

# Medway Council

## Statement of Licensing Policy (Licensing Act 2003)

As approved by the full Council on 9<sup>th</sup> December 2004



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# **ALL applications will be considered on their merits**

## **1. INTRODUCTION**

- 1.1 Medway Council is the Licensing Authority under the Licensing Act 2003 (“the Act”). The Council is responsible for granting premises licences, club premises certificates, temporary events notices and personal licences in Medway in respect of the sale and/or supply of alcohol. The Council also licences the provision of regulated entertainment and late night refreshment.
- 1.2.1 The Act requires the Council to carry out its various licensing functions so as to promote the following four licensing objectives:-
- the prevention of crime and disorder
  - public safety
  - the prevention of public nuisance
  - the protection of children from harm
- 1.3 The Act further requires that the Council publish a ‘Statement of Licensing Policy’ that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act.
- 1.4 The aims of this ‘Statement of Licensing Policy’ in line with the four licensing objectives are to:
- a. Help build and maintain a fair and prosperous society that properly balances the rights of individuals and their communities
  - b. Integrate its aims and objectives with other initiatives, policies plus strategies that will:
    - Encourage young people and culture
    - Encourage arts and entertainment activities
    - Reduce crime and disorder
    - Encourage tourism
    - Encourage an early evening and night time economy which is viable and sustainable
    - Reduce alcohol misuse
    - Encourage employment
    - Encourage the self sufficiency of local communities
    - Reduce the burden of unnecessary regulation on business
- 1.5 This ‘Statement of Licensing Policy’ has been prepared in accordance with the provisions of the Act and having regard to the Guidance issued under Section 182 of the Act. Where it is necessary to depart from the guidance either in this policy or at any other time, the Council will give clear and cogent reasons for doing so. It has been drafted in partnership with the Kent Licensing Forum and the Kent Licensing Regulatory Steering Group. The Council shall endeavour to work with other local authorities (particularly where licensing authorities' boundaries meet) to ensure that a consistent approach is taken in licensing matters whilst respecting the differing needs of individual communities.

- 1.6 **The bold sections** of this Policy indicate the outcomes the Council is seeking to achieve. When assessing applications, the Council must be satisfied that the measures proposed in the applicant's operating schedule aim to achieve that outcome, as far as possible. **Passages in bold type** also refer to matters that the Council expects to see in the applicant's operating schedule. Passages of text that are not in bold type are provided to assist applicants to understand what the Council is seeking to achieve, the factors that influence the achievement of those outcomes and the control measures that could be implemented by the applicant to achieve those outcomes.
- 1.7 However, it should be recognised that this policy covers a wide variety of premises and activities carried on in them including theatres, cinemas, restaurants, pubs, nightclubs, private members' clubs, village halls and community centres, as well as off-licences, fast food outlets, late night cafes etc. 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 in any given circumstances.
- 1.8 **In respect of each of the four licensing objectives, applicants will need to provide evidence to the Council that suitable and sufficient measures, as detailed in their operating schedule, will be implemented and maintained, relevant to the individual style and characteristics of their premises and events. Reference will need to be made as to whether additional measures will be taken on a permanent basis or specific occasion such as when a special event or promotion is planned, which is intended to, or likely to attract, larger audiences.**
- 1.9 **When considering applications, the Council will have regard to this Policy, the Licensing Act 2003, particularly the Licensing Objectives and Guidance issued under Section 182 of the Act, and any supporting regulations that may from time to time be made. It will also seek proper integration with local crime prevention, planning, transport, employment and cultural strategies.** To this end, the Licensing Committee will provide reports to appropriate parts of the Council on the situation regarding licensed premises in the area and arrangements will be made for the Licensing Committee to receive reports on the needs of the local tourist economy and the cultural strategy for the area to ensure that these are reflected in their considerations. The Council will monitor the impact of licensing on the provision of regular entertainment particularly live music and dancing. Care will be taken to ensure that only necessary, proportionate and reasonable licensing conditions are imposed.
- 1.10 The Policy does not undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits. It does not override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.
- In formulating this policy the Council has had regard to the provisions of the Human Rights Act 1998. This Act places a duty on public authorities to protect the rights of individuals in a variety of circumstances and to balance those rights against the rights of persons trading in licensable activities and to achieve proportionality. The Council has also had regard to the Race Relations Act 1976 as amended by The Race Relations (Amendment) Act 2000.
- 1.11 Applicants and those making representation in respect of applications to the Council have a right of appeal to the Magistrates' Court and subsequently to the Crown Court against the decisions of the Council.
- 1.12 The Council recognises that longer licensing hours with regard to the sale of alcohol may be beneficial to ensure that the concentration of customers leaving premises simultaneously are avoided.

**The object of licensing is to maintain appropriate control of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the 2003 Act. Where any party makes relevant representations, the Council will seek to make objective judgements as to whether conditions may need to be attached to a licence or certificate in order to secure achievement of the licensing objectives. Any such conditions will primarily focus on the direct impact of the activities taking place at licensed premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the vicinity and will cover issues that are reasonably within the control of individual licensees.**

1.13 When considering any conditions, the Council acknowledges that the licensing function cannot be used as a vehicle for the general control of the anti-social behaviour of individuals once they are outside licensed premises and beyond the direct control of the licensee of any premises concerned. However, other mechanisms may be utilised, where appropriate, to tackle unruly or unlawful behaviour of patrons when beyond the control of premises. These include:

- Partnership working with the Kent Police (and other agencies as appropriate) to promote enforcement of the law concerning disorder and antisocial behaviour, including the issuing of fixed penalty notices
- Powers to designate parts of the area as places where alcohol may not be consumed publicly
- Partnership working with businesses, transport operators and other parts of the Council to create a safe and clean environment.

As part of its overall policy the Council expects every holder of a licence or Temporary Event Notice to be responsible for minimising the impact of their activities and anti-social behaviour by their patrons within the immediate vicinity of their premises.

The Council will also expect holders of temporary events to comply with all other relevant legislation. These areas might include health and safety, noise pollution and regulations covering the building of temporary structures. It should also be noted that applicants will be responsible for making any other necessary related applications for issues such as road closures and the use of pyrotechnics in public places and should have regard to any local byelaws.

A key aim of the licensing policy is to maintain a safe and family friendly environment in the Local Authority area. It may be that conditions that would be relevant in the town and city centres may not be appropriate in rural areas but each application will be considered on its merits.

Further, when the Council is considering any application, it will avoid duplication with other regulatory regimes, (e.g. health and safety at work, environmental protection, disability discrimination, the Fire Safety Regulation Reform Order when it comes into force) so far as possible. The licensing regime is not intended to be used to achieve outcomes that can be achieved by other legislation. In particular, its licensing functions will be discharged separately from its functions as the Local Planning Authority.

## **Licences and planning permission**

1.14 The use of any licensed premises or places may be subject to planning controls. There are several key differences between licensing and planning control.

Licensing is concerned with the fitness of the operator and detailed issues concerning the operation and management of the premises that are not addressed by the planning process, which relates to the use of the premises.

It will be expected in general that the grant or variation of planning permission would be resolved before a licence application is made. The licensing committee may refuse to grant a licence following representations from the local planning authority if the:

- (1) Activity sought to be licensed would amount to an unlawful use of the premises
- (2) Hours being sought exceed those authorised by any planning permission

It will be for the applicant to demonstrate any special circumstances to justify a departure from this policy in the face of representations from the local planning authority.

- 1.15 With the exception of the approval and review of its Licensing Policy, decisions on licensing matters will be taken in accordance with a published and approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making. This will enable, in appropriate circumstances, officers to approve applications. A list of scheme of delegations approved by members is attached as Appendix A.

### **Cumulative Impact of a Concentration of Licensed Premises**

- 1.16 "Cumulative impact" is not mentioned specifically in the Act but means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. For example, the potential impact on crime and disorder or public nuisance on a town or city centre of a large concentration of licensed premises in that part of the Local Authority area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the local authority to consider in its policy.
- 1.17 Where, after considering the available evidence and consulting the Statutory Authorities listed in section 5(3) of the Act and any others, the local authority is satisfied that it is appropriate and necessary to include an approach to cumulative impact in the licensing policy statement, it will indicate in the policy that it is adopting a special policy of refusing new licences whenever it receives relevant representations about the cumulative impact on the licensing objectives from responsible authorities and interested parties which it concludes after hearing those representations should lead to refusal.
- 1.18 There will be an evidential basis for the decision to include a special policy within the policy. For example, Crime and Disorder Reduction Partnerships will often have collated information that demonstrates cumulative impact as part of their general role on anti-social behaviour and crime prevention strategies may have already identified cumulative impact as a local problem. Similarly, environmental health officers may be able to demonstrate concentrations of valid complaints relating to noise disturbance.
- 1.19 In summary, the steps to be followed in considering whether to adopt a special policy within the policy are:
- Identification of concern about crime and disorder or public nuisance
  - Consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises and if so identifying the area from which problems are arising and the boundaries of that area or that the risk factors are such that the area is reaching a point where a cumulative impact is imminent
  - Consultation with those specified by section 5(3) of the Act as part of the general consultation required in respect of the whole policy
  - Subject to that consultation, inclusion of a special policy about future premises licence or club premises certificate applications from that area within the terms of the licensing policy
  - Publication of the special policy as part of the policy required by the Act

- 1.20 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or material variations will normally be refused, if relevant representations to that effect are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced. Applicants would need to address the special policy issues in their operating schedules in order to rebut such a presumption. However, a special policy must stress that this presumption does not relieve responsible authorities or interested parties of the need to make a relevant representation before the local authority may lawfully consider giving effect to its special policy. If no representation is received, it would remain the case that any application must be granted in terms that are consistent with the operating schedule submitted. However, responsible authorities such as the police or interested parties can make a written representation maintaining that it is necessary to refuse the application for the promotion of the prevention of crime and disorder and referring to information that had been before the Local Authority when it developed its policy.
- 1.21 If adopted, special policies will be reviewed regularly to assess whether they are needed any longer or need expanding. While a special policy is in existence, applicants will need to demonstrate why the operation of the premises would not add to the cumulative impact being experienced.
- 1.22 The absence of a special policy does not prevent any responsible authority or interested party 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.
- 1.23 The Council recognises that the diversity of premises selling alcohol, serving food and providing entertainment covers a wide range of contrasting styles and characteristics and will have full regard to those differences and the differing impact these will have on the local community.
- 1.24 It therefore also recognises that, within this policy, it may be able to approve licences that are unlikely to add significantly to the problems arising from saturation and will consider the circumstances of each individual application.

*For further advice see paragraphs 3.13 – 3.28 of the Guidance issued under section 182 of the Act.*

## **Advice and Guidance**

- 1.25 The Council recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act provide and welcomes the diversity of activities that are provided by licence holders. For this reason, pre-application discussions will be encouraged to assist applicants to develop their operating schedule to the standards the Council will normally expect. The Council, Kent Police and/or Kent & Medway Fire and Rescue Service will offer as much advice and guidance to applicants, as resources permit. In the event of complex or lengthy issues the Council may make a charge for this service.
- 1.26 The Council will also seek to liaise with applicants and/or mediate between applicants and others who may make representations, to achieve a satisfactory outcome for all involved wherever possible and where resources permit. Where an applicant considers that representations may be likely or probable, it is recommended that the applicant discuss the proposal with the Council and those from whom they think representations are likely, prior to submitting their application. Once an application has been lodged, there are statutory timescales imposed upon the application and determination process, which restrict the opportunity for such discussions, liaison and mediation.

## **Consultation**

- 1.27 There are a number of groups who have a stake in the leisure industry, including businesses, customers, residents and regulators, all of whom have views and concerns that require consideration as part of the licensing function and promotion of the licensing objectives.
- 1.28 In developing this Policy Statement, the Council consulted widely. Along with the statutory consultees (the Chief Police Officer for the District and the Kent & Medway Fire and Rescue Service) and the Crime and Disorder Reduction Partnership, the views of existing licence holders, businesses, voluntary groups and residents were also taken into account. Due consideration was given to the views of all those who responded to that consultation process.
- 1.29 This Policy Statement takes effect on 7 February 2005 and will remain in force for a period of 3 years. It will be subject to regular review by the Council's Licensing Committee. This may lead to Interim Provisions within the three year period. Officers will make an annual report to Councillors on the operation of the Policy. There will be further consultation prior to the triennial renewal of the policy. The Chief Officer of Police will also be requested to make an annual report on licensing matters to Councillors.

## **Amusement with prizes machines**

- 1.30 Subject to any statutory amendment made pursuant to the Gambling Bill (when in force):

The Council will normally grant permits authorising up to two machines in premises, which have the benefit of a licence authorising the sale/supply of alcohol for consumption on the premises without a Licensing Committee hearing. Premises, which currently have the benefit of permits for greater numbers, will be renewed in similar terms without the need for a hearing.

The Council will normally grant a permit for 1 machine in respect of Taxi Offices, Pool Halls, Restaurants, Cafes, Snack Bars, Fish and Chip Shops, Hot Food Takeaways and other premises where prepared food and drink is sold for consumption on or off the premises without the need for a hearing.

Applications for permits in respect of Launderettes, Hairdressing Establishments and Retail Stores will not be granted (In accordance with the Councils resolution under Section 34(6) and Schedule 9 Paragraph 3(d) of the Gaming Act 1968).

## **Reviews**

- 1.31 Where possible and appropriate the Council, Kent Police and/or Kent & Medway Fire and Rescue Service will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.

No more than one review will normally be permitted within any 12 month period on substantially similar grounds except in exceptional and compelling circumstances or where it arises following a closure order.

Responsible authorities and/or residents living in the vicinity can trigger a review of a premises licence but an evidentiary basis would be required to be presented to the Council.

## **Transition Period and ‘Grandfather Rights’**

- 1.32 A person who is either the holder of an existing licence or who has the consent of the holder of an existing licence may, within six months of 7 February 2005, apply to the Local Authority for the conversion of an existing licence, or existing licences, to a new premises licence.

For example, this means that the business owning a supermarket may apply for the conversion of the licence that might have been held under the old regime by one of its employees with the consent of that employee.

The application for conversion of the licence or licences must be accompanied by the existing licences or certified copies, a plan of the premises, any relevant certificates (e.g. extensions of permitted hours or children's certificate), where the application is not by the holder of the existing licence a form of consent given by that person and where the licence will concern the sale of alcohol the applicant must provide details of the individual to be specified in the new licence as the designated premises supervisor and a form given of that person's consent. Where a particular permission (for example, a special hours certificate) is subject to certain requirements of existing law (for example, the provision of substantial refreshment and music and dancing), these restrictions will need to be reflected in the newly converted licence.

## **Enforcement**

- 1.33 The Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a ‘level playing field’ on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services. The Council fully supports the principals of the Government’s Enforcement Concordat designed to ensure effective and efficient public protection services. Specifically, the Council is committed to accord with the principles of good enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner.
- 1.34 The Enforcement Concordat is based on the principles that businesses should:
- Receive clear explanations from enforcers of what they need to do and by when
  - Have opportunities to resolve differences before enforcement action is taken, unless immediate action is needed
  - Receive an explanation of their rights of appeal
- 1.35 The Council recognises the interests of both individual citizens and the requirements of businesses and will work closely with partners to assist licence holders to comply with the law and the four licensing objectives it seeks to promote. However, proportionate but firm action will be taken against those who commit serious offences or persistently break the law. The Council has, in its corporate enforcement policy, set clear standards of service and performance that the public and businesses can expect. In particular, a licensing enforcement policy has been created that explains how the Council will undertake its role as Licensing Authority and how the principles of effective enforcement will be achieved. This policy is freely available from the Councils Licensing Unit as are details of the Council’s corporate complaints procedures. These documents can also be viewed on the Council’s website: [www.medway.gov.uk](http://www.medway.gov.uk)
- 1.36 The Council has established protocols with Kent Police, Kent & Medway Fire and Rescue Service on enforcement issues. These protocols provide for the targeting of resources towards high risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are well operated.

- 1.37 All licence holders will be expected to co-operate in order to promote the licensing objectives. Evidence of non-cooperation may be considered sufficient grounds for review and revocation of any licence.
- 1.38 The principle of using a scoring scheme based on risk factors will normally prevail and proactive inspections will usually be undertaken in accordance with a priority inspection scheme. This should ensure that resources are more effectively allocated to higher risk or 'problem premises'. Monitoring visits will also take place in around premises. This scheme will be reflected in the 'Council's Licensing Enforcement Strategy'.

## 2. LICENSING OBJECTIVES

- 2.1 The following sections set out the Council's Policy relating specifically to the four licensing objectives:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

The Council will attach conditions to licences where considered necessary and proportionate for the promotion of the licensing objectives. They will be tailored to the individual style and characteristics of the particular premises and events concerned. These conditions will be drawn from the relevant 'Model Pools of Conditions' set out in Appendices D-H of the Guidance issued under S182 of the Licensing Act 2003. It may be necessary to impose conditions not in the Model Pool when appropriate. Each case will be considered on its merits.

- 2.2 In each section relating to the objectives, the Council has defined its intended outcome (**in bold type**). Each section then lists the factors that would influence the achievement of that objective but because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive. Applicants know their premises best and will be expected to address all aspects relevant to the individual style and characteristics of their premises and events.
- 2.3 Further, in each section, a list of possible control measures is provided, to be of assistance to applicants but again is not intended to be an exhaustive list. Many control measures achieve more than one objective but have not necessarily been listed under each objective. Applicants will not be required to mention a control measure more than once in their operating schedule.
- 2.4 The Council will expect the selection of control measures, referred to in 2.3 above; to be based upon a risk assessment of the premises, events, activities and the customers expected to attend (e.g. their age, number, etc.). Whilst the Council may not require such risk assessments to be documented (other than where required by other legislation), it considers such documentation to be good practice and a useful tool in the instruction and training of staff. It is also a sound basis for review by the licence holder, in the event of an application for variation or a response to changing circumstances/conditions at the premises being required.
- 2.5 Additional measures may be necessary on a specific basis such as when a special event (e.g. popular live band) or promotion (e.g. during major sporting occasions) is planned, which is intended to, or likely to attract larger audiences and/or audiences of a different nature, and which can have a significant impact on the achievement of the licensing objectives. **Reference must be made in an applicant's operating schedule, where applicable, to such occasions and the additional measures that are planned in order to achieve the licensing objectives.**

- 2.6 The Council considers the effective and responsible management of the premises, instruction, training and supervision of staff and the adoption of best practice to be amongst the most essential control measures for the achievement of all the licensing objectives. For this reason, the Council will expect these elements to be specifically considered and addressed within an applicant's operating schedule.
- 2.7 In addition, the occupancy capacity for premises (which includes performers and staff) and events as appropriate is also considered to be an essential factor in the achievement of the four licensing objectives (except in respect of premises licensed for the consumption of food and/or alcohol off the premises). The Council will expect the issue of occupancy capacity to be considered and addressed within an applicant's operating schedule and in most instances, will agree a maximum occupancy capacity based on the applicant's assessment within their operating schedule, unless satisfied that it is not appropriate to specify occupancy.
- 2.8 The design and layout of premises are important in determining capacity, as is the availability and size of exits within recommended travel distances. Other factors should also be considered when assessing the appropriate capacity for premises or events. These might include:
- The nature of the premises or event
  - The nature of the licensable activities being provided
  - The provision or removal of such items as temporary structures, such as a stage or furniture
  - The number of staff available to supervise customers both ordinarily and in the event of an emergency
  - The customer profile (e.g. age and disability)
  - The attendance by customers with disabilities or whose first language is not English
  - Availability of suitable and sufficient sanitary accommodation
  - Nature and provision of facilities for ventilation
- 2.9 The agreement to a capacity for premises or events should not be interpreted as a requirement to also provide permanent monitoring arrangements such as door supervisors, attendance clickers or maintenance of attendance records. The Council recognises that the person in charge at the premises can often readily assess the capacity of premises without resort to such measures. **However, where the capacity is likely to be reached (such as on known busy evenings) and particularly where a special event or promotion is planned, the applicant will be expected to be able to give details of the additional arrangements that will be put in place to ensure that the capacity of the premises is not exceeded.**

### 3. PREVENTION OF CRIME AND DISORDER

- 3.1 Medway Council is committed to further improving the quality of life for the people of Medway by continuing to reduce crime and the fear of crime. The Local Authority will also consult and involve the Crime and Disorder Reduction Partnership in decision making in order to maximise the effectiveness of reducing crime, misuse of drugs and the fear of crime.
- 3.2 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on Medway Council, Kent Police and others to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003 reinforces this duty for Local Authorities.

- 3.3 **The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, in particular in relation to those visiting and departing from their premises, relevant to the individual style and characteristics of their premises and events.**
- 3.4 When addressing the issue of crime and disorder, the applicant must demonstrate that those factors that impact on crime and disorder have been considered. These might include:
- Underage drinking
  - Drunkenness on premises
  - Public drunkenness
  - Drugs
  - Violent behaviour
  - Anti-social behaviour
- 3.5 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and/or activities:
- Effective and responsible management of premises
  - Training and supervision of staff
  - Adoption of best practice guidance (e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice, including those relating to drinks promotions e.g. The Point of Sale Promotions published by BBPA)
  - Acceptance of accredited 'proof of age' cards for example "Connexions Card" and "Citizen Card" promoted by Medway Trading Standards and Kent Police and/or 'new type' driving licences with photographs, passports, an official identity card issued by H M Forces.
  - Provision of effective CCTV in and around premises
  - Employment of a sufficient number of Security Industry Authority licensed door supervisors. If two or more are employed it is preferable that there be at least one male and one female
  - Provision of toughened or plastic glasses
  - Provision of secure deposit boxes for confiscated items ('sin bins')
  - Provision of litterbins and other security measures, such as lighting, outside premises
  - Membership of a Pub Watch scheme
- 3.6 Within the operating schedule for premises from which alcohol will be sold, a Designated Premises Supervisor (DPS) must be identified and named. **The Council will normally expect the DPS to have been given the day-to-day responsibility for running the premises by the premises licence holder. In addition to the DPS holding a personal licence, the Council will normally expect the DPS to have relevant ability and experience commensurate with the nature and style of the premises.**

In exceptional circumstances, the police may object to the designation of a new premises supervisor where they believe that such appointment would undermine the crime prevention objective.

- 3.7 The Council will normally expect that the DPS or a personal licence holder to be present on the premises during operational hours in order to ensure adequate supervision of the sale of alcohol.
- 3.8 Certain temporary events are not required to be licensed but must be notified to the Council and Police using the Temporary Event Notice procedure. However, depending on the nature and location of such events, these can have serious crime and disorder implications. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable to enable the police and the Council to work with them to identify and reduce the risk of crime and disorder.
- 3.9 Where the Council has given notice in writing to the holder of the premises licence prohibiting the exhibition of a film on the grounds that it contains matter which, if exhibited, would be likely to:
- Encourage or incite crime or lead to disorder or
  - Stir up hatred or incite violence towards any section of the public on grounds of colour, race or ethnic or racial origin, disability, religious beliefs, sexual orientation or gender

The Council will expect that the film shall not be exhibited in the premises except with the consent in writing of the Council and in accordance with any conditions attached to such consent.

The Council will require all films to comply with British Board of Film Classification (BBFC) guidelines.

#### **4. PUBLIC SAFETY**

4.1 **The Licensing Authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. To this end, applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and events.**

4.2 When addressing the issue of public safety, it is expected that an applicant will demonstrate that those factors that impact on the standards of public safety have been considered. These may include:

- The occupancy capacity of the premises
- The age, design and layout of the premises, including means of escape in the event of fire
- The nature of the licensable activities to be provided, in particular the sale or supply of alcohol and including whether those activities are of a temporary or permanent nature
- The hours of operation noting the difference between opening hours and the hours of licensable activities (drinking up time).
- Customer profile (e.g. age and disability)
- The use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.

The Council will set capacity limits in consultation with the Fire Authority for the following premises:

- Nightclubs
- Cinemas
- Theatres

Other premises where regulated entertainment within the meaning of the Act is being provided.

In accordance with the Secretary of State's guidance, premises where a fire safety certificate has been issued under the Fire Precautions Act 1971 (which imposes an occupancy limit) will not have an occupancy limit imposed under the premises licence, unless the Fire Authority recommends a change. For example, if the current fire certificate does not take into account the licensable activity a new capacity figure maybe required.

The Act repeals the Cinematograph (Safety) Regulations 1955 which contained a significant number of regulations in respect of fire safety provision at cinemas. Similar provisions will therefore be reproduced on licences for such premises.

4.3 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and/or activities:

- Suitable and sufficient risk assessments
- Effective and responsible management of premises
- Provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons
- Appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons
- Adoption of best practice guidance, including age checks
- Provision of effective CCTV in and around premises
- Provision of toughened or plastic glasses
- Implementation of crowd management measures
- Regular testing (and certification where appropriate) of procedures, appliances, systems - pertinent to safety

## **5. PREVENTION OF PUBLIC NUISANCE**

5.1 **Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. The Council wishes to proactively maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.**

5.2 **The Council intends to interpret 'public nuisance' in its widest sense. This includes such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.**

5.3 **Applicants need to clearly understand that the Council will normally look to imposing stricter conditions, including controls on licensing hours, where licensed premises are in residential areas with a view to protecting the quality of life of residential occupiers.**

5.4 **In the case of shops, stores and supermarkets and garages selling alcohol, the Council will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless there are exceptional reasons relating to disturbance or disorder.**

5.5 **Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.**

5.6 When addressing the issue of prevention of public nuisance, the applicant must demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include:

- The location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship
- The hours of operation, particularly if between 23.00 and 07.00
- The nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
- The design and layout of premises and in particular the presence of noise limiting features
- The occupancy capacity of the premises
- The availability of public transport
- Last admission time
- The steps the applicant has taken or proposes to take to ensure that staff leave the premises quietly
- The steps the applicant has taken or proposes to take to prevent disturbance by patrons arriving or leaving the premises
- Whether routes to and from the premises, on foot or by car or service or delivery vehicles, pass residential premises
- Whether other measures have been taken or are proposed such as the use of CCTV or the employment of registered door supervisors.
- The arrangements made or proposed for parking by patrons, and the effect of this parking on local residents
- The likelihood of any violence, disorder or policing problems arising if a licence were granted
- Whether taxis and private hire vehicles serving the premises are likely to disturb local residents
- The siting of external lighting, including security lighting that is installed inappropriately
- Whether the premises would result in increased refuse storage or disposal problems or additional litter in the vicinity of the premise and any measures or proposed measures to deal with this
- The history of previous nuisance complaints proved against the premises, particularly where statutory notices have been served on the present licensees

5.7 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and/or activities:

- Effective and responsible management of premises
- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance
- Control of operating hours for all or parts (e.g. garden areas) of premises, including such matters as deliveries
- Adoption of best practice guidance (e.g. Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics)
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices

- Management of people, including staff and traffic (and resulting queues) arriving and leaving premises
- Liaison with public transport providers
- Sitting of external lighting, including security lighting
- Management arrangements for collection and disposal of litter
- Effective ventilation systems to prevent nuisance from odour

**6. PROTECTION OF CHILDREN FROM HARM (For the purposes of this document a child is defined as someone under the age of 18)**

6.1 **Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events. The Local Authority commends the Portman Group Code of Practice on the naming and packaging of alcoholic drinks.**

6.2 The protection of children from harm is an important issue. It is hoped that family friendly premises will thrive but the risk of harm to children remains a paramount consideration when determining applications.

6.3 The relaxation in the Licensing Act giving accompanied children greater access to licensed premises is seen as a positive step, which may bring about a social change in family friendly leisure. Clearly, this relaxation places additional responsibilities upon licence holders. However, it is recognised that parents and others accompanying children also have responsibilities.

6.4 The protection of children from harm includes the protection of children from moral, psychological and physical harm and in relation to the exhibition of films, or the transmission of programmes by video or DVD. This includes the protection of children from exposure to strong language, sexual imagery and sexual expletives. In certain circumstances children are more vulnerable and their needs will require special consideration. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, the unpredictability of their age and the lack of understanding of danger.

6.5 Whilst children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. When addressing the issue of protecting children from harm, the applicant must demonstrate that those factors that impact on harm to children have been considered. These may include the potential for children to:

- Purchase, acquire or consume alcohol
- Be exposed to drugs, drug taking or drug dealing
- Be exposed to gambling
- Be exposed to activities of an adult or sexual nature
- Be exposed to incidents of violence or disorder
- Be exposed to environmental pollution such as noise or smoke
- Be exposed to special hazards such as falls from a height

6.6 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and/or activities:

- Effective and responsible management of premises
- Provision of a sufficient number of people employed or engaged to secure the protection of children from harm

- Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm
- Adoption of best practice guidance (Public Places Charter)
- Limitations on the hours when children may be present, in all or parts of the premises
- Limitations or exclusions by age when certain activities are taking place
- Imposition of requirements for children to be accompanied by an adult
- Acceptance of accredited 'proof of age' cards for example "Connexions Card" and "Citizen Card" promoted by Medway Trading Standards and Kent Police and/or 'new type' driving licences with photographs, an official identity card issued by HM Forces or by a EU country or passport bearing the photograph and date of birth of bearer
- The placing of machines under the Gaming Act 1968 so that they can be properly supervised.

6.7 In the case of film exhibitions, the Council will expect licensees to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the BBFC or the Council. In the case of a film exhibition that has not been classified, the Council will expect the licensee to certify to the Council that an assessment of the suitability of the film for exhibition to children in accordance with the BBFC Guidelines has been carried out and that this has been confirmed by the Council in writing prior to public viewing.

6.8 Where regulated entertainment is provided the Council will require the presence of an adequate number of adult staff to control the access and egress of children and to protect them from harm whilst on the premises. Where children are present as performers, the Council will normally require an adequate number of adult staff to be responsible for the child performers. The staff should be suitably screened to work with children.

6.9 The Council will rarely impose complete bans on access to children. In exceptional circumstances conditions restricting access or excluding children completely maybe considered necessary. Those conditions may restrict children from entering all or part of licensed premises:

- (1) At certain times of the day or
- (2) When certain licensable activities are taking place or
- (3) To which children aged under 16 years should have access only when supervised by an adult or
- (4) To which unsupervised children under 16 will be permitted access

6.10 Examples of premises where these conditions may be considered include where:

- (1) There have been convictions for serving alcohol to minors or where there is some evidence of under-age drinking
- (2) There is a known association with drug taking or dealing
- (3) There is a strong element of gambling on the premises
- (4) Entertainment of an adult or sexual nature is commonly provided
- (5) there is a presumption that children under 18 should not be allowed (e.g. to nightclubs, except where under 18 discos are being held)
- (6) Licensable activities are taking place during times when children under 16 may be expected to be attending compulsory full-time education.

## Appendix A

### Recommended delegation of functions

<b>Matter to be dealt with</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence	If a police objection	If no objection made
Application for personal licence with relevant 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	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection	All other cases
Applications for interim authorities	If a police objection	All other cases
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 a police objection to a temporary event notice	All cases	

A relevant representation is one, which relates to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives specified in the Act.