council, Kent County Constabulary, local businesses, residents and Councillors.

### **For Buskers**

No busking pitches are fixed in Maidstone Town Centre and we expect all buskers to take care in their judgement when selecting a pitch from which to perform taking factors such as time of day, the season and the impact of others in the area. Buskers must also work closely with the busking community regarding the swapping/sharing of any pitches as key. The aim is to support a culture of community, consideration and negotiation and encourage constructive dialogue to resolve issues.

There are a range of existing statutory powers relating to noise nuisance, public order and obstruction which is hoped will only be used as a last resort where there are persistent issues. Most issues we hope can be resolved amicably without the need for a formal complaint

There are no fixed times or durations for busking performances. However, please note if amplification is used which requires generators or PA systems then a Temporary Event Notice (TEN) must be applied for and in place at the time of the performance. In the majority of cases it is expected that a small battery powered portable amp will be used as amplification. Material should not be

repeated in the same pitch, and any more than 2 hours in one pitch would be considered unreasonable.

There are no fixed levels for volume, and we would ask all buskers to assess the pitch location and adjust volume accordingly so that it is just

above the level of ambient street noise. If your volume is loud enough to be heard inside buildings in the surrounding area or from the opposite side of a street, it is likely this is too loud and would be considered unreasonable. Wind and percussion instruments will likely need dampers and brushes. Using amplified, (with a TEN in place) piercing or repetitive noise will require buskers to move pitches more regularly to prevent disturbance.

Making a reasonable judgement is key to busking in Maidstone town centre. If your act disturbs the regular day to day lives of any neighbouring resident/visitor or business, it is likely a complaint will be received. If you receive a warning due to complaints being received about your act and fail to respond appropriately (e.g. reduce volume), it is likely enforcement action will be taken.

Most complaints about busking apply to a small number of performers and usually relates to noise levels. Buskers are encouraged to make themselves known to those in the vicinity of their performance as a matter of courtesy before they start their performance.

All buskers must be courteous to those around them and must be prepared to adjust out of consideration to others when necessary. Making the appropriate adjustments following a complaint means enforcement would not be necessary.

Acts that include prerecorded backing tracks as a secondary aspect to a performance should be set at an unobtrusive level to avoid causing issues and should not be left running when the performer is not performing.

Regular breaks between performances are encouraged as continuous noise however pleasant can be regarded as intrusive.

As a guide a maximum 45 minutes of performance is appropriate before having a significant break and should not include repeat performances. If you have a limited repertoire of material, then consider moving location instead of repeating your material in the same places.

Buskers should never set up on top of each other and we foster cooperation with each other through negotiation and collaboration encouraging the sharing and swapping of pitches as this build's community, avoids repetition and adds variety to street performances

Enquiries for busking are predominantly for the Town Centre and specifically the following areas: -

### **Week Street**

The area is a key thoroughfare and the most popular area with buskers. It has retail outlets and food establishments along its entire length. Performances must be positioned to one side to allow free access to the public along its length.

### **Jubilee Square**

Jubilee Square is a popular location for street entertainers and circle shows. This area is managed by Maidstone Borough Council and permission is required by any performer that wishes to locate themselves here. It is key to work in conjunction with other buskers to ensure there are regular breaks between performances to allow for access to nearby buildings/businesses.

### **Fremlin Walk & The Mall (previously Chequers)**

These areas are private, and permission would be required from the landowner to busk here. Any performance terms would be imposed by the relevant management companies.

### **Brenchley Gardens**

This area is surrounded by businesses, residences and places of worship and therefore has greater potential for busking disturbances.

### **Gabriels Hill**

This is an area of mainly retail outlets. Performances must be positioned to one side to allow free access to the public along its length.

## **OTHER MATTERS**

Busking does not involve a formal sales transaction, but donations are given to buskers by members of the public on a voluntary basis.

The formal sale of goods and services on the street is covered by Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and if you intend to sell items such as CD's at a fixed price then you will need to apply for Street trading consent

Where the provision of goods or services are clearly a secondary aspect of any busking act i.e. art/portraiture, photographs taken with performers, balloon sculptures CD's containing a performers music then it must be made clear to the

public that they are offered on a voluntary basis. This means the public can engage with any act/performance without any obligation to donate and under this guidance can take an item or request a service without contribution. It is suggested that this be made clear with an appropriate sign and the following wording used

“In order to comply with street trading legislation these CD's (balloons, Pictures etc.) are not being offered for sale, any contribution you make is voluntary and at your discretion. Suggested contribution £???”

Charitable Collections -Requests for donations will require a permit from Maidstone Borough Council

It is recommended that all entertainers carry suitable Public Liability insurance

## **FOR BUSINESSES AND RESIDENTS**

When issues arise the first step should always be to speak directly with the busker regarding your concerns – explain the impact their busking is having on you,

You may draw their attention to this guidance at any point. If this does not resolve the matter please contact ???? on 01622 ???? and an Officer will assist.

It is worth noting that Busking is a lawful activity and if they are following this guidance, they are unlikely to be in breach of any national or local legislation.

Try to find a suitable interval/natural break in their act to make yourself known and have a discussion, they may not be aware they have caused you an issue and may want to resolve it quickly and amicably. Always try to reach a compromise if possible. Suggest a location change, volume adjustment or agree a time period for the duration of their performance that suits you both. Try to remain calm and polite as this will help promote communication and cooperation.

Making a formal complaint should not normally be your first step but a last resort Where attempts at communication have been unsuccessful and a compromise not reached then please contact the Council Offices on the number above.

An Officer will assess the situation at the earliest opportunity and will enquire. as to what attempts have been made to resolve the issue. If it is considered appropriate the Council will ask the busker to amend their performance. Equally if they do not consider there to be an issue, they will let you know this.

## Enforcement

Enforcement action will always be a last resort after all other avenues have failed and will be considered on the individual circumstances of each case

If it is assessed that a Buskers is operating outside of the guide the relevant Maidstone Borough Council Officer will ask them to take appropriate action (i.e. reduce volume, move location, or cease performance) If the busker refuses to comply a verbal warning will be given

If a further incident is reported where it is possible the Maidstone Borough Council Officer will ask the buskers representatives e.g. other buskers to get involved and try to resolve the issue before issuing a written warning notice/letter

Once a warning notice/letter has been issued to a busker, any further reports will be investigated by a Maidstone Council Enforcement Officer? and a decision will be made as to whether enforcement action will be necessary under the following legislation:

- Environmental Protection Act 1990 states that noise in the street from musical instruments may be a statutory nuisance and the local authority can take action to abate the problem – including issuing a notice and the seizing any equipment being used to create the noise
- Highways Act 1980 forbids buskers to obstruct roads and pavements. ... Children under 14 are not permitted to busk. A street collection licence will be required if busking for charity and street trading laws regulate buskers who sell CDs and other merchandise.
- Public Order Act 1986 allows the Police to act if anyone is seen to be breaching the peace or intimidating others
- The Noise and Statutory Nuisance Act 1993 empowers local authorities to take statutory nuisance action in relation to equipment, including amplified musical instruments used in the streets. We are able to take legal action to abate the nuisance and prohibit its recurrence; this may include the seizure of musical instruments.
- The Anti-Social Behaviour Crime and Policing Act 2014 states that unreasonable and persistent/continuing behaviour which has a detrimental impact can be dealt with by way of a warning, notice, fixed penalty, and a prosecution in the magistrate's court.

- The Control of Pollution Act 1974 states that under no circumstances should amplifiers be operated in the street for any purpose between the hours of 9pm and 8am. Failure to comply can result in prosecution in the magistrate's court.

Formal action will only be taken as a last resort where buskers have repeatedly failed to follow this guidance.

If you require assistance in relation to a complaint, please contact [redacted] on 01622 [redacted] and an Officer will assist.

The Licensing Authority can carry out random spot checks to ensure buskers are complying with all guidelines, and enforcement action will follow when necessary.

Further information and contacts for buskers are all available to view online at

[www.Maidstone.gov.uk/busking](http://www.Maidstone.gov.uk/busking).

Any enquiries following this guidance can be made to the licensing department at [licensing@maidstone.gov.uk](mailto:licensing@maidstone.gov.uk) or 01622 602028.

Enquiries regarding enforcement can be made to [redacted] Enforcement team at [redacted]

Do you have a brilliant act or are you a musician keen to busk in Maidstone?

If you feel you can add something special to Maidstone's street scene and would like advice on where to perform, please do not hesitate to get in touch with Maidstone Borough Council and we will be delighted to help advise you.

# Agenda Item 14

**LICENSING COMMITTEE**

**14 January 2021**

## **Member Virtual Training Package**

<b>Final Decision-Maker</b>	Licensing Committee
<b>Lead Head of Service</b>	Director of Regeneration and Place, William Cornall
<b>Lead Officer and Report Author</b>	Head of Housing and Community Services, John Littlemore
<b>Classification</b>	Public
<b>Wards affected</b>	All

### **Executive Summary**

For the Licensing Committee to agree the training package for elected members sitting on the Licensing Committee and its sub-committees.

### **Purpose of Report**

Decision

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

1. The Licensing Committee approves the training package contained within Paragraph 2.5 of the report.

### **Timetable**

<b>Meeting</b>	<b>Date</b>
Licensing Committee	14 January 2021

# Member Virtual Training Package

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	<i>We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. However, they will support the Council's overall achievement of its aims to provide robust decision making when supporting the safety of residents/consumers and thriving businesses.</i>	Head of Housing & Community Services
<b>Cross Cutting Objectives</b>	<p><i>The four cross-cutting objectives are:</i></p> <ul style="list-style-type: none"> <li>• <i>Heritage is Respected</i></li> <li>• <i>Health Inequalities are Addressed and Reduced</i></li> <li>• <i>Deprivation and Social Mobility is Improved</i></li> <li>• <i>Biodiversity and Environmental Sustainability is respected</i></li> </ul> <p><i>The report recommendation supports the achievement of the cross-cutting objectives.</i></p>	Head of Housing & Community Services
<b>Risk Management</b>	<i>Already covered in the risk section</i>	Head of Housing & Community Services
<b>Financial</b>	<i>The proposals set out in the recommendation are all within already approved budgetary headings and so need no new funding for implementation.</i>	Head of Housing & Community Services
<b>Staffing</b>	<i>We will deliver the recommendations with our current staffing.</i>	Head of Housing & Community Services
<b>Legal</b>	<i>Accepting the recommendations will fulfil the Council's duties under the statutory licensing framework. The proposed training package has been developed by the MKIP Legal Services Team.</i>	Mid Kent Legal Services – Team Leader
<b>Privacy and Data Protection</b>	<i>No additional impact will result from adopting the recommendation.</i>	Head of Housing & Community

		Services
<b>Equalities</b>	<i>The recommendations do not propose a change in service therefore will not require an equalities impact assessment</i>	Head of Housing & Community Services
<b>Public Health</b>	<i>In accepting the recommendations the Council would be fulfilling the requirements of the Health Inequalities Plan</i>	Head of Housing & Community Services
<b>Crime and Disorder</b>	<i>The recommendation will have a neutral impact on Crime and Disorder. The Community Protection Team have been consulted and mitigation has been proposed</i>	Head of Housing & Community Services
<b>Procurement</b>	<i>Not applicable</i>	Head of Housing & Community Services

## 2. INTRODUCTION AND BACKGROUND

- 2.1 Members of the Licensing Committee were presented with a report in September 2020 on the 'Licensing Committee Roles and Responsibilities', particularly in relation to the training requirements for Members and substitute Members sitting on the Licensing Committee and its sub-committees.
- 2.2 Due to the ongoing pandemic, the Democratic and Electoral Services Manager confirmed that training was being provided through virtual sessions utilising an online package developed by the MKIP Legal Services Team. This virtual training package would be replaced by a more traditional training programme once it was deemed safe to do so.
- 2.3 Several Members expressed concern with the online training provided as it was not agreed by the Committee whilst acknowledging the necessity for the training to be provided in this way to satisfy the Constitutional requirements and to reduce the risk from legal challenge relating to decisions made by the Council when exercising its Licensing function.
- 2.4 It was agreed that the virtual training package would be approved by the Licensing Committee at the next available date and this report seeks to obtain Members approval for the training package.
- 2.5 The virtual package proposed by the MKIP Legal Services Team will comprise of the following elements:
- **Introductions and aim. – 10 mins**
  - **Licensing Act 2003 (Alcohol and entertainment licensing) 35 mins (short session) 60 mins (full day session)**

- **Taxis 35 mins (short session) 60 mins (full day session)**
- **Street Trading 25 mins (short session) 45 mins (full day session)**
- **Gambling Act 2005 25 mins (short session) 45 mins (full day session)**
- **Sex Establishments 25 mins (short session) 45 mins (full day session)**
- **Scrap Metal Dealers 25 mins (short session) 45 mins (full day session)**

2.6 The Legal Services Team estimates that the training can be delivered in a minimum of 3.5 hours (including comfort breaks) starting at 10:00 am or 14:00 pm; or over the course of a whole day with breaks and lunch starting at 10:00 am.

2.7 Either session would provide both new and experienced Councillors training on the whole range of licensing committee and sub-committee matters, however the full day's training would allow for a greater depth of training with scope for additional examples and interaction.

### **3. AVAILABLE OPTIONS**

- 3.1 To approve the virtual training package outlined in Paragraph 2.5 above.
- 3.2 To do nothing.

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

- 4.1 To approve the option set out in Paragraph 3.1, as this will enable Licensing Committee Members and their substitutes to fulfil the requirements set out in the Constitution and provide Members with the training needed to make decisions that are compliant with the statutory framework, thereby reducing the risk of legal challenge.

### **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. REPORT APPENDICES**

6.1 None

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## **7. BACKGROUND PAPERS**

Licensing Committee Reports and Minutes from 17 September 2020 and 19 November 2020.