

## **COUNCIL**

**25 APRIL 2013**

### **LICENSING ACT 2003 – REVIEW OF COUNCIL’S STATEMENT OF LICENSING POLICY**

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#### **Summary**

The purpose of this report is to ask Council to approve the draft Statement of Licensing Policy, following consideration by the Licensing and Safety Committee on 7 March 2013.

#### **1. Budget and Policy Framework**

- 1.1 The Committee’s terms of reference state that the Licensing and Safety Committee will recommend to Council approval of the Statement of Licensing Policy.
- 1.2 Council approved the existing statement for use on 13 January 2011.

#### **2. Background**

- 2.1 The current policy has provided a stable but flexible background to the council’s consideration of licensing applications. This is illustrated by the fact that the policy has not been legally challenged.
- 2.2 The existing Statement of Licensing Policy is working well in achieving the promotion of the four licensing objectives: -
  - Prevention of crime and disorder.
  - Public safety
  - Prevention of public nuisance
  - Protection of Children from harm.

It has formed the background to all Licensing Act 2003 application decisions by both Members and officers. A key factor is that each application is considered on its merits.

- 2.2 There have been considerable changes in legislation over the last twelve months through the Police Reform and Social Responsibility Act 2011 that have been included in the draft statement for consideration, which is attached at Appendix A. For example, these include:

- Statement of Licensing Policy to be reviewed every five years instead of every three years
- Abolition of the vicinity test – allowing anyone in the country to send a relevant representation or an application
- Locally set fees
- Late night levy
- Early Morning Alcohol Restriction Orders
- The Primary Care Trust (soon to be the Medway Clinical Commissioning Group) has become a responsible authority for the notification of an application and being able to respond to it
- The use of the word “appropriate” instead of “necessary” - amended by S109 Police Reform and Social Responsibility Act, introduced with a view to lowering the evidential threshold required for a Licensing Authority to make such decisions which may be harder to challenge on appeal
- Review of a licence can now be made by a responsible authority or any other person
- Changes to standard Temporary Event Notices (TENs)
- Introduction of a late Temporary Event Notice with no hearings and no right of appeal.

### **3. Consultation**

- 3.1 As part of the review of the Statement of Licensing Policy, the draft documentation has been correctly advertised as part of a six-week consultation in the local paper, on the Council’s website and at the local offices. Details of the consultation have also been sent to responsible authorities, Members, the trade and all licence holders.
- 3.2 The draft Statement of Licensing Policy is set out in **Appendix A**.
- 3.3 Five responses to the consultation were received, the contents of which are detailed at **Appendix B**.
- 3.4 Unfortunately not all the requests within the responses can be considered, as they do not meet the requirements of the legislation or guidance in respect of licensing. In these cases a short explanation is given against each request for inclusion.

### **4. Advice and Analysis**

- 4.1 Officers have considered the changes in legislation and central government guidance as set out below. Changes in legislation now allows for the Statement of Licensing Policy to be in place for five years and with this in mind, items that may be changed, added or removed through amended legislation during this time have been placed into appendices accompanying the policy. The appendices will be updated following publication of the legislation without need to be formally reported to committee, as it will have to be complied with legally. Also, any factual information, such as e-mail addresses will also be amended and published on the council’s website without reference to the committee to ensure that the document is kept up-to-date and accurate for people to use.

- 4.2 The Licensing and Safety committee will be advised by officers of any legislative changes.
- 4.3 Officers have considered the points raised in the consultation responses and have highlighted in **Appendix B** the changes that may be considered and reasons for those that may not. The draft Statement of Licensing Policy has been updated for final approval following consideration at the Licensing and Safety Committee (see section 6 below).

## **5. Diversity Impact Assessment**

- 5.1 A Diversity Impact Assessment Screening Form (DIA) has been undertaken. The screening (attached at **Appendix C**) concluded that a full DIA was not necessary, however, a couple of actions have been identified for future reviews.

## **6. Licensing and Safety Committee**

- 6.1 The Licensing and Safety Committee considered this report on 7 March 2013. The Committee gave detailed consideration to the consultation responses and the draft Policy which is set out in **Appendix E**.
- 6.2 The Committee agreed the following:
  - 6.2.1 The Committee noted the documentation set out in Appendix A to the report and recommendations set out in Appendix B to the report and recommended approval of the draft Statement of Licensing Policy to Council on 25 April 2013 for use from 1 May 2013.
  - 6.2.2 The Committee recommended to Council to agree the amendments to the Licensing and Safety Committee's terms of reference, as set out in Appendix D to the report.
  - 6.2.3 The Committee asked the Licensing and Land Charges Manager to arrange an all Member training session with key stakeholders/responsible authorities on the issue of cumulative impact policies to enable Members to be fully informed of the requirements to pursue any such policies in Medway.
- 6.3 This training session has been arranged to take place on 28 May 2013. The two main areas to be covered will be "what are Temporary Event Notices – how do they work" and "Cumulative Impact – what information is required by way of evidence and what is the process to introduce a Policy".
- 6.4 All Members of the Licensing and Safety Committee (plus substitutes) are to attend and all other Members are welcome. Responsible Authorities are also being invited to provide their views on these subjects.

## **7. Risk Management**

- 7.1 This review of the Statement of Licensing Policy is a key document in relation to the council's position in continuing to implement the

Licensing Act's objectives and consideration of subsequent licensing applications. It should be noted that an inappropriately worded policy could result in a legal challenge by way of judicial review.

## **8. Financial and legal implications**

- 8.1 There are no direct financial implications for Medway Council concerning this matter at present. However, if at any time in the future the policy was subject to legal challenge, there could be costs associated with this process.
- 8.2 Section 5 of the Licensing Act 2003 (as amended by the Police Reform and Social Responsibility Act 2011) requires a licensing authority to prepare and publish a statement of its policy every five years. During the five year period, the policy must be kept under review.
- 8.3 Amendments to the Licensing Act 2003 by the Police Reform and Social Responsibility Act 2011 are ongoing and will include in due course the de-regulation of certain licensable activities.
- 8.4 The Licensing Act 2003 as amended by the Police Reform and Social Responsibility Act 2011 and the latest version of the amended Guidance issued under section 182 of the Licensing Act dated October 2012 have been considered and taken into account in the drafting of the new Statement of Licensing Policy.
- 8.5 Currently the committee's terms of reference refer to the Statement of Licensing Policy as a policy framework document. However, it is the Gambling Licensing Policy Statement (under the Gambling Act 2005) which is now listed in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and is the relevant policy framework document. Therefore, the committee's terms of reference are suitably amended as set out in **Appendix D** for approval by Council.

## **9. Recommendations**

- 9.1 Council is asked to approve the draft Statement of Licensing Policy to Council as set out in Appendix A to the report with effect from 1 May 2013.
- 9.2 Council is asked to agree the amendments to the Licensing and Safety Committee's terms of reference, as set out in Appendix D to the report.

### **Lead officer contact**

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### **Background documents**

None.



**Licensing Act 2003  
Statement of Licensing Policy**

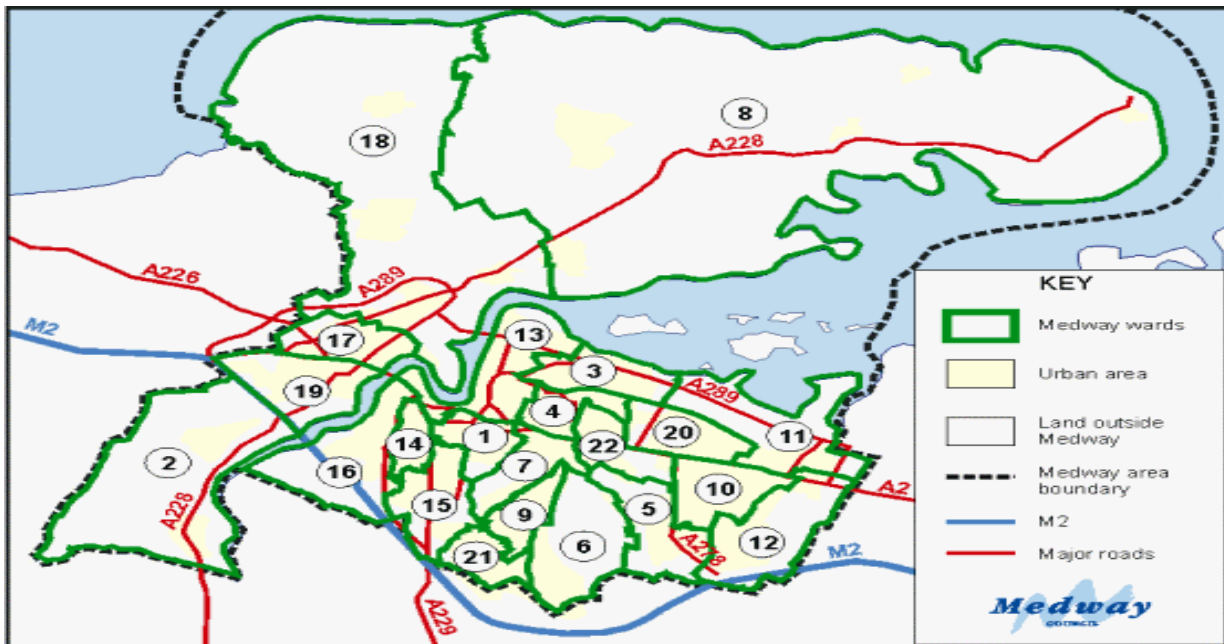
## CONTENTS

HEADING	PAGE NO.
Introduction	1
Legal Background	2
Scope of the policy	3
Frequency of Policy Change	3
Licensing Objectives	4
Personal Licences	4
Removal of requirement for a Designated Premises Supervisor in a Community Premises	5
Temporary Event Notices	5
Premises Licences, Club Premises Certificates & Provisional Statements	
Application	6
Consultation	7
Responsible Authorities	8
Weight of Police Evidence	9
Determination of Applications	9
Conditions	10
Location of Premises and Licensing Hours	11
Consideration of the Impact of Licensed Activities	11
Saturation and Cumulative Impact	13
Early Morning Restriction Orders	15
Late Night Levy	16
Suspension for Non-Payment	17
Smoking	17
Sex Establishments	18
Planning	18
Enforcement	18
Persistent Sales to Children	19
Reviews	20
Discharge of Functions	21
APPENDIX 1 – Licensable Activities	22
APPENDIX 2 – Activities Exempt from Licensing Requirements	23
APPENDIX 3 – Temporary Event Notices - Limitations	24
APPENDIX 4 – Examples of Good Practice	26
APPENDIX 5 – Responsible Authorities	48
APPENDIX 6 – Pool of Example Conditions	50
APPENDIX 7 – Mandatory Conditions	69
APPENDIX 8 – Delegation of Functions	73

## STATEMENT OF LICENSING POLICY

### Introduction

1. Medway Council is a Unitary Authority in North Kent, providing all local government services for a quarter of a million people in Medway, including the towns of Rochester, Strood, Chatham, Gillingham and Rainham and rural areas such as the Hoo Peninsula. In terms of areas it covers 80 square miles and is shown on the map below.



1. Chatham Central
  2. Cuxton and Halling
  3. Gillingham North
  4. Gillingham South
  5. Hempstead and Wigmore
  6. Lordswood and Capstone
  7. Luton and Wayfield
  8. Peninsula
  9. Princes Park
  10. Rainham Central
  11. Rainham North
  12. Rainham South
  13. River
  14. Rochester East
  15. Rochester South and Horsted
  16. Rochester West
  17. Strood North
  18. Strood Rural
  19. Strood South
  20. Twydall
  21. Walderslade
  22. Watling
2. Medway Council is the Licensing Authority under the Licensing Act 2003 ("the Act"). The Licensing Authority is responsible for granting premises licences, club premises certificates, temporary events notices and personal licences in Medway in respect of licensable activities. Please see **appendix 1** in respect of a list of licensable activities.
  3. There are a number of other activities that are exempt from the licensing requirement; details of these are also set out in **appendix 2** of this document.

## **Legal Background**

4. The Licensing Act 2003, as amended (the 'Licensing Act') repealed most of the previous legislation relating to liquor, entertainment and night café licensing and replaced it with a totally new licensing regime. In respect of liquor licensing, responsibility was transferred from the Magistrates Court (Licensing Justices) to local authorities.
5. This enables the Licensing Authority to grant or reject applications. Conditions designed to ensure public safety, protect children from harm, prevent crime and disorder and public nuisance can be attached to licences.
6. Medway Council as the Licensing Authority is legally obliged to have regard to the Home Office guidance. The Licensing Authority may, however, if it is considered appropriate, deviate from the guidance but would need good reasons to do so. This Policy Statement takes full account of the current Home Office guidance.
7. In addition, in formulating this Policy Statement, the Licensing Authority has had regard to the provisions of the European Convention on Human Rights that everyone has the right to respect for his home and private life and that every person is entitled to the peaceful enjoyment of his possessions. The Human Rights Act 1998 makes it unlawful for a public authority to act in a way that is incompatible with a convention right. Consequently, an aim of this Policy Statement, particularly in relation to the decision-making process of the Council Corporation, is to ensure that a licensing decision does not breach such a right.
8. The Equality Act 2010 and prior legislation requires the Council to give due regard to the elimination of unlawful discrimination when exercising its public duties, to promote equality between people who share and do not share a particular protected characteristic and to promote good relations between people who share and who do not share a particular characteristic.
9. The Equality Act 2010 defines a number of protected characteristics and generally provides that no one should be discriminated against or subject to less favourable treatment on the basis of these characteristics. The characteristics are age, disability, ethnicity & race, gender, gender reassignment, marriage or civil partnership status, pregnancy or maternity status (including nursing mothers), religious or philosophical belief or non-belief and sexual orientation. It also ensures rights of access to everyday facilities and services and, in the context of disability, may require service providers to consider making permanent physical adjustments to their premises.
10. The Licensing Authority will expect licensees to be familiar with the contents of any codes of practice issued by the government under the Equality Act 2010.



11. The Licensing Authority has taken account of the provisions of the Crime and Disorder Act 1998. This requires local authorities to have regard to the likely effect of the exercise of their functions on crime and disorder in their area and to do all they can to prevent such crime and disorder.
12. The Policing and Crime Act 2009 introduced further powers for local authorities regarding the regulation of lap dancing and other sexual entertainment venues.
13. The Licensing Authority has taken account of the Police Reform and Social Responsibility Act 2011 and the Live Music Act 2012, which both brought in legislative changes to the Licensing Act 2003. The changes have been reflected in this policy.
14. The Licensing Act requires that licensing authorities consult with other responsible authorities and representatives of licensees of all types, together with representatives of local residents and businesses. The Licensing Authority will have regard to the views of these persons in the determination of policy and its periodic review.

### **Scope of Policy Statement**

15. This policy statement is to aid everybody on the application process, be used as part of the decision-making process and covers: -
  - new applications
  - provisional statements
  - transfers
  - designated premises supervisor changes
  - variations
  - temporary event notices
  - personal licences
  - renewals where applicable
  - reviews of premises licence or club premises certificates
16. This policy and appendices may be amended if there are changes in legislation or case law and the Licensing Authority deems it appropriate to make changes. Only changes made to the main policy document will be consulted upon, any changes to the appendices will be at the Licensing Authorities discretion.

### **Frequency of Policy Change**

#### **POLICY**

17. Section 5 of the 2003 Act requires a licensing authority to prepare and publish a statement of its licensing policy at least every 5 years.

## **REASON**

18. The policy will be kept under review and, if the need arises, will be amended in line with legislation and any revised guidance before the expiration of the five-year period.

### **Licensing Objectives**

19. In carrying out its licensing functions, the Licensing Authority will promote the licensing objectives set out in the Licensing Act. These are:
  - i) the prevention of crime and disorder
  - ii) public safety
  - iii) the prevention of public nuisance
  - iv) the protection of children from harm
20. To achieve these objectives, the Licensing Authority will use its full range of powers and engage all relevant responsibilities including its planning controls, transport controls, crime and disorder policies and powers. The Licensing Authority will enter into appropriate partnership arrangements, working closely with the Police, the Fire Authority, local businesses, community representatives and local people in meeting these objectives.

### **Personal Licences**

21. The licensing authority recognises it has little discretion regarding the granting of personal licences. In general provided an application has a qualification accredited by the Secretary of State or a certified equivalent and does not have certain serious criminal convictions, the application is required to be granted.
22. If an applicant has a relevant conviction the police may oppose the application, in which case a hearing will be held.

## **POLICY**

23. At the hearing the licensing authority will consider carefully whether the refusal of the person application would be in compliance with the licensing objectives. It will consider the seriousness and relevance of the disclosed conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances. The licensing authority will refuse the application if it is satisfied that granting it would not promote the licensing objectives.

## **REASON**

24. Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of the Licensing Authority under the Crime and Disorder Act 1998. A person holding a personal licence should be properly qualified and be able to assist the action against crime.

## **Removal of the requirement for a Designated Premises Supervisor in a Community Premises**

25. The management committee of a community premises such as a church hall, village hall or community hall or other similar building can now 'opt out' of the requirement to have a designated premises supervisor when they either apply for a new premises licence or for the variation of an existing premises licence to include the sale/supply of alcohol. Also the management committee of a community premises with an existing premises can apply to vary the premises licence to remove the requirement for a designated premises supervisor without altering anything else.

## **Temporary Event Notices**

### **POLICY**

26. Where the TEN is in order, the relevant fee paid, the event falls within the prescribed limits and there has been no objection from the police or environmental health on the basis of any of the four licensing objectives, the Local Authority will record the notice in its register and send an acknowledgement to the premises user (which maybe given electronically).
27. If the licensing authority receives an objection notice from the police or environmental health that is not withdrawn, it must in the case of standard TEN only hold a hearing to consider the objection (unless all parties agree that this unnecessary). The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice to the premises user that includes a statement of conditions and provide a copy to each relevant party. Alternatively, it can decide that the event would undermine the licensing objectives and should not take place. In this case, the licensing authority must give a counter notice.
28. If the licensing authority received an objection notice in relation to a Late TEN from the police or environmental health, that is not withdrawn, the licensing authority will issue a counter notice, which prevents the event from taking place.
29. The licensing authority must check that the limitation set down in the Act are being observed and intervene if they are not **(Please see Appendix 3)**

### **REASON**

30. The aim of this procedure is to give residents more protection from noise, crime and disorder and the public on unsafe conditions at temporary events.

## **Premises Licences, Club Premises Certificates and Provisional Statements**

### **a) Application**

#### **POLICY**

31. Applicants are required to produce an operating schedule to accompany their application. In completing the operating schedule, applicants should set out in some detail how they intend to run the premises in order to promote the four licensing objectives. Applicants are expected to have regard to this statement of licensing policy when completing their operating schedules.
32. The Licensing Authority has produced an Example of Good Practice for Licensed Premises to assist applicants in completing their operating schedules for the promotion of the four licensing objectives. This document forms part of the statement of licensing policy and is attached as **Appendix 4** to this document. The Licensing Authority will expect all applicants to have regard to the Examples of Good Practice and to make a positive commitment to preventing problems from occurring at their premises.
33. The Licensing Authority will expect the operators of venues, which attract queues, to formulate a system to avoid disturbance to residents. This may sometimes be achieved by simply ensuring that the direction of the queue is away from residential accommodation.
34. There should be comprehensive facilities and access for people with disabilities. The Licensing Authority will, therefore, expect the needs of disabled people to be addressed in the operating schedule.
35. Disabled people should not be treated in a less advantageous way than non-disabled people. In addition, there are responsibilities under the Equality Act 2010 and prior legislation that place statutory duties on licensees to ensure that such facilities cater for everyone's needs.

#### **REASON**

36. A proactive and preventative approach is a key aspect of good management at licensed premises. One of the greatest irritations to residents is the excessive noise escaping from licensed premises, especially when trying to sleep. Noise escape from premises may preclude the grant of a licence or constitute grounds for the review of any licence previously granted. There might also be need for a Noise Abatement notice to be issued under the Environmental Protection Act 1990.
37. There can be little doubt that a well-managed licensed venue can benefit the local community. However, there is clearly a risk of local residents being disturbed, particularly if the venue is open late at night because people leaving the premises can be a significant problem in the early

hours. Customers may be less inhibited about their behaviour and may be unaware of the noise they are creating.

38. Public safety is about protecting the safety and the lives of patrons. It is the wish of the Licensing Authority that anyone visiting a licensed venue in the Council Administrative Area can do so in complete safety and premises may be inspected to ensure that they have been constructed with safety in mind and are well managed and maintained.

## **b) Consultation**

### **POLICY**

39. The Licensing Authority will advertise all new licence applications and applications to vary existing licences on the Licensing Authority web site.
40. Representations must be relevant and not vexatious or frivolous. To be relevant the representation will be accepted if it relates to the likely effect of the grant of a licence on the promotion of at least one of the objectives. In other words representations should relate to the impact of licensable activities carried on from premises on the objectives. Representations based on vague references to what may or may not happen if the licence is granted, will almost certainly not be considered relevant.
41. Any person, body or business will be able to make a relevant representation in relation to premises, regardless of their geographic proximity.
42. Businesses, residents and bodies will be entitled to make representations against (or for) a new or existing premises licence. However, they will need to demonstrate that their representations relate to the promotion of one or more of the licensing objectives. A representation submitted on the basis of local competition would not be relevant and may be considered 'vexatious' by the licensing authority.
43. Representations that are founded in whole or in part on stereotypical comments that are based on nothing more than the race, religion, sex or sexuality of any group of people will be treated as vexatious and not considered relevant representations.

### **REASON**

44. The grant of a licence could have a significant impact on the lives or businesses of those living or working in the area around the premises for which a licence is sought. It is only right, therefore, that all those likely to be affected by an application are made aware of it and of the opportunity to make representations.

## c) Responsible Authorities

### POLICY

45. Responsible authorities are public bodies that are entitled to make relevant representations to the Licensing Authority in relation to the application for the grant, variation or review of such a licence in either electronic or hard copy format. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.
- The chief officer of police
  - The fire authority
  - The health and safety authority
  - The local planning authority
  - The environmental health authority
  - Bodies recognised as being responsible for protection of children from harm
  - Trading standards officers
  - Licensing authority
  - Local health bodies
46. The responsible authorities will seek to liaise with applicants to achieve a satisfactory outcome for all involved wherever possible. Please see **appendix 5** for their contact details.
47. Where an applicant considers that representations may be likely or probable, it is recommended that the applicant discuss the proposal with the responsible authorities prior to submitting their application.
48. Applicants are not required to seek the views of responsible authorities before formally submitting their application but co-operation with them, local residents and businesses is encouraged before submission of the application to minimise the scope for disputes.

### REASON

49. Once an application has been lodged, there are statutory timescales imposed upon the application and determination process, which restrict the opportunity for responsible authorities, local residents and businesses and the applicant or their representative to have the relevant discussions, liaison and mediation.
50. The licensing authority has allocated the different responsibilities to different officers so that the officers acting for the responsible authority will not be involved in the licensing application and the decision making processes. Licensing authorities are not expected to act as responsible authorities on behalf of other parties (for example, local residents, local councillors or community groups) although there are occasions where the authority may decide to do so to promote the licensing objectives in exceptional circumstances.

51. Health bodies may hold information, which other responsible authorities do not, but which would assist a licensing authority in exercising its functions. For example, drunkenness can lead to accidents and injuries from violence, resulting in attendances at emergency departments and the use of ambulance services. Such information would be relevant to the public safety objective and in some cases the crime and disorder objective.

## **Weight of Police Evidence**

### **POLICY**

52. The police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The police should be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective, but may also be able to make relevant representations with regards to the other licensing objectives if they have evidence to support such representations. The licensing authority should accept all reasonable and proportionate representations made by the police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains incumbent on the police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

### **REASON**

53. In their role as a responsible authority, the police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective.

## **Determination of Applications**

### **OVERRIDING POLICY PRINCIPLE**

54. In determining a licence application, the overriding principle adopted by the Licensing Authority will be that each application will be determined on its individual merits. The process adopted for determination will, in all cases, follow that required by regulations made under the Act.

### **POLICY**

55. When making licensing decisions on new and existing licences and fulfilling their licensing responsibilities the licensing authority is required to demonstrate that its decisions are "appropriate" to promote the licensing objectives. In determining whether an action or step is "appropriate" for the promotion of the licensing objectives the Authority will make an assessment of what action or step would be suitable to achieve that end. The Authority will base its decision on factors limited to the promotion of the licensing objectives not matters outside those. However, it will also assess the evidence on risks and benefits either for or against a determination.

## REASON

56. The Authority will aim to consider the potential burden of restrictions on licensable activities as well as potential benefit in terms of promoting licensing objectives, wider issues such as, other conditions already in place to mitigate potential negative impact on the promotion of licensing objectives and the track record of the business in deciding what is proportionate.

## Conditions

## POLICY

57. Licence conditions will depend on the individual application and will be imposed where appropriate to meet the licensing objectives. Licence conditions will not be imposed where the Licensing Authority is satisfied that other regulatory regimes provide sufficient protection to the public e.g. Health and safety at work and fire safety legislation.
58. When considering and applying conditions, such conditions should be clear, appropriate and enforceable. Conditions will be focused on matters that are within the control of the individual licence holder.
59. Suggested example conditions have been produced at **appendix 6** to assist applicants, responsible authorities and other persons when proposing and determining conditions for a premises licence or club premises certificate, but all should ensure that the conditions apply specifically to the premises and meet the criteria of clarity, appropriateness and enforceability.
60. Suggested example conditions are neither exclusive nor exhaustive. They do not restrict applicants, responsible authorities or other persons in proposing additional or alternative conditions. Nor do they restrict the Licensing Authority, when determining contested applications, from imposing any reasonable condition on a licence that it considers appropriate for the promotion of the licensing objectives under the Licensing Act 2003.
61. A premises licence or club premises certificate that contains conditions imposed by the Licensing Authority, or agreed by the applicant, shall also be subject to the statutory mandatory licensing conditions. See **Appendix 7** for the full list of mandatory conditions.

## REASON

62. The Government's view is that, in general, there should not be standard conditions, some of which might be inappropriate to individual premises. Instead, conditions should depend on the premises and activities concerned, with a view to ensuring that the licensing objectives are achieved.



### **Location of Premises and Licensing Hours**

63. The Licensing Authority understands the view of the Government, but considers that the risk of disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning. For example, the risk of residents' sleep being disturbed by patrons leaving licensed premises is obviously greater at 02.00 than at 23.00. Residents have a reasonable expectation that their sleep will not be unduly disturbed between the hours of 23.00 and 07:00.

### **POLICY**

64. Flexible licensing hours for the sale of alcohol can help to ensure that concentrations of customers leaving premises simultaneously are avoided. This can help to reduce the potential for disorder and disturbances. Licensing hours should not inhibit the development of a thriving and safe evening and night-time economy. This is important for investment, local employment, tourism and local services associated with the night-time economy. Providing customers with greater choice and flexibility is an important consideration, but should always be balanced carefully against the duty to promote the four licensing objectives and the rights of local residents to peace and quiet.
65. When determining applications this licensing authority will approach each application on its own individual merits having regard to any representations received.

### **REASON**

66. In determining appropriate strategies around licensed opening hours, licensing authorities cannot seek to restrict the activities of licensed premises where it is not appropriate for the promotion of the licensing objectives to do so.
67. If it is found appropriate to restrict hours in an area where it is believed that this will prevent noise and disruption late at night then each application will be approached on its own individual merits taking into account the applicants operating schedules where they seek to address these issues by way of conditions.
68. In all cases, the granting of a licence will depend on the impact of an activity, particularly on local residents or late night businesses. Consideration will be given to relevant matters including, but not limited to, the level of noise and vibration, litter, people coming and going, queuing and any potential for criminal activity or disorder.

### **Consideration of the Impact of Licensed Activities**

69. When considering whether any licensed activity should be permitted, the Licensing Authority will assess the likelihood of it causing unacceptable

adverse impact, particularly on local residents and businesses, by considering the following factors amongst other relevant matters:

- i) the type of use
- ii) the proposed hours of operation
- iii) the means of access to and exit from the premises by patrons

## **POLICY**

70. Applicants should demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Applicants are expected to obtain sufficient information to enable them to show, when setting out steps in their operating schedule, that they understand:
  - The layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to residential premises and proximity to areas where children may congregate.
  - Any risk posed by the applicants proposed licensable activities and
  - Any local initiatives which may help mitigate potential risks e.g. local crime reduction initiatives, street pastors etc.
71. Your attention is drawn to **Appendix 4**. The aim of this guidance is to provide applicants and licensees with suggestions on good practice for the promotion of the four licensing objectives.

## **REASON**

72. When preparing an operating schedule applicants are required to set out the steps necessary, if any, for the promotion of the licensing objectives. In doing so, applicants are expected to have regard to the statement of licensing policy for their area and to be aware of the expectations of the licensing authority and responsible authorities in terms of the steps that are necessary to promote the licensing objectives.
73. In reaching its decisions, the Licensing Authority acknowledges the difficulty a licence holder has in preventing anti-social behaviour by individuals once they are beyond the direct control of that licence holder. However, it will also take into account that the licensing objective of preventing public nuisance will not be achieved if patrons from licensed premises regularly engage in anti-social activities to the detriment of nearby residents or businesses. Furthermore, it will also take into account its responsibility under the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder in the Council Administrative Area. The aim of the Policy is, therefore, to achieve a holistic and balanced approach to these difficult issues.

## **Saturation and Cumulative Impact**

74. This Licensing Authority does not currently have in place saturation or cumulative impact policies.
75. While no policy is currently in place the licensing authority will keep potential areas of saturation (areas where there is evidence that no further licensed premises can be accommodated), under review.
76. The licensing authority may, in its own right or, on receipt and consideration of relevant representations from any responsible authority or interested party that indicate that saturation has been reached, consider introducing a special policy to control any cumulative impact on the licensing objectives arising in an area.
77. The absence of a special policy does not prevent any responsible authority or interested party from making representations on any application for grant or variation of a relevant authorisation on the grounds that the premises may give rise to, or otherwise contribute to cumulative impact.

## **POLICY**

78. The licensing authority recognises that the number, type and concentration of licensed premises in any given area, may have a 'cumulative impact' on one or more of the licensing objectives over and above the impact of the individual premises themselves and that enforcement action taken to ensure that conditions are complied with may not always resolve any problems experienced. The licensing authority also recognises that such problems may occur both in the vicinity of and at some distance from the premises concerned.
79. In recognition of the potential for cumulative impact, and by way of promoting the licensing objectives, the licensing authority may act on or otherwise consider any of the following:
80. When setting such a policy, the Licensing Authority shall have due regard to the Guidance, and will follow the consultation, adoption and review procedures applicable to the process.
81. The effect of a special policy is to create a rebuttable presumption that applications, which are likely to add to the cumulative impact, will be refused following relevant representations. This presumption can be rebutted by the applicant if they can show that their application will have no negative cumulative impact.
82. There should be an evidential basis for the decision to include a special policy. The licensing authority will consider evidence from partners, including responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine whether a special policy would be appropriate for the promotion of the licensing objectives.

83. When establishing its evidence base, a licensing authority may wish to consider
- a. Local crime and disorder statistics, including statistics on specific types of crime and hotspots
  - b. Local anti-social behaviour statistics
  - c. Health related statistics such as alcohol related emergency attendances and hospital admissions
  - d. Environmental Health complaints, particularly in relation to litter and noise.
  - e. Complaints recorded by the local authority, which may include complaints raised by local residents or residents associations
  - f. Residents Questionnaires
  - g. Evidence from local councillors
  - h. Evidence obtained through local consultation.
84. This is not considered an exhaustive list of the types of evidence and where information is insufficient or not readily available but the licensing authority believes there are problems in its areas it can consider conducting or commissioning a specific study to assess the position.
85. The evidence gathered will inform the type of premises to be included within a special policy. A special policy can apply to all new premises licences and club premises certificates. Off licences can also come within a special policy if they can be shown to contribute to problems of street drinking, proxy purchasing, dispersal issues, preloading and excessive drinking and related disorder.
86. The licensing authority will also consider
- a. The nature of the area
  - b. The number and types of licensed premises in the area
  - c. The capacity of those premises
  - d. The hours of operation of those premises
  - e. The approved operating schedules of the premises
  - f. The history of the premises
  - g. The arrangements for the management of the premises
  - h. The customer profile of the premises
  - i. Whether there is good evidence that crime and disorder or nuisance are occurring or whether there are activities, which pose a threat to public safety or the protection of children from harm.
  - j. If such problems are occurring, and identify whether these problems are being caused by the customers of a particular licensed premises or that the risk of cumulative impact is imminent
  - k. The boundaries of the areas where the problems are occurring

## **REASON**

87. The licensing authority will take into account whenever it receives representations about cumulative impact on the licensing objectives if warranted within a specific area of Medway.

## **Early Morning Restriction Orders**

88. This Licensing Authority does not currently have in place an early morning restriction order.

### **POLICY**

89. Early Morning Restriction Order (EMRO) are designed to address recurring problems such as high levels of alcohol related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol related anti-social behaviour which is not directly attributable to specific premises.
90. The Licensing Authority will need to be satisfied that the request for EMRO is appropriate for the promotion of the licensing objectives and for a specified period between 12 midnight and 6am and in relation a particular area; which maybe the whole or part of the local authority area.
91. The Licensing Authority will consider evidence from partners, including responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine whether an EMRO would be appropriate for the promotion of the licensing objectives.
92. When establishing its evidence base, a licensing authority may wish to consider
- a. Local crime and disorder statistics, including statistics on specific types of crime and hotspots
  - b. Local anti-social behaviour statistics
  - c. Health related statistics such as alcohol related emergency attendances and hospital admissions
  - d. Environmental Health complaints, particularly in relation to litter and noise.
  - e. Complaints recorded by the local authority, which may include complaints raised by local residents or residents associations
  - f. Residents Questionnaires
  - g. Evidence from local councillors
  - h. Evidence obtained through local consultation.
93. This is not considered an exhaustive list of the types of evidence. Where information is insufficient or not readily available the licensing authority may consider conducting or commissioning a specific study to assess the position. This may involve conducting observations of the night-time economy to assess the extent of incidents relating to the promotion of the licensing objectives, such as incidences of criminal activity, anti-social behaviour, examples of public nuisance and under age drinking at key times and locations. Where observations determine that it is relating to specific premises the issues will be dealt with under the Review of a Premises Licence/Club Premises Certificate procedure rather than the use of an EMRO.

94. The licensing authority may also consider alongside its own evidence as to the impact of licensable activities within its area and consider in particular; the times at which licensable activities are carried on. Information which may be considered include:

- Trends in licence applications, particularly trends in applications by types of premises and terminal hours
- Changes in terminal hours of premises
- Premises capacities at different times of night and the expected concentrations of drinkers who will be expected to be leaving premises at different times.

## **REASON**

95. The licensing authority will need to be satisfied that it has sufficient evidence to demonstrate that its decision to have an EMRO is appropriate for the promotion of the licensing objectives and may deal with the issues presented within the evidence.

## **Late Night Levy**

96. This Licensing Authority does not currently have in place a late night levy.

## **POLICY**

97. The late night levy is a power for licensing authorities to introduce a charge for premises that have a late alcohol licence. Whether or not to implement the levy will be left entirely at the discretion of the licensing authority that will make the decision based on the situation in their local area. In the areas that it is introduced the levy will be collected annually and the revenue will be split between licensing authorities and the police.

98. The decision to introduce the levy is for the licensing authority to make. The licensing authority is expected to consider the need for a levy with the chief officer of police and police crime commissioner ("PCC") for the police area in which it is proposed the levy will be introduced. Local residents can use existing channels and forums to put forward views and call for the implementation or not of the levy in their area.

## **REASON**

99. The levy is a power and some licensing authorities will not consider that it is appropriate to exercise it. The licensing authority may wish to decide whether or not it believes it has viable proposal to introduce the levy before incurring the costs of the formal consultation process. It is recognised that some licensing authorities may not have a large number of premises, which are licensed to sell alcohol during the late night supply period.

## **Suspension for non payment**

### **POLICY**

100. The 2003 Act requires a licensing authority to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due. However, this does not apply immediately if the payment was not made before or at the time of the due date because of an administrative error, or because the holder disputed liability for the fee before or at the time of the due date. In either case, there is a grace period of 21 days. This period is intended to allow the licensing authority and the licence or certificate holder an opportunity to resolve the dispute or error. If the dispute or error is not resolved during this 21-day period, the licence or certificate will be suspended.
101. A premises licence or certificate that has been suspended does not have effect to authorise licensable activities. However, it can for example be subject to a hearing or in the case of a premises licence, an application for transfer. The licence will nevertheless only be reinstated when the outstanding fee has been paid. Formally, the holder who held the licence at the time it was suspended owes the debt. However, it may be more likely in practice that the new holder will actually make the payment. The suspension of licences and certificates is only applicable to unpaid annual fees after 25 April 2012. In the case of a licence or certificate where more than one payment year has been missed payment of the outstanding fee in relation to each year will be required to reinstate the licence.
102. Invoices are issued by the Council Finance Department and payment is due within 28 days of the invoice date. Should payment not be received we will call the licence holder or make a visit to the premises to advise the licence holder of failing to pay the annual fee. At this point should payment not be received within 7 days then the licence or certificate will be suspended.

### **REASON**

103. The fees were set with the aim of recovering the licensing authorities cost of administering, inspecting and ensuring compliance with this legislation and the associated guidance.

## **Smoking**

104. Legislation in relation to smoking in enclosed spaces came into force on 1 July 2007. From that date it became illegal to smoke or to fail to prevent smoking in a smoke-free place.

### **POLICY**

105. The Licensing Authority may take into consideration the possible effect of people leaving licensed premises to smoke when determining licence applications. This relates to safety of patrons and passers-by and also nuisance from noise or litter.

## **REASON**

106. This is to take into account any concerns relating to safety and nuisance from people outside premises.

### **Sex Establishments**

107. The Licensing Authority has a separate policy for applications for this type of Venue in this Council Administrative area and applicants should refer to that policy for guidance.

### **Planning**

108. Any premises for which a licence is required should normally have an authorised use under the town and country planning legislation.

## **POLICY**

109. It will be the policy of the Licensing Authority that applications for premises licences in respect of permanent commercial premises will be reminded of the need to secure the necessary planning consents, if not already obtained, before carrying on their licensable activities. An application for any variation of a licence would not relieve the applicant of the need to apply for planning permission or building control consent where appropriate.

## **REASON**

110. This policy is to avoid unnecessary duplication and, thereby, comply with Home Office guidance. Licensing applications will not be a re-run of the planning process and will not cut across decisions taken by the local planning authority. However, there could be occasions when a licence is refused for licensing reasons where an authorised planning use exists. The granting of a licence does not guarantee the granting of planning permission or vice versa.

### **Enforcement**

111. 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.
112. 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. All licence holders will be expected to co-operate in order to promote the licensing objectives. However, proportionate but firm action will be taken against those who commit serious offences or persistently break the law.
113. The Council has, in its corporate enforcement policy, set clear standards of service and performance that the public and businesses can expect.



114. The Regulators' Compliance Code is a statutory code of practice intended to encourage regulators to achieve their objectives in a way that minimises the burdens on business. The purpose of the Code is to embed a risk-based, proportionate, targeted and flexible approach to regulatory inspection. This approach will ensure that regulators are efficient and effective in their work, without imposing unnecessary burdens on those they regulate.
115. We have also signed up to the Kent & Medway Licensing Enforcement Protocol. The aim of this protocol is to establish a model working in partnership with:
- Responsible Authorities
  - Other enforcement agencies as appropriate (e.g. Customs and Excise, UK Border Agency)
116. In particular, enforcement action will have regard to:
- i) Risk assessment – i.e. focusing on activities that give rise to the most serious risks or where hazards are least well controlled
  - ii) Consistency – i.e. similar approaches in similar circumstances to achieve similar ends
  - iii) Transparency – i.e. helping licensees to understand what is expected and distinguishing between statutory requirements and guidance
  - iv) Proportionality – i.e. action taken should be proportional to the risk presented
117. The Licensing Authority will establish protocols with the local Police and the Fire Authority on enforcement issues to avoid duplication and to provide for the most efficient deployment of resources in respect of inspection of licensed premises and the enforcement of licensing law.
118. The Licensing Authority will carry out compliance inspections to maintain well-managed premises, with a targeted enforcement regime for problem and high-risk premises.

### **Persistent Sales to Children**

#### **POLICY**

119. Persistently selling alcohol to children is defined as when a licence holder is found to be selling alcohol to children two or more times within a three-month period.
120. The aim is to deliver tough action against those persistently selling alcohol to children.

121. Where persistent sales of alcohol to children have occurred at premises, responsible authorities should consider applying for a review of the licence.

## **REASON**

122. Responsible authorities should consider taking steps to ensure that a review of the licence in these circumstances. In determining the review, the licensing authority should consider revoking the licence if it considers this outcome is appropriate.

## **Reviews**

123. Where possible and appropriate the responsible authorities will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.

124. 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.

125. Responsible authorities and/or councillors, businesses, members of the public can trigger a review of a premises licence or club premises certificate but an evidentiary basis would be required to be presented to the Council.

126. The Licensing Authority will arrange a hearing on receipt of an application for review by a responsible authority or interested party that must relate to one or more of the licensing objectives.

127. Where reviews arise and the licensing authority determines that the premises is being used to further crimes it is expected that revocation of the licence even in the first instance should be seriously considered where it involves:

- Use of licensed premises for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crimes.
- Use of licensed premises for the sale and distribution of illegal firearms
- Evasion of copyright in respect of pirated films and music
- Underage purchase and consumption of alcohol
- Use of licensed premises for prostitution or the sale of unlawful pornography
- Use of licensed premises for unlawful gaming
- Use of licensed premises as a base for organised criminal activity
- Use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks
- Use of licensed premises for the sale of smuggled tobacco or goods
- The use of licensed premises for sale of stolen goods
- Prolonged and/or repeated instances of public nuisance

- Where serious risks to public safety have been identified and the management is unable or unwilling to correct those risks
- Where serious risks of harm to children have been identified
- Permitting drunkenness and for encouraging binge drinking

### **Discharge of Functions**

128. A list of the scheme of delegations approved by members is attached as **Appendix 8** (this may be amended from time to time in line with the Council Constitution and/or changes in any relevant legislation).

## **Activities covered by the Licensing Requirements**

The Licensing Act relates to the sale of alcohol, the provision of certain entertainment and late night refreshment.

Activities that require a licence under the Licensing Act and covered by this Policy Statement include:

- i) retail sale of alcohol
- ii) supply of hot food or drink from premises from 23.00 to 05.00 hours
- iii) supply of alcohol to club members
- iv) provision of entertainment listed below (known as regulated entertainment) to the public or club members or with a view to profit:
  - a) film exhibitions
  - b) performance of a play
  - c) indoor sporting events
  - d) a boxing or wrestling entertainment
  - e) some live music performances
  - f) playing of recorded music
  - g) dance performances
  - h) provision of facilities for making music
  - i) provision of dancing facilities

The Licensing Act prescribes:

- i) personal licences, which cover the licensing of individuals for the retail sale of alcohol
- ii) premises licences which cover the retail sale of alcohol, the provision of regulated entertainment and the provision of late night refreshment
- iii) club premises certificates, which are required to allow the supply of alcohol or the provision of regulated entertainment to certain clubs
- iv) temporary event notices, which are required for certain licensable activities on a temporary basis

## **Activities Exempt from the Licensing Requirement**

- (1) Film exhibitions for the purposes of advertisement, information, education etc.
- (2) Film exhibitions that form part of an exhibit put on show for any purposes of a museum or art gallery.
- (3) Music whether live or recorded, which is incidental to other activities, which do not require a licence.
- (4) Live music as follows:
  - i. amplified live music between 8am and 11pm before audiences of no more than 200 people on premises authorised to sell alcohol for consumption on the premises;
  - ii. amplified live music between 8am and 11pm before audiences of no more than 200 people in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment); and
  - iii. unamplified live music between 8am and 11pm in all venues
- (5) Use of television or radio receivers for the simultaneous reception and playing of a programme.
- (6) Any entertainment or entertainment facilities at a place of public religious worship.
- (7) Entertainment at garden fetes or similar functions unless there is an element of private gain.
- (8) Morris dancing or any dancing of a similar nature or a performance of unamplified live music as a part of such a performance.
- (9) Entertainment on road vehicles in motion.

## **Limitations for Temporary Event Notices**

A temporary event notice (TEN) may only be given by an individual and not, for example, by an organisation or club or business. The individual giving the notice is the proposed "premises user". Within businesses, clubs or organisations one individual will therefore need to be identified as the proposed premises user.

An 'associate' of the proposed premises user is:

1. the spouse of that person;
2. a child, parent, grandchild, grandparent, brother or sister of that person;
3. an agent or employee of that person; or
4. the spouse of a person within (2) or (3).

For these purposes, a person living with another as that person's husband or wife is to be treated as that person's spouse.

The limitations apply to:

- the number of times a person (the "premises user") may give a temporary event notice (TEN) (50 times per year for a personal licence holder and five times per year for other people);
- the length of times a person (the "premises user" may give a late temporary event notice (LTEN) (10 times per year for a personal licence holder and two times per year for other people);
- the number of times a TEN may be given in respect of any particular premises (12 times in a calendar year);
- the length of time a TEN may last for these purposes (168 hours);
- the maximum aggregate duration of the periods covered by TENs at any individual premises (21 days per calendar year);
- The scale of the event in terms of the maximum number of people attending at any one time (a maximum of 499).

If the limitations cannot be met a premises licence will be required.

### **Standard Temporary Event Notice (STEN)**

It is a requirement that you send at least one copy of the notice to the licensing authority at least 10 working days before the commencement of the proposed licensable activities / event. The authority will give you written acknowledgement of the receipt of the notice. This will be important proof that you gave the notice and when you gave it for the purposes of the Act.

### **Late Temporary Event Notice (LTEN)**

It is a requirement that you send at least one copy of the notice to the licensing authority at least five working days but no earlier than nine working days before the commencement of the proposed licensable activity or event. A late notice given later than five working days before the event to which it relates will be returned as void and the activities described in it will not be authorised. The authority will give you written acknowledgement of the receipt of the notice. This will be important proof that you gave the notice and when you gave it for the purposes of the Act.

If there is an objection from either the police or local authority exercising environmental health functions, the event will not go ahead and a counter notice will be issued.

# **Examples of Good Practice for Licensed Premises**

## **Introduction**

The Licensing Act 2003 (the Act) focuses on the promotion of four statutory licensing objectives, which must be addressed when licensing functions, are undertaken. The four licensing objectives are:

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

## **Aim of this document**

The aim of this document is to provide applicants and licensees with examples of good practice for the promotion of the four licensing objectives, which are paramount considerations at all times.

It outlines what this licensing authority and its responsible authority partners recommend for applicants to consider when completing their operating schedules and for licensees to consider when operating their premises under the terms of a premises licence.

Applicants and licensees are expected to make a proactive commitment to preventing problems from occurring at licensed premises.

## **Risks associated with licensed premises**

Risks associated with licensed premises can vary dependent on the premises type and characteristics, the design, layout and general environment, the location, the policies in place and the events being held there.

This document identifies many of the possible risks associated with the sale of alcohol and the provision of entertainment or late night refreshment and sets out examples of good practice measures to mitigate those risks. It provides a key mechanism for the promotion of the licensing objectives, for well-run premises and a responsible approach to alcohol, entertainment and late night refreshment in Medway.

This document cannot anticipate every possible risk, problem or circumstance that may arise from licensed premises. Neither does it restrict an applicant or licence holder from promoting the licensing objectives through alternative means.



## **How can this document be used?**

### **Applicants and licensees**

A proactive and preventative approach is a key aspect of good management at licensed premises. The licensing authority therefore has produced this document to aid applicants when completing their operating schedule.

If problems occur at licensed premises after a licence has been granted and a reactive approach is needed, licensees should put additional operational measures in place to manage and prevent those problems from recurring.

### **The licensing authority and responsible authorities**

This is not a statutory document but it may be taken into consideration and used by the licensing authority and responsible authorities should they wish to do so as follows:

- when responding to licence applications where the licensing objectives have not been adequately addressed in the operating schedule;
- as a first point of dealing with licensed premises encountering problems, to raise standards to promote the licensing objectives in those premises and avoid further problems; and
- for the review of licences where there is evidence that licensees have not promoted the licensing objectives.

### **Dealing with problem premises**

The routine monitoring of licensed premises will be undertaken by the licensing authority and responsible authorities and findings under the four licensing objectives will be brought together.

Problems or concerns with licensed premises will be identified and flagged up at an early stage and advice will be offered to licensees with a view to improving standards at their premises and to prevent or minimise subsequent problems.

Where problems have been identified, the licensing authority and responsible authorities will agree appropriate measures.

### **Acknowledging well-managed premises**

This document will also be used by the licensing authority to acknowledge and support well run premises through schemes such as the Safer Socialising Award.

### **General – all four licensing objectives**

This section provides guidance on good practice for the general promotion of all four licensing objectives at licensed premises. It is intended to help those applying for

new licences or variations to existing licences in completing their operating schedules. It is also designed to guide licensees on the general promotion of the licensing objectives after a licence has been granted.

Licensees and their staff have responsibility for the effective and safe management of their premises and the promotion of the four licensing objectives. Training is the key to giving licence holders, premises managers and staff the knowledge and skills to deal with and manage risks associated with licensed premises. Training should be provided to all staff and should be about both preventing and managing problems occurring at premises. Training should be regularly updated.

<u>Risk</u>	<u>Good practice measure</u>
<p><b>Lack of knowledge or understanding of the Licensing Act 2003</b></p>	<p><b>G1</b> (a) <b>Well trained staff</b> will contribute to well run premises and a responsible approach to the sale of alcohol, provision of entertainment and late night refreshment.            Formal qualifications for your staff, either to Personal Licence level or to another appropriate standard recognised by bodies such as the British Institute of Innkeepers (BII) would be preferential.</p> <p>(b) All staff should be advised of licensing law in writing before they are allowed to serve alcohol.</p> <p>(c) Training should also be provided on premises' specific policies relevant to the operation of the business.</p> <p>(d) A record should be kept of the date and name of person trained or advised and be made available for inspection by the police or licensing authority.</p>

### Prevention of crime and disorder

This section provides guidance on good practice for the prevention of crime and disorder from licensed premises. It is intended to help those applying for new licences or variations to existing licences in completing their operating schedules. It is also designed to guide licensees on the prevention and management of crime and disorder from their premises after a licence has been granted.

The main causes of crime and disorder in licensed premises arise from inadequate security provisions, poor design and layout, the type of event being promoted, overcrowding and customers being drunk or under the influence of drugs. This can result in theft, conflict, violence and anti social behaviour. It is therefore recommended that applicants and licensees take a proactive approach to preventing and managing crime and disorder from their premises.

All applications for new licences and variations should address the steps proposed to prevent crime and disorder and this is best achieved through a premises risk

assessment. Alcohol can be a significant contributory factor to levels of crime and disorder in an area. Good management and good practice along with adequate physical controls can make an important difference to the level of alcohol related crime at premises. Such measures should be reflected in the operating schedule.

For new premises or the refurbishment of existing premises, preventative measures should be factored in during the design stage. Consideration should be given to the design and layout of the premises to minimise the potential for crime and disorder.

Licence holders should have clear documented policies and procedures in place which identify all crime and disorder risks associated with their premises and the measures implemented to prevent, manage and respond to those risks.

Risk	Good practice measure	
<p><b>Security in and around the premises</b></p>	<p><b>CD1</b></p>	<p>(a) <b>An alarm or other security measure</b> should be installed at the premises to protect it when closed or empty.</p> <p>(b) Emergency exits should be alarmed when the premises are open to the public so that staff are immediately notified of unauthorised opening or tampering.</p> <p>(c) Any staff or private areas and cellars should be kept locked and secured whilst the premises are open to the public.</p>
	<p><b>CD2</b></p>	<p>(a) <b>CCTV</b> should be installed inside and outside the premises. The cameras should cover all internal areas accessible to the public and areas immediately outside the premises. The date and time settings on the system must be correct.</p> <p>(b) The recordings should be in real time and on hard drive with the availability to copy disks for other agencies such as the police.</p> <p>(c) For analogue systems, tapes should be changed daily and used no more than 12 times.</p> <p>(d) Recordings should be kept for a minimum period of 31 days.</p> <p>(e) Staff should be trained in the maintenance and operation of such systems with a record kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p> <p>(f) A trained member of staff should be on duty to operate the system whenever the premises are open.</p>
	<p><b>CD3</b></p>	<p><b>External lighting</b> provides an obvious means of crime deterrence. Care should be taken so that lighting does not impact on neighbours.</p>

<b>Crime including conflict, violence or aggression in and around the premises</b>	<b>CD4</b>	<p>(a) <b>Security systems should be integrated</b> so that the alarm, CCTV and lighting work together in an effective manner.</p> <p>(b) The alarm should be linked to a system that will notify the police if it is activated.</p>	
	<b>CD5</b>	<p>(a) <b>Door staff and/or stewards</b> should be employed at the venue to supervise admissions and customers inside the venue.</p> <p>(b) Door staff should be easily identifiable by wearing a uniform, high visibility jackets or arm bands.</p> <p>(c) Door staff should sign into a register detailing their full name, contact details and the time and date their duty commenced and concluded.</p> <p>(d) Stewards and other staff at the premises should also be easily identifiable. Stewards must not be used for supervision of the door.</p>	
	<b>CD6</b>	<p>(a) <b>Effective security policies</b> based on risk assessments can protect your premises, staff and customers from threats, conflict or violence.</p> <p>(b) Security policies should be formulated in consultation with a police crime prevention officer.</p> <p>(c) All staff must be aware of a premises security policy with a record kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p> <p>(d) Premises should be searched inside and out for suspect packages before, during and after opening hours. Staff should be trained to remain vigilant during opening hours and report any suspicious activity to the Police.</p>	
	<b>CD7</b>	<p><b>Security reviews</b> should be held regularly and at least every three months with minutes kept.</p>	
	<b>CD8</b>	<p>(a) <b>Daily staff briefing and debriefing</b> will enable licensees to improve working practices in their premises.</p> <p>(b) Briefings can be informal but any problems identified and remedial action taken should be recorded with records kept in the main office.</p>	
	<b>CD9</b>	<p>(a) <b>Promoted events</b> may attract larger than usual crowds and particular promotions may have violent or aggressive followers or other crime and disorder associated with them.</p> <p>(b) Such events must have a comprehensive risk assessment undertaken by the licence holder</p>	

		<p>and submitted to the Police licensing team at least 14 days in advance of the proposed event.</p> <p>(c) It is expected that promoters should have obtained the BIIAB level 2 for music promoters.</p> <p>(d) In the event that a problem should arise during a promoted event, this should be documented by the licence holder and it is expected that a debrief form will be provided to the Police licensing team within 48 hours of the event.</p>
	<b>CD10</b>	<p>(a) <b>Proper management of the door</b> will depend on the size and type of venue. The number of door supervisors should be determined by a risk assessment taking into account the size of venue and the type of crowd the entertainment is likely to attract, but at the very least on a ratio of 1 door supervisor per 50 customers.</p> <p>(b) Consideration should be given to a sufficient, provision of male and female door supervisors, but at least one female door supervisor should be used.</p>
	<b>CD11</b>	<p><b>A door admissions policy</b> including any age restrictions, expected dress standards or the screening of hand bags should be widely publicised on any promotional material or website and clearly displayed at the entrance to the premises.</p>
	<b>CD12</b>	<p>(a) <b>Ejecting or refusing entry to persons</b> from the premises if they do not meet your admissions standards or they are known to be violent or aggressive.</p> <p>(b) In such cases, an entry should be made in an incident or log book</p>
	<b>CD13</b>	<p>(a) <b>A policy to manage capacity</b> should be adopted to prevent overcrowding and patrons possibly becoming aggressive through accidental jostling.</p> <p>(b) For promoted events and large venues, the use of clickers is essential to record the number of patrons inside the premises.</p> <p>(c) For other events or smaller venues, ticket sales or head counts may be appropriate.</p> <p>(d) Consideration should be given to deliberately running below capacity to afford a comfort factor to your patrons and avoid conflict, violence or aggression within the premises.</p>
	<b>CD14</b>	<p>(a) <b>Alternatives to glass drinking vessels</b> should be considered to prevent glassware being used as an assault weapon, particularly during</p>

<p><b>Drugs and weapons being brought into the premises</b></p>		<p>promoted events.</p> <p>(b) Drinking vessels made from plastic or polycarbonate would be preferential particularly in outside areas.</p> <p>(c) Where alternatives are not used, there should be a robust glass collection policy in place. This should include regular collection of glassware by staff and prevention of glassware being removed from the premises.</p>
	<p><b>CD15</b></p>	<p>(a) <b>Measures to preserve a crime scene</b> until police arrival, following the outbreak of disorder or any other crime should be clearly documented in a policy.</p> <p>(b) Such a policy should be formulated in consultation with a police crime prevention officer.</p> <p>(c) All staff must receive training on the policy with a record kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority</p>
	<p><b>CD16</b></p>	<p>(a) <b>Staff training</b> in conflict management should be provided to give them the knowledge and confidence to deal with difficult situations and reduce crime and disorder at the premises.</p> <p>(b) Training should also cover dealing with, logging and reporting incidents if they occur.</p> <p>(c) A record should be kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p>
	<p><b>CD17</b></p>	<p><b>Sharing of information</b> with others in the industry. Regular meetings, the use of local radio networks or membership of a local pub/club watch scheme will enable information to be passed on about trouble makers and common problems in the area.</p>
	<p><b>CD18</b></p>	<p>(a) <b>A zero tolerance policy</b> to the use of drugs and carrying of weapons in the premises should be adopted with a clear “no search no entry” message.</p> <p>(b) Posters can be displayed throughout the premises to remind customers of zero tolerance policy.</p>
	<p><b>CD19</b></p>	<p>(a) <b>Effective search policies</b> will minimise the opportunity for drugs and weapons to be brought into licensed premises and lead to drug and weapon seizure if attempts are made.</p> <p>(b) The use of search arches and wands may be</p>

<p><b>Theft from premises or lost property</b></p>		<p>appropriate in some cases.</p> <p>(c) Search policies should be formulated in consultation with the licensing team.</p> <p>(d) Search policies must be advertised widely on tickets, promotional leaflets and on websites and prominently in the premises entrance and queuing area.</p> <p>(e) Searches should always be carried out in public areas and covered by CCTV.</p> <p>(f) All staff must be trained on search policies with a record kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p>
	<p><b>CD20</b></p>	<p><b>Calling the police</b> if customers are suspected of being in possession of drugs or weapons. All staff must be made aware of this requirement.</p>
	<p><b>CD21</b></p>	<p><b>(a) Seizing, retaining and documenting</b> any drugs or weapons found with a clear audit trail and a process for surrendering them to the Police.</p> <p>(b) A search policy should clearly set out procedures that must be followed by staff should they find drugs or weapons during a search including circumstances when the police should be called; the use of tamper proof bags and safe storage of seized items in a lockable box; details that need to be recorded and how/when seized items should be surrendered to the police.</p>
	<p><b>CD22</b></p>	<p><b>(a) Supervising toilet areas</b> can be effective in discouraging drug selling or use.</p> <p>(b) A toilet attendant may be appropriate for promoted events or on busy nights such as Friday and Saturday.</p> <p>(c) Regular toilet checks such as swabbing should be considered and where conducted, these should be documented with date, and time and finding recorded.</p> <p>(d) Removal of flat surfaces in toilet areas can reduce the likelihood of drug misuse</p>
	<p><b>CD23</b></p>	<p><b>Drug awareness training</b> should be provided for all staff. A record should be kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p>
	<p><b>CD24</b></p>	<p><b>Bag hooks (Chelsea clips)</b> should be provided to prevent bag snatching.</p>

Disorder from customers queuing to enter the premises or when leaving the premises	CD25	<b>Clear signage</b> should be displayed throughout the premises about crime prevention and to warn customers of the potential for pickpockets and bag/laptop snatchers.
	CD26	<b>Property patrols, managed cloakrooms</b> and toilet attendants can be employed to prevent theft from patrons or the premises.
	CD27	<b>Premises layout and lighting</b> should be considered. Secluded or dimly lit parts of the premises should be avoided as they can encourage crime.
	CD28	<b>Mirrors</b> used throughout the premises can aid supervision and act as deterrents to thieves.
	CD29	<b>A lost and found policy</b> should be in place in relation to lost/found property at the premises. The policy should include procedures regarding the logging and disposal of property and in particular any valuable property. Passports and any other ID found should be handed in to any police station.
	CD30	(a) <b>Carefully positioning alcohol</b> in retail premises can reduce theft from the premises. Alcohol is a key target for shop thieves so it is best not to place alcoholic beverages within the first few metres near the door as this allows thieves to 'grab and run'. (b) It may be helpful for alcohol display areas to be covered by CCTV if possible.
	CD31	<b>Security tagging</b> any items considered a specific target for theft, particularly alcoholic drinks over a certain price level will deter thieves.
	CD32	<b>Reduce the potential for excessive queue lines</b> with a well managed and efficient door policy. Long queuing times can cause people to become agitated or aggressive. Searches should therefore be conducted as quickly and effectively as possible.
	CD33	(a) <b>A customer dispersal policy</b> can minimise the potential for disorder from customers leaving the premises. A policy should clearly set out measures to avoid a mass exit at the end of the evening such as a gradual change in music style and increasing lighting levels. (b) Sufficient staff should be available at the end of the evening to manage a controlled shut down of the premises and maintain good order as customers leave.
	Customers getting drunk and dealing with drunken customers	CD34





		beer and cider. Such sales can contribute to anti social behaviour and disorder through the consumption of alcohol on the street and in open spaces by street drinkers or persons who are already drunk.
	<b>CD40</b>	<b>Lockable shutters</b> can be fitted on display units for alcohol in retail premises, which can be closed and locked at the end of permitted hours.

## Public Safety

This section provides examples of good practice for the promotion of public safety at licensed premises. It is intended to help those applying for new licences or variations to existing licences in completing their operating schedules. It is also designed to guide licensees on the promotion and management of public safety at their premises after a licence has been granted.

The carrying on of licensable activities in particular the provision of alcohol and some types of entertainment can increase risks to the safety of the public (including performers) attending licensed premises. It is therefore recommended that applicants and licensees take a proactive approach to protecting and managing public safety at their premises.

All applications for new licences and variations should address the steps to promote public safety and this is best achieved through a premises risk assessment.

For new premises or the refurbishment of existing premises, preventative measures should be factored in during the design stage. Consideration should be given to the design and layout of the premises to achieve the highest possible standard of safety.

Licence holders should have clear documented policies and procedures in place, which identify all public safety risks associated, with their premises and measures implemented to prevent, manage and respond to those risks.

Risk	Good practice measure	
<b>General safety of staff and customers</b>	<b>PS1</b>	<p>(a) <b>A full risk assessment</b> taking into account public safety should be carried out at the premises to identify potential hazards posed to staff or customers and setting out precautions to manage the hazards. Templates can be found on the Health and Safety Executive website and on the Communities and Local Government website. A risk assessment should be regularly reviewed at least every 12 months.</p> <p>(b) All staff should be made aware of the risk assessment and precautionary measures therein.</p> <p>(c) A copy of the risk assessment should be kept</p>

		<p>at the premises and made available for inspection.</p>
	<b>PS2</b>	<b>First aid boxes</b> should be available at the premises and maintained with sufficient in date stock.
<b>Overcrowding</b>	<b>PS3</b>	<p>(a) <b>A recognised qualification in first aid</b> should be held by at least one member of staff who should be on duty at all times the premises licence is in use.</p> <p>(b) Other staff should be trained to a basic first aid standard with records kept of the date and name of person trained.</p>
	<b>PS4</b>	<b>A first aid room</b> or quiet room should be made available to anyone requiring medical attention.
<b>Accumulation and disposal of glasses / drinking vessels</b>	<b>PS5</b>	<p><b>Temperature levels</b> and humidity in venues should be controlled for the comfort and safety of customers. An environment that is too hot or too cold can make customers irritable. Premises should be adequately heated and ventilated to avoid this. This can be achieved through use of air conditioning systems or natural ventilation in non-residential areas.</p>
	<b>PS6</b>	<p><b>A documented capacity</b> should be set for the premises overall and for individual rooms within the premises. Capacity can be determined by a risk assessment in consultation with the fire safety authority.</p> <p>The risk assessment should consider factors such as floor space, numbers of toilets, potential queuing time and available fire exits.</p>
	<b>PS7</b>	<p>(a) <b>A policy to manage the capacity</b> should be adopted to prevent overcrowding and localized overcrowding.</p> <p>(b) The use of electronic clocking systems, clickers, ticket sales or head counts may be appropriate.</p> <p>(c) Consideration should be given to deliberately running below capacity to afford a comfort factor to your patrons.</p>
	<b>PS8</b>	<p>(a) <b>A glass collection policy</b> should include provisions for regular collection of glassware by staff and the prevention of glassware from being taken into external areas. Glassware should not be allowed to accumulate or cause obstruction.</p> <p>(b) Perimeter checks should be made outside the premises for any glasses or bottles.</p>

<p><b>Accident or other emergency incident on the premises</b></p>		(c) All staff must be made aware of the glass collection policy and their responsibility for the task.
	<b>PS9</b>	<b>Spillages and broken glass</b> should be cleaned up immediately to prevent floors from becoming slippery and unsafe.
	<b>PS10</b>	<b>Bottle bins</b> should be secure at all times and away from public areas.
	<b>PS11</b>	<p>(a) <b>A written policy</b> to deal with all types of accidents &amp; emergency incidents should be in place at the premises.</p> <p>(b) The policy should be based on risk assessments and include matters such as emergency management, contingency planning and evacuation procedures in the event of fire, bomb threats or suspect packages and when to contact emergency services.</p> <p>(c) Evacuation responsibilities and roles should be clearly communicated to staff, routes and exits should be well defined and evacuation plans exercised regularly.</p> <p>(d) A copy of the fire risk assessment should be kept at the premises and made available for inspection by the fire authority and licensing authority.</p>
	<b>PS12</b>	<b>A fire detection system</b> should be in place at the premises and should be fully functional at all times. The system should be tested regularly with records kept and made available for inspection.
	<b>PS13</b>	<p>(a) <b>Means of escape</b> in case of any emergency must be clearly visible, unobstructed and well maintained including areas outside exits leading to a place of ultimate safety such as the street.</p> <p>(b) Checks should be carried out before opening each day to ensure that exits are unlocked and unobstructed.</p>
	<b>PS14</b>	<b>Equipment should be checked and maintained</b> regularly with a record kept of the date and findings of the checks.
	<b>PS15</b>	(a) <b>Staff training in fire safety</b> and any premises safety policy should be provided for all staff to give them the knowledge and confidence to deal with emergency situations, including location of equipment, utilities, services and layout of premises. Training should include how to use fire extinguishers.

<p><b>Drug use or drink spiking</b></p>	<p><b>PS16</b></p> <p><b>PS17</b></p> <p><b>PS18</b></p> <p><b>PS19</b></p> <p><b>PS20</b></p> <p><b>PS21</b></p>	<p>(b) Records should be kept of the date and name of person trained and made available for inspection.</p> <p><b>An accident book</b> should be kept in order to record all accidents or incidents and made available for inspection.</p> <p><b>(a) A zero tolerance policy</b> to the use of drugs in the premises should be adopted.</p> <p>(b) Posters can be displayed throughout the premises to remind customers of the zero tolerance policy.</p> <p><b>Refusing entry</b> to anyone who appears to be showing signs of drug use and contacting the emergency services in appropriate circumstances. In such cases, an entry should be made in an incident log book.</p> <p><b>(a) A duty of care policy</b> regarding persons suffering adversely from the effects of drugs should be in place at the premises. The policy should include drug awareness training for all staff so that they can recognise the effects of controlled drugs and provide medical attention where necessary.</p> <p>(b) All staff must be briefed on the policy. A record should be kept of the date and name of person trained.</p> <p><b>(a) Prevent the possibility of drink spiking</b> by offering various anti drink spiking products to customers.</p> <p>(b) If a customer suspects that their drink has been spiked, you should report it to the police immediately. A process for this should be clearly set out in your duty of care policy.</p> <p>A <b>'chill out' area</b> should be provided. This should be cooler and quieter than rest of venue.</p>
<p><b>Smoking on the Premises</b></p>	<p><b>PS22</b></p>	<p><b>Staff should be aware</b> of their responsibilities regarding smoke-free legislation and for monitoring compliance.</p>
<p><b>Safety of customers when leaving the premises</b></p>	<p><b>PS23</b></p> <p><b>PS24</b></p>	<p><b>Discourage drink driving</b> by promoting schemes such as Designated Driver, with notices clearly displayed throughout the premises.</p> <p><b>(a) Display information</b> to customers with regards to safe options for travelling home. Information should include access to licensed taxi cabs or licensed private hire vehicles, the location of taxi ranks and public transport</p>

		<p>facilities including night bus options.</p> <p>(b) Provide a free taxi phone service and a safe waiting area for customers inside the premises.</p>
	<b>PS25</b>	<p>(a) A ‘chill out’ period at the end of an evening can allow a slow dispersal from the premises allowing door staff to gain a handle on problem individuals, preventing arguing over taxis or congregation at takeaways and clashes with groups from other venues.</p> <p>(b) Provision of food and non alcoholic drinks during a chill out period can be effective in allowing customers to sober up before leaving the premises.</p>
	<b>PS26</b>	<p>(a) <b>Increased lighting</b> inside the premises should be considered towards the end of an evening to affect the alertness of customers before they leave the premises.</p> <p>(b) <b>Increased external lighting</b> particularly in car parks under the direct control of the licence holder will provide added safety for customers as they leave the premises. Care should be taken so that lighting does not impact on neighbours.</p>

## Prevention of public nuisance

This section provides examples of good practice for the prevention and management of public nuisance from licensed premises. It is intended to help those applying for new licences or variations to existing licences in completing their operating schedules. It is also designed to guide licensees on the prevention and management of noise and other public nuisance issues from their premises after a licence has been granted.

Excessive noise and nuisance from licensed premises is a major concern for residents living in the area. It is therefore recommended that applicants and licensees take a proactive approach to preventing and managing public nuisance from their premises.

All applications for new licences and variations should address the steps proposed to prevent public nuisance. Where entertainment or other potentially noisy activity is planned, a noise assessment should be carried out. For some premises, the assessment will need to be carried out by a suitably qualified consultant.

For new premises or the refurbishment of existing premises, preventative measures should be factored in during the design stage. Consideration should be given to the structure and layout of the premises and equipment both internally and externally, to ensure that the premises are fit for purpose. Sound attenuation measures can include wall linings, acoustic curtains and acoustic treatment to mechanical ventilation or air conditioning systems. Consideration should also be given to

historical noise problems at the premises with measures put in place to prevent them from recurring.

Licence holders should have clear documented policies and procedures in place which identify all public nuisance risks associated with their premises and measures implemented to prevent, manage and respond to those risks. Licence holders should also engage with local residents on a regular basis to ensure that they are being good neighbours and dealing with problems as they arise.

Risk	Good practice measure	
<b>Music, singing and speech noise breakout from the premises</b>	<b>PN1</b>	<ul style="list-style-type: none"> <li>(a) <b>A noise management policy</b> should be in place that sets out sound attenuation measures to prevent or control music, singing and speech noise breakout from the premises.</li> <li>(b) The policy should be based on the findings of an acoustic consultant's assessment.</li> <li>(c) All staff should be trained on the content of the policy to ensure a commitment to good noise management. A record should be kept of the date and name of person trained and made available for inspection by the licensing authority or environmental health responsible authority.</li> <li>(d) DJs, event promoters or other entertainment providers should be made aware of the policy in advance of any performance.</li> <li>(e) Use an approved list of DJs, event promoters or other entertainment providers who have signed up to the policy.</li> </ul>
	<b>PN2</b>	<ul style="list-style-type: none"> <li>(a) <b>Windows and doors should be kept closed</b> whilst the premises licence is in use to prevent noise breakout. Ventilation should be provided by mechanical means.</li> <li>(b) Windows should be sound insulated.</li> <li>(c) Emergency exits should be sealed acoustic doors.</li> <li>(d) A lobbied area should be provided at the entrance and exit to the premises.</li> <li>(e) Doors should be fitted with self closing devices.</li> </ul>
	<b>PN3</b>	<ul style="list-style-type: none"> <li>(a) <b>A sound limiting device</b> should be installed, set and sealed at a level approved by an acoustic consultant.</li> <li>(b) The sound limiting device should be used at all times that relevant regulated entertainment is taking place, including all externally promoted events.</li> <li>(d) Only the premises licence holder or a nominated deputy and the designated</li> </ul>

<p><b>Noise and nuisance from customers arriving and leaving the premises</b></p>		<p>premises supervisor should have access to the sound limiting device.</p>
	<p><b>PN4</b></p>	<p>(a) <b>Locate entertainment facilities</b> such as DJ booth, stage and loud speakers away from doors and windows.  (b) Rubber speaker mounts can be used to minimize structure borne noise.</p>
	<p><b>PN5</b></p>	<p>(a) <b>Methods for monitoring noise</b> should be included in a noise policy. Methods could range from simple perimeter checks and listening tests by the licence holder/staff to a detailed measurement taken by a qualified consultant using sound measuring equipment.  (b) Noise monitoring should actively be carried out on a regular basis and in particular when a new form of entertainment is introduced at the premises, when alterations are made to the premises or when a complaint is made directly to the venue.</p>
	<p><b>PN6</b></p>	<p>(a) <b>A log book</b> should be kept of any noise monitoring carried, the findings and any remedial action taken. The log should indicate whether it was routine noise monitoring or the result of a complaint.  (b) The log book should be made available for inspection by the licensing authority or environmental health responsible authority.</p>
	<p><b>PN7</b></p>	<p><b>A contact telephone number</b> should be made available to local residents which they can use to report noise disturbances to a responsible person at the venue as and when they occur. The phone line should be available at all times the licence is in use.</p>
<p><b>PN8</b></p>	<p>(a) <b>Reduce the potential for excessive queue lines</b> with a well managed and efficient door policy.  (b) Long queues should be avoided and any queues should be directed away from residential properties.  (c) Queues should be actively managed by door staff, especially later in the evening, to keep noise to a minimum. Rowdy behaviour from people queuing to get in should not be tolerated. Door staff should refuse entry to anyone behaving in an anti-social way.  (d) Restrict admittance or re-admittance to the premises after 11pm.</p>	
<p><b>PN9</b></p>	<p>(a) <b>A customer dispersal policy</b> can minimise noise disturbance to local residents from</p>	



<p><b>Noise and nuisance from customers using external areas such as beer gardens or forecourts</b></p>		<p>customers leaving the premises. A policy should clearly set out measures to avoid a mass exit at the end of the evening.</p> <p>(b) A gradual change in music style and reduction in volume, for example quiet or mellow music towards the end of an evening and increasing lighting levels can help to reduce the potential for rowdy behaviour.</p> <p>(c) Sufficient staff should be available at the end of the evening to manage a controlled shut down of the premises and maintain good order as customers leave.</p>
	<p><b>PN10</b></p>	<p>(a) <b>Display prominent notices</b> close to the exit doors, requesting patrons to leave the premises and quickly and quietly.</p> <p>(b) Display notices in car parks reminding patrons that they are in a residential area and to leave quickly and quietly and not to slam doors, rev engines, sound horns or play loud music.</p> <p>(c) Make announcements at the end of an evening, requesting patrons to leave the premises and area quickly and quietly.</p>
	<p><b>PN11</b></p>	<p>(a) <b>Provide a free taxi phone service and an internal waiting area</b> for customers to prevent noise disturbance to neighbours.</p> <p>(b) Steps should be taken to ensure that any taxi operators used and all their drivers are aware that they should arrive and depart as quietly as possible and should not sound their horns or leave engines idling unnecessarily.</p>
	<p><b>PN12</b></p>	<p><b>Display prominent signs</b> in external areas such as beer gardens and forecourts asking customers to keep noise to a minimum.</p>
	<p><b>PN13</b></p> <p><b>PN14</b></p>	<p><b>Restrict the use of external areas</b> after 10pm if premises are in a residential area.</p> <p>(a) <b>Door supervisors or staff</b> should regularly monitor and manage external areas to ensure that customers are not causing a disturbance to local residents.</p> <p>(b) For private forecourts, a physical barrier such as a rope should be used to mark the boundary of the area outside the premises where customers are allowed.</p> <p>(c) Limit the number of smokers permitted outside at any one time after a certain time.</p> <p>(d) Discourage smokers from loitering outside by not permitting them to take their drinks with them and removing external furniture after a certain time.</p>

		<p>(e) Locate smoking areas away from residential premises.</p> <p>(f) Do not permit customers to congregate on and block the public highway to passers by.</p>
<b>Noise from staff and entertainment providers leaving the premises</b>	<b>PN15</b>	Staff and performers who depart late at night or in the early hours on the morning when the business has ceased trading, should conduct themselves in such a manner as to avoid causing disturbance to nearby residents. This includes the loading and unloading of artists' equipment.
<b>Noise and disturbance caused by deliveries, collections and waste disposal</b>	<b>PN16</b>	<b>Commercial deliveries, collections and storage/disposal of waste</b> , including beer deliveries, refuse collections and storage / disposal of waste and recyclables in external areas should be restricted to normal working hours between 8am and 6pm Monday to Friday.
<b>Litter and waste around the premises</b>	<b>PN17</b>	<p><b>(a) Flyers should not be distributed outside the premises</b> by the licence holder or any staff employed by the licence holder.</p> <p>(b) Licence holders should ensure that promoters of events at their premises do not distribute flyers outside the premises.</p>
	<b>PN18</b>	<p><b>(a) Procedures should be in place</b> for the prompt collection of street litter generated by the premises for example flyers, cigarette butts or food wrappers.</p> <p>(b) Regular patrols of the area outside the premises should be undertaken by staff to clear any litter attributable to the premises.</p> <p>(c) Use wall or floor mounted cigarette bins in designated smoking areas for customers.</p>
<b>Disturbance from external lighting</b>	<b>PN19</b>	<b>External lighting</b> for the premises should be turned off after the premises are closed to the public.
<b>Noise or odours from plant and machinery</b>	<b>PN20</b>	<b>Plant and machinery should not cause nuisance</b> to local residents by way of noise, odours or vibration. Acoustic measures such as screening, enclosures, antivibration mounts, silencers or timing clocks should be used if necessary.

### Protection of children from harm

This section provides examples of good practice for the protection of children from harm at licensed premises. It is intended to help those applying for new licences or variations to existing licences in completing their operating schedules. It is also

designed to guide licensees on the protection and management of children from harm at their premises after a licence has been granted.

The carrying on of licensable activities in particular the provision of alcohol and some types of entertainment can increase risks of harm to children attending licensed premises. It is therefore recommended that applicants and licensees take a proactive approach to protecting and managing the well being of children at their premises. All applications for new licences and variations should address the steps proposed to protect children from harm and this is best achieved through a premises risk assessment.

Licence holders should have clear documented policies and procedures in place, which identify all age restricted risks at their premises and measures implemented to prevent, manage and respond to those risks.

Risk	Good practice measure	
<p><b>Children accessing licensed premises</b></p>	<p><b>CH1</b></p>	<p><b>(a) A documented policy</b> setting out measures to protect children from harm should be in place at the premises. The policy should consider all activities associated with the premises including the sale of alcohol and the provision of regulated entertainment and when children should be allowed on or restricted from the premises.</p> <p>(b) All staff including door staff and bar staff should be trained on the policy.</p>
	<p><b>CH2</b></p>	<p><b>(a) Restrict access to children</b> depending on the nature of the business and / or circumstances.</p> <p>(b) The admission of children can be restricted up until a specified time in the evening.</p> <p>(c) The admittance of children can only be permitted if they are accompanied by an adult.</p>
<p><b>Underage sales of Alcohol</b></p>	<p><b>CH3</b></p>	<p><b>(a) Operate a strict ‘No ID – No Sale’ policy.</b> ‘Challenge 21’ scheme serves as a reminder to staff of the need to be vigilant in preventing underage sales and to customers that it is against the law for anyone under 18 to purchase alcohol.</p> <p>(b) A ‘Challenge 25’ scheme gives staff additional support and encouragement to ask for ID from any person appearing to be under 25 years of age to prove that they are over 18.</p> <p>(c) Only accept photographic driving licences, passports or PASS (Proof of Age Standards Scheme) cards approved as means of ID. If you accept other forms of ID such as EU National ID cards, these must bear a photograph, date of birth and holographic mark.</p> <p>(d) Use till prompts to remind staff to ask for proof of age.</p>

		(e) Prominently advertise the scheme in your premises so that customers are aware, in particular, display proof of age signs at the point of sale.
	<b>CH4</b>	<b>Display posters at the premises</b> stating that it is an offence to purchase alcohol on behalf of an underage person (proxy sales).
	<b>CH5</b>	<b>Adverts or promotions for alcohol should not</b> appeal to young persons.
	<b>CH6</b>	<p><b>(a) Keep a refusals book</b> (or refusal button on EPOS – Electronic Point of Sale) on the premises and ensure it is completed whenever a sale is refused to a person who cannot prove they are over the age of 18.</p> <p>(b) The book should contain the date and time of the incident, a description of the customer, the name of the staff member who refused the sale, and the reason the sale was refused.</p> <p>(c) The book should be made available to Police and authorised Council officers on request</p> <p>(d) The book should be reviewed on a regular basis to see if any patterns emerge.</p>
	<b>CH7</b>	<p><b>(a) Staff training</b> in the age related sections of the Licensing Act 2003 should be provided to all door, bar and till staff. This includes the ability to competently check customers' identification where necessary.</p> <p>(b) A record should be kept of the date and name of person trained.</p>
<b>Access to age restricted films</b>	<b>CH8</b>	<p><b>(a) Adequate provisions for restricting children</b> from viewing age restricted films should be in place at the premises.</p> <p>(b) Staff should be trained to check ages at point of sale and prior to entry to a screening room to ensure that admission of children to films is in accordance with the recommendations of the British Board of Film Classifications (BBFC).</p>
<b>Access to age restricted gaming machines</b>	<b>CH9</b>	<b>Age restricted gaming or vending machines</b> should have suitable signage setting out the age restrictions and should be in full view of staff for monitoring.
<b>Access to entertainment of an adult nature</b>	<b>CH10</b>	<b>Children under the age of 18 should be excluded</b> from the premises or part of the premises when specified activities such as adult entertainment are taking place.
	<b>CH11</b>	<b>Adverts for entertainment of an adult nature</b>

		<b>should not be displayed externally</b> on the premises or in any part of the premises internally where they can be seen by young persons.
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**Responsible Authorities**

**Police**

Licensing Officer  
Kent Police  
Medway Police Station  
Purser Way  
Gillingham  
Kent ME7 1NE  
Phone: 01634 792539 or 01634  
792388  
Email: [licensing.north.division@kent.pnn.police.uk](mailto:licensing.north.division@kent.pnn.police.uk)

**Fire**

Dartford Group Fire Safety Office  
Dartford Fire Station  
Watling Street  
Dartford  
Kent DA2 6EG  
Phone: 01322 224229  
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## Pool of example conditions in connection with Premises Licences and Club Premises Certificates under the Licensing Act 2003

### Introduction

**The Council has prepared this pool of example conditions in line with the Licensing Act 2003.**

Conditions will only be imposed if necessary to promote the licensing objectives and may be adapted to suit the particular case under consideration. Additional conditions will not be imposed where existing legislation and regulation already effectively promote the licensing objectives.

Licensing conditions are added to licence as follows: -

- **Mandatory Conditions** set by Government (cannot be reworded)
- **Operating Schedule Conditions** will be added from the applicants submission of their operating schedule which may include changes as a result of agreements with responsible authorities or interested parties after mediation (these can be reworded as long as it is consistent with the applicants or responsible authorities submission)
- **Panel Conditions** can be imposed following a hearing (cannot be reworded)

Each application will be determined on its own merits and under no circumstances is any condition in the 'Example Conditions' to be regarded as a standard condition to be automatically imposed in all cases.

The 'Example Conditions' are designed to provide a guide to the wording of possible conditions drawn from experience relating to differing situations and solely as a means of guidance.

Any decision to add a condition to a licence will depend upon a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises, the anticipated clientele of the business involved and the local knowledge of the premises.

### Licensing Objectives

**All conditions must relate to the promotions of the licensing objectives.**

**These are:**

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance



- The protection of children from harm

### **Home Office Guidance**

The Home Office guidance is that conditions must be NECESSARY, PROPORTIONATE AND JUSTIFIABLE to meet the licensing objectives. They should be written in a prescriptive worded format, clearly understandable and be enforceable. Conditions should be expressed in unequivocal and unambiguous terms.

### **AVOID WORDING SUCH AS:**

May, Should, Could, Reasonable Steps, Regular, Appropriate Time, satisfaction of responsible authority, best endeavours, inaudible, recommend, random, as soon as possible.

### **USE WORDING SUCH AS**

Must, Shall & Will

### **Enforceable**

In agreeing conditions, operators will often offer up a condition that uses the word may; this should be challenged as it gives a choice, so it would be impossible to enforce or demonstrate non-compliance.

Whenever a conditions is being created by using the key words above, please make sure that if you went to enforce that condition what evidence would you need to prove the breach in a court.

### **Issues and Factors to Consider**

The following suggestions are not intended to be an exhaustive list and it is essential that, wherever the conditions are used they must be:

- Specific to the premises
- Not duplicate existing provisions – other legislation
- Be necessary and proportionate (supported by evidence) and
- Be capable of being met by the management/staff
- An officer can prove that the conditions is either being complied with or not and there is no partly met or unable to determine.

### **Operating Schedule**

Any applicant, in preparing the required Operating Schedule, is at liberty to volunteer measures, as a step he or she intends to take to promote the licensing objectives.

When incorporated into the licence or certificate as a condition, those measures become enforceable under the law and a breach of such a condition could give rise to prosecution. In order to minimise problems and the necessity for hearings, it is sensible for applicants to consult with the Responsible Authorities when Operating Schedules are being prepared. This would allow for proper liaison before representations prove necessary.

## **Conditions to Promote Licensing Objectives**

### **1 Adult Entertainment**

**Where the premises are operating as a family friendly venue you may wish to consider conditions restricting certain entertainment of an adult and sexual nature or restricting access to children to the premises.**

- 1.1 No entertainment or activity of an adult or sexual nature will take place within the premises.
- 1.2 No children under the age of 18 will be allowed on the premises whilst entertainment or activities of an adult or sexual nature takes place within the premises.
- 1.3 Entertainment or activity of an 'adult' or 'sexual' nature will take place on {state day} between {start time} and {end time}. Prior to the commencement of such entertainment the licence holder will ensure that no children are upon the premises and the door staff will prevent access by children.
- 1.4 When entertainment or activity of an 'adult' or 'sexual' nature takes place on the premises the Licence holder shall erect and maintain clear and prominent notices on the exterior of their premises 30 minutes before the entertainment takes place advising that 'children are not admitted'.
- 1.5 Whenever the entertainment includes language of an adult nature that includes swearing or offensive comments, the licence holder shall ensure that the performer can not be heard outside the {specify room} premises or to any children living upon the premises.

### **2 Alcohol Authorisation by a Personal Licence Holder**

**In special circumstances you may wish to attach a condition that a personal licence holder who is trained and authorised for sale of alcohol is on the premises at every sale of alcohol (legislation does not require the DPS or a personal licence holder to be on the premises at all times sales of alcohol take place). This should be considered at premises where Police or Trading Standards report that staff that work at the premises have sold to minors or to drunks. This is to make sure the premises are complying with all relevant legislation.**

- 2.1 The licence holder and/or Designated premises Supervisor shall ensure that at least one personal licence holder is available on the licensed premises while the sale or supply of alcohol is being undertaken at the premises.

### **3 Alcohol Strength**

- 3.1 Due to irresponsible drinks promotion and public health concerns a maximum ABV (alcohol by volume) may be considered

## **4 Bottles / Glasses**

**Glass bottles may be used as weapons inflicting more serious harm during incidents of disorder. Therefore in appropriate cases consideration should be considered to conditions restricting bottles or glass especially venues that have reported issues of crime and disorder associated with glass or bottles. It should also be noted that the use of such restrictions are also relevant measures necessary to promote the public safety objective.**

- 4.1 No bottles containing beverages of any kind, when open or sealed shall be given to customers on the premises whether at the bar or by staff serving away from the bar.
- 4.2 No customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public.
- 4.3 The licensee will only provide plastic or toughened glass containers for the supply of all beverages.
- 4.4 The licensee shall ensure that no customers will take glasses or open bottles from the premises.
- 4.5 Drinks shall be served in plastic, paper or toughened containers. *You may wish to restrict this condition to specific areas, specific events or occasions.*
- 4.6 Drinks sold at the premises to be consumed in the garden/yard will be provided in plastic containers. All bottled drinks will be decanted in to the plastic containers.
- 4.7 Bottle bins shall be provided at the exit doors and staff shall show due diligence in preventing bottles and glasses being taken from the premises.

## **5 Capacity Limits**

**A condition that should be used only on public safety grounds as there is a duty on licensee to comply with The Regulatory Reform (Fire Safety) Order 2005 that affects all non-domestic premises. Capacity levels may be set under the Licensing Act to prevent overcrowding at exceptionally high capacities premises, used primarily for the sale and consumption of alcohol. These conditions must have a fire authority input as limits are set taking into consideration of door widths, entrances and exits and fire measures in place at the venue.**

- 5.1 The maximum number of persons (including staff and entertainers) permitted at the premises at any one time shall not exceed XX persons. *You may wish to specify certain areas within the building i.e. different floor levels, different rooms etc.*
- 5.2 The number of attendants on each floor in a closely seated auditorium will be (a) 1-100 persons a minimum of 1 attendant (b) 101-250 persons a minimum of 2 attendants (c) 251-500 a minimum of 3 attendants (d) 501-750 a minimum of 4 attendants (e) 751-1000 a minimum of 5

attendants (f) each additional 250 persons (or part thereof) a minimum of 1 extra attendant. Attendants shall not be engaged in any other duties that would hinder the prompt discharge of their duties in the event of an emergency or entail their absence from that floor or auditorium where they are on duty.

- 5.3 Staff will be employed to monitor occupancy levels. As part of their role they will stop patrons from (a) sitting in any gangway (b) stand or sit in front of any exit (c) stand or sit on any staircase including any landings (d) move people at points where large crowds/groups are forming and to keep areas free to allow for customer flow.

## 6 CCTV

**The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises.**

### **Home Office Recommend this worded condition**

- 6.1 CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition. Cameras shall encompass all ingress and egress to the premises, fire exits and all areas where the sale and supply of alcohol occurs. Equipment must be maintained in good working order, be correctly time and date stamped, recordings MUST be kept in date order, numbered sequentially and kept for a period of 31 days and handed to Police on demand. The premises licence holder must ensure at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in a recordable format either disc or VHS to the Police and Local Authority on demand. The recording equipment and discs/tapes shall be kept in a secure environment under the control of the DPS or other responsible named individual. An operational daily log report must be maintained endorsed by signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded. In the event of technical failure of the CCTV equipment the premises licence holder or DPS must report the failure to the Police Licensing Officer immediately.

### **Kent Police Recommend this worded condition**

- 6.2 CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition. Cameras shall encompass all ingress and egress to the premises, fire exits and all areas where the sale and supply of alcohol occurs. Equipment must be maintained in good working order, be correctly time and date stamped, recordings MUST be kept in date order, numbered sequentially and kept for a period of 31 days and handed to Police on demand. The premises licence holder must ensure at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in a recordable format either disc or VHS to the Police and Local Authority on demand. The recording equipment and discs/tapes shall be kept in a secure environment under the control of the DPS or other responsible named individual. An operational daily log report must be maintained endorsed

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## 7 Children

**You may consider restrictions on the access of children under 18 to premises where licensable activities take place, when necessary, to protect children from harm. It should be noted not to duplicate provision in relation to children under the age of 16 must be accompanied by an adult.**

- 7.1 No children under 16 years old will be allowed on the premises except for pre-booked functions.
- 7.2 Prominent, clear notices shall be displayed at the entrance stating that children under the age of 16 are only allowed on the premises until 18:00 (6pm). **Specify times and days**
- 7.3 Children under the age of 16 will not be permitted access to the bar area, except during ingress and egress to a restaurant area where tables and chairs are set up for table meals within the premises.
- 7.4 No children under 16 years old will be allowed on the premises after 21:00 (9pm). **Specify times and days**
- 7.5 Children under the age of {specify age 16/18} will not be permitted access to the premises at all times.
- 7.6 Children under the age of 16 will be allowed access to the following areas only {restaurant, family room, function room, garden, and toilets}. **Specify locations**
- 7.7 An attendant to be stationed where unaccompanied children are attending such activities as theatre and cinema. There will be one attendant up to 30 children and a further attendant for each 30 children present at the event. **Specify a ratio between children and attendant**
- 7.8 Performances, which are advertised or promoted for a children's audience, will be staffed by persons who have been trained in the emergency evacuation of the premises and training on supervision of children. Records of staff who attend such performance will be available on demand to Police, Police Licensing Officer and Authorised Officers of the Local Authority.
- 7.9 The licensee must provide facilities for child performers to ensure privacy and security and will be subject to adult supervision at all times when children are on licensed premises.

## **8 Complaints Procedure**

**Interested parties may raise concerns within their representation that they have called licensed premises to complain but they have done nothing to deal with their complaint.**

- 8.1** A register of complaints shall be kept and made available to Police, Environmental Health and Licensing Authority on request.

## **9 Crime Prevention (Notices & Procedures)**

Where police have provided evidence that crime has been reported in relation to theft of property of customers you may wish to suggest notices reminding customers of their safety or have controlled cloakroom facilities.

- 9.1** The licensee will ensure that suitable notices are displayed at the premises warning customers of the prevalence of crime which may target them *for example pick pockets, bag snatchers, spiked drinks* and the need to guard their property and leaving property unattended.
- 9.2** The premises shall support local crime prevention initiatives and clearly display crime prevention notices or give advice that supports current crime and disorder patterns.
- 9.3** Secure, attendant controlled 'cloakroom' facilities will be maintained for patrons' over clothing and valuables.

## **10 Dispersal Procedures**

Interested parties have raised concerns about noise and rowdy behaviour which is associated with persons either queuing outside of a venue and/or when leaving at the end of the night. To minimise such disturbances to neighbours you can consider a dispersal policy as part of preventing public nuisance.

- 10.1** The premises shall have a written dispersal policy that outlines the procedure for management, door supervisors and staff. The policy shall contain procedures on (a) supervising the queue to ensure that it is managed in a way that avoids rowdy, unpleasant behaviour and to keep customers quiet as to not disturb neighbours in the vicinity (b) display notices outside where the queue is formed asking them to be quiet or they will be refused entry (c) display numbers for taxi firms inside (d) provide an area inside to enable persons to contact taxi firms in a quiet location rather than go outside (e) Move people away from the premises who are standing around talking to others (f) procedure on refusing entry or banning those who repeated cause a nuisance by noise and rowdy behaviour (g) provide a queuing system in the foyer for those waiting on taxis rather than sending them outside to wait (h) no entry to new customers after {time} (i) a monitoring system to be implemented with regards to re-entry for customers using the smoking area (such as a wrist band or ultra-violet market).

## 11 Door Supervisors and their responsibilities

Conditions relating to the provision of door supervisors and security team may be valuable in:

- Preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder
- Keeping out excluded individuals
- Searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons and
- Maintaining orderly queuing outside of venues and to keep the noise down of those who are queuing.

- 11.1** The premises licence holder or DPS shall maintain an accurate and up to date register in respect of all stewards, security staff or door supervisors working at the premises when it is open to the public. The register will comprise of (a) the name, address, telephone number of the member of staff (b) any registration number relating to the steward or door supervisor whether employed directly by the licensee or through an agency (c) the name, address and telephone number of the agency providing stewards, security staff or door supervisor where not employed directly by the licensee (c) the dates and times of commencement and finishing of work (d) signature of the member of staff (e) details of any incident in which the member of staff is involved including any calls to the police and any police action taken.
- 11.2** When the premises is open between 23:00hrs and {time} on Friday's and Saturday's a minimum of {number} door supervisor must be present at the customer entrance/exit of the premises.
- 11.3** A minimum {number} door supervisors must be present when the premises are open to the public.
- 11.4** There will be a door control policy that outlines clear instruction and understanding of the door supervisors' responsibilities at the premises. This policy will contain (a) how door staff prevent overcrowding (b) supervise the queue to ensure that it is managed in a way that avoids rowdy, unpleasant behaviour and to keep customers quiet as to not disturb neighbours in the vicinity (c) A procedure for door staff engaged in searching persons as a condition of entry (d) to ensure the dispersal of patrons from the curtilage and grounds of the licensed premise immediately after the end of licensable activities (e) Prevent patrons from leaving the premises with open containers and bottles (f) To provide evidence by written statement to police in any criminal investigation as and when required.
- 11.5** Door supervisor will undertake body searches at least one male and one female door supervisor must be available to undertake the body searches of the same customer gender before gaining entry to the premises.
- 11.6** Door supervisor will be stationed at a location {inside or outside} the premises at times when licensable activity is taking place and 30 minutes thereafter to assist with dispersal of customers from the premises.

- 11.7** Door supervisors will physically search in accordance with a written procedure agreed with Kent Police, this will include a 'pat down search' and a full bag and pocket search. Those who refuse to be searched will be refused entry.
- 11.8** All staff engaged outside the entrance to the premises, or supervising or controlling queues shall wear high visibility jackets or vests.
- 11.9** There shall be a written agreement with police on a ratio of door supervisors to the number of patrons present. This figure may vary at specific times of the day or days of the week or in relation to the type of licensable activity or event being run. The agreed ratio shall also take into account the general layout of the premises and any areas that are considered to be closely seated areas.

## **12 Drugs / Substance Misuse**

The police have reported to the committee and have also reported on their specialist operations to disrupt drug supply and use in licensed premises. However, certain venues such as late night venues do attract drug dealers and users and need to have measures in place to reduce the supply or use of drugs in their premises.

- 12.1** The premises shall have a written drugs policy, this will detail the strategies to minimise the use and supply of illegal drugs within the premises. The drugs policy shall include a structured training policy for all staff covering the issues of misuse of drugs in relation to licensed premises. Records must be kept to show members of staff who have taken the training.
- 12.2** The designated premises supervisor or a senior member of the management team at the premise shall hold a National Certificate of Drugs Awareness qualification run by the BII or similar accredited body. On obtaining this qualification that person will be responsible for training staff employed in the bar area, cleaning staff and those involved in security on the awareness of the illegal drugs scene, locations for hiding drugs on the premises, operational guidelines to help prevent drug problems arising and also tactics to enable staff to deal with such problems, should they arise. This training should be repeated on a yearly basis and records must be kept to show members of staff who have taken the training. Training records will be made available on demand by Police, Police Licensing Officer or Authorised Officer of Local Authority.
- 12.3** The premises shall have a written drug policy. This will entail an agreed procedure for the handling and retention of any article seized. Where premises consider a drug's safe to deposit drugs found, there will be a clear policy for the handling and packaging of seized items. For premises with a suitable 'drug safe' the items secured within the safe would not be considered as being in possession. For premises that do not have a drug safe they must have a written agreement with police as to a procedure in the collection or delivering drugs to police.



## **13 Electrical**

Conditions regarding socket outlets should be considered when they are temporary or portable for indoor or outdoor events and may be necessary for public safety.

**13.1** The licensee shall ensure that socket outlets for use with temporary or portable electrical equipment on or in the vicinity of any stage area and one or more Residual Current Device (RCD) shall protect any circuits associated with stage lighting equipment.

**13.2** Temporary electrical wiring and distribution systems shall not be provided without notification in writing being given to the Council Environmental Health at least 10 days before the commencement of the work. The notification must explain the reasons for the temporary electrical measures and a date of the proposed removal of temporary electrical measures. Any temporary electrical measures must be removed at the end of a 3-month period or to be made permanent during that period.

## **14 First Aid**

Large venues may require a qualified first aid person to maximise safety of customers, performers and staff.

**14.1** When providing regulated entertainment there shall be at all times that the entertainment is taking place, a qualified first aid person, trained to a nationally recognised standard, on the premises and easily identifiable. A notice stating the availability of first aid person shall be prominently displayed inside and outside the premises and shall be protected from damage or deterioration. There shall be first aid equipment and materials available at the premises whilst the premises are trading.

## **15 Glass Collections, Waste Disposal & Litter**

**Interested parties have raised concerns about litter, noise with bin collections and/or waste disposal early in the morning or late at night. To minimise such disturbances to neighbours you can consider conditions to set times that they are not to have collections/disposals.**

**15.1** A member of staff every 30 minutes whilst the premises is trading will remove all empty drinking vessels, bottles or containers after the contents have been consumed or they become empty. The licence holder and the Designated premises Supervisor shall ensure that the arrangement for the storage of empty bottles prevents unauthorised access to those bottles.

**15.2** A waste receptacle for use by patrons will be provided in {position}. The receptacles shall be emptied every day the venue is trading between the hours of 09:00 to 22:00 (9am to 10pm). *Amend times as appropriate*

**15.3** After close of business, staff will pick up any flyers/rubbish/litter/bottles that have been left for a distance of 30 metres in each direction. The collection and removal of litter will be taken to include the washing away immediately outside the premises the pavement to the gutter of spilled food and similar materials so as to leave the footway in a clean and safe condition. *Amend distance as appropriate*

**15.4** There will be no collection of waste, which includes bottles, recycling and litter between the hours of 22:00 and 08:00 (10pm to 8am). The licence holder and the Designated premises Supervisor shall ensure that the arrangement for the storage of empty bottles prevents unauthorised access to those bottles. *Amend times as appropriate*

## **16 Incident Register (Book / Records)**

The police may require a register to be held of all incidents that may happen at the premises and/or local resident may report of numerous incidents taking place at the premises. This condition could help promote all of the licensing objectives.

**16.1** The premises licence holder or designated premises supervisor must keep an incident register. Staff to be trained to complete an incident book/records immediately after the incident but no later than the end of their shift. The register must be kept on the premises and will detail a) day, date and time of incident b) Nature of incident c) Resolution d) Each entry is to be checked and signed by the DPS/Licensee no later than 1 week after the entry has been made. The register must be made available to Police, Police Licensing Officer and authorised officers from Local Authority on demand either electronically or hard copy.

## **17 Large Scale Events – over 500 people**

Venues that may provide a large-scale event should have extra measures in place where relevant authorities are formally notified before each event. Both the Police and Licensing team sit on a 'Safety Advisory Group' who liaise with agencies/department such as Fire, NHS, Ambulance, emergency planning, highways, event team, green spaces and environmental health. You may wish to consider these conditions that are relevant to all four licensing objectives.

**17.1** The licence holder or event organiser must notify in writing to Kent Police in Medway and the Licensing Authority of the intention to hold an event that is proposed for occupancy of over 500 persons within 60 days of the event. The letter must include details of the proposed event (a) date and times of event (b) nature of event (c) types of activities taking place and those that are licensable (d) proposed occupancy (e) location whether inside or outside and must include any temporary or fixed structures that will form part of the event.

**17.2** The licence holder shall produce risk assessments that must have

proper regard to the Health and Safety Executive guidance 'The Event Safety Guide: A guide to health, safety and welfare at music and similar events'. It must address but is not limited to risks specific to the nature of the proposed event and its potential to undermine the licensing objectives. The risk assessments must be submitted in writing either by post or electronically to Police Licensing Team ([licensing.north.division@kent.pnn.police.uk](mailto:licensing.north.division@kent.pnn.police.uk)), the local Licensing Authority and Environmental Health a minimum of 31 days prior to the event taking place.

**17.3** When Kent Police determine it necessary due to the nature of the proposed event and associated risks, the premises licence holder is required to request in writing as soon as possible and in any case a minimum of six weeks prior to any event 'special policing services' as defined by section 25 Police Act 1996. Payment for the provision of special policing services determined as necessary by Kent Police shall be paid to Kent Police in full at least seven days prior to the commencement of the event.

**17.4** At an event that is to be used as a theatre, concert hall or other similar place for closely seated audiences, no alcohol shall be provided for consumption in the seated area.

## **18 Light Pollution**

In certain premises there maybe a lack of lighting for the safety of the public and consideration must be given if there are specific lighting needs for CCTV or areas of public access. Interested parties may raise concerns about existing glaring lights from premises. To minimise such disturbances to neighbours you can consider conditions to prevent lights being angled so as to cause nuisance.

**18.1** In the absence of adequate daylight, any artificial lighting provided by the premises {designate an area instead} in any area accessible to the public shall be angled as to not cause a glare into any other premises/residential properties.

**18.2** Flashing or bright lights on or outside licensed premises shall be positioned or screened in such a manner so as not to disturb residents in nearby properties.

## **19 Noise and Vibration**

It should be noted that provisions of the Environmental Protection Act 1990 and the Noise Act 1996 provide some protection to the general public from the effects of noise nuisance. Therefore, these matters should be considered before deciding whether or not conditions are necessary for the prevention of public nuisance.

**19.1** The Licence holder shall erect and maintain clear and prominent notices displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.

- 19.2** When live music or recorded music takes place inside the premises all doors and windows will be kept shut. Entrance/exit doors will be fitted with self-closing mechanism that will enable these doors to automatically close once persons enter or leave the premises.
- 19.3** A designated premises supervisor or a nominated representative shall keep written records of sound checks when live music, recorded music or amplified sound is taking place. Sound checks must be made inside and outside the premises at all entrance/exit doors to the premises and to walk outside around the premises on all sides where there are residential properties. The record must contain (a) date and time (b) type of event (c) name of person carrying out the sound check (d) location of the check (e) whether the person determined if the noise was set to a level as to cause a complaint (f) action taken in relation to noise levels i.e. being increased, decreased or no action (g) The noise must be assessed at the start of the event and at intervals no less than every one hour until the end of the event.
- 19.4** No regulated entertainment will take place until such time as: -
- the licensee submits to the Council Environmental Health an acoustic report prepared by a reputable noise consultant, which demonstrates how music and other amplified sound generated at the premises will be contained within the said premises, thereby not causing a disturbance to neighbouring premises. The report shall have regard to any noise caused by any ventilation system and any likely escape of noise from the system, the opening of doors for patrons' acoustic characteristics of fire doors, windows, any flat roofs and the general fabric of the building. Where sound transmission is likely through the structure of the building the report must show in detail how this will be eradicated.
  - Any work to the building or system must be carried out as per the report recommendations.
  - The acoustic report will be checked and any relevant work to the system or building on completion must be approved in writing by Environmental Health before regulated entertainment is authorised to take place.
- 19.5** The licensee must create a written scheme of soundproofing of the premises {or state a location}. The scheme will outline a timescale for implementing any works required to be carried out. Environmental Health will be sent the written scheme and notified on the completion and approved in writing by them before regulated entertainment can take place.
- 19.6** A noise limiting device shall be installed, fitted and maintained as to control all sources of amplified music or speech at the premises to prevent noise nuisance to neighbouring properties. The noise limiter shall be set to maintain a maximum level which is agreed in writing with Environmental Health and amended as and when required to deal with any reported nuisance/complaint.
- 19.7** The {doors / windows} at {specific location} shall be fitted with

{double/secondary} glazing in order to improve the sound reduction at the premises.

- 19.8** A {sound trap lobby/acoustic door/automatic door closer} shall be installed to {describe location}.
- 19.9** {Specify location} must be acoustically sealed as to specifications agreed in writing with Environmental Health.
- 19.10** An alarm shall be fitted to {all external windows/fire doors} which alert staff when {they/it} are opened without authorisation by the designated premises supervisor or responsible person.
- 19.11** Concerts or similar outdoor events of musical performance at the premises that provide live music, recorded music or amplified sound audible at the site boundary shall be restricted to no more than {specify a number} per annum. These events shall not occur on more than {specify a number} consecutive days.
- 19.12** Any sound test carried out in advance of a concert or musical performance shall not take place between the hours 23:00 and 09:00 (11pm and 9am) and will be limited to one (1) hour.
- 19.13** For outdoor events at the premises that provide live music, recorded music or amplified sound shall employ a suitably qualified and experienced noise control consultant. They shall be appointed no later than six weeks prior to the event. The noise control consultant shall liaise between all parties including the licensee, promoter, sound system supplier, sound engineer and Environmental Health on all matters relating to noise control.
- 19.14** The Music Noise Level (MNL) for all outdoor events shall achieve the guidelines described in the Noise Council's Code of Practice on Environmental Noise Control at concerts. The appointed noise control consultant shall monitor noise levels at the sound mixer position and/or at any locations as agreed in writing with Environmental health where reported noise complaints have been received. The consultant will advise the sound engineer of the permitted music noise levels so that they will not be exceeded. The Licensing Authority and Environmental Health Service shall have access to the results of the noise monitoring during the event and be provided a written report including date, time period, noise levels, monitoring locations details of actions taken if a breach of noise criteria occurred. The report must be submitted to the Environmental Health department no later than 3 weeks after the event.
- 19.15** No live music, recorded music or amplified equipment shall be relayed via external speakers other than for events with the prior written approval of Environmental Health. The specification and orientation of all speakers shall be agreed in writing with Environmental Health.
- 19.16** When regulated entertainment and background music takes place outdoors a noise management plan must be in place to review the impact of noise prior to, during and after each event.

**19.17** No amplified music is to be permitted unless a noise management plan, which has been agreed with the local authority, is in place. The noise management plan shall be periodically reviewed and/or when significant changes occur in the operation, building or event type or following a complaint.

**19.18** *A noise management plan shall be prepared and adapted as appropriate before any live or recorded music event takes place.*

## **20 Notices / Signage**

It may be considered appropriate to require signage to be displayed

- setting out conditions
- reminders to the public about causing public nuisance
- procedures of the premises for gaining access
- details to public to contact someone to complain.

**20.1** The Licence holder shall erect and maintain clear and prominent notices on the exterior of their premises advising patrons stating the actual operating hours of the premises.

**20.2** The Licence holder shall erect and maintain clear and prominent notices on the exterior of their premises advising patrons of any admission restrictions.

**20.3** The Licence holder shall erect and maintain clear and prominent notices on the exterior of their premises advising patrons stating a telephone number to contact in relation to complaint.

**20.4** The Licence holder shall erect and maintain clear and prominent notices on the exterior of their premises advising patrons that causing any disturbance or disorder in a queue will result in admission being refused.

**20.5** The Licence holder shall erect and maintain clear and prominent notices on the exterior of their premises advising patrons that those attending

- (a) It is a condition of entry that customers agree to be searched
- (b) Police will be informed if anyone is found in possession of controlled substances or weapons

## **21 Radios / Safer Medway Partnership**

Radios could be considered appropriate in large establishments such as public houses and nightclubs operating in city and town centre and leisure areas with a high density of licensed premises. This is to aid links between management, bar staff and door supervisors. It can also be part of a pub watch or similar scheme where there are links with other similar premises in the vicinity.

**21.1** Staff to use an internal radio system whilst licensable activities are taking place. Staff to be trained in the use and protocols of the system.

**21.2** Premises will be a member of the Safer Medway Partnership or similar scheme that are supported by Police and Council.

**21.3** The Radiolink equipment will be 'live' and will be monitored by the Head Doorman, designated premises supervisor or another responsible person whilst the licensed premises are open for business.

## **22 Refusal Register (Book / Records)**

Licensees need to show due diligence under the age verification policy. Trading Standards carry out test purchase exercises on those who do not have specific measures in place in relation to refusing sales of alcohol to minors or from intelligence from the public. It is good practice to have a refusal register however it is relevant under the licensing objectives prevention of crime and disorder and protection of children from harm.

**22.1** The premises licence holder or designated premises supervisor must keep a refusal register. Staff to be trained to complete a refusal book/record immediately after the refusal but no later than the end of their shift. The register must be kept on the premises and will detail a) Day, Date & Time of refusal b) Item Refused c) Name or description of person refused sale d) Reason for refusal e) Each entry is to be checked and signed by the DPS/Licensee no later than 1 week after the entry has been made. The register must be made available for Police, Police Licensing Officer and authorised officers from Medway Council on demand either electronically or hard copy.

## **23 Residents Meetings**

It may be relevant that licensees hold regular residents meetings to deal with concerns from local residents. This promotes the prevention of public nuisance.

**23.1** The designated premises supervisor or responsible person must hold two meetings in a calendar year with residents (live in the vicinity) and local ward councillor(s) to address any complaints or matters arising from the licensed premises. It will be the responsibility of the licensee to complete minutes of the meetings that must include (a) date and time of meeting (b) names of attendees (c) items raised (d) measures proposed or taken by the licensed premises. The minutes must be submitted to the Licensing Authority within 14 days of the meeting. Copies of minutes must be sent to all persons who attended and to any resident or councillor who should request a copy if they are unable to attend the meeting.

## **24 Special Effects**

The use of special effects in venues of all kinds being used for regulated entertainment is increasingly common and can present significant risks. Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff. Special effects which should be considered include: (a) dry ice machines and cryogenic fog (b) smoke machines and fog generators (c) Pyrotechnics including fireworks (d)

real flame (e) firearms (f) motor vehicles (g) strobe lighting (h) laser (i) explosives and highly flammable substances.

- 24.1** The licensee shall not permit the use of special effect except with written consent from Environmental Health. The licensee shall give the Council at least 14 days notice in writing of any proposal to use special effects. The notice shall include (a) type of special events (b) date and times when the special effects will be demonstrated (c) details of the event.

## **25 Sports Entertainment**

Organised events that involve spectators. To promote public safety objective.

- 25.1** A qualified medical practitioner must be present throughout the sports entertainment that involves boxing, wrestling, judo, karate or other sports entertainment of a similar nature.

- 25.2** Where a ring is to be installed it must be constructed and supported by a competent person and inspected by a competent authority. Any material used to form the skirt around the ring(s) is to be flame retardant.

- 25.3** Members of the public shall not occupy any seat within 2.5 meters of the ring.

## **26 Staff Levels**

In the absence of a licence holder or designated premises supervisor members of staff are therefore responsible in running the premises. It may require that after a specific time that there is a need to promote the licensing objectives with the need to specify the numbers of staff working during peak periods or at times where there is a potential for crime and disorder.

- 26.1** There will be a minimum of 3 members of staff on duty from 8pm until closing. *Specify number of staff and times.*

- 26.2** There will be a minimum of 3 members of staff on duty, at least 2 members of staff will remain in the public area at any time and 1 member will be appointed as duty manager/responsible person.

## **27 Staff Training**

In the absence of a licence holder or designated premises supervisor members of staff are therefore responsible in running the premises and therefore should have adequate training so that there are no breaches in legislation. The licence holders must provide adequate training to promote all four licensing objectives.

- 27.1** All persons that sell or supply alcohol to customers must have licensing training. Training should take place within six weeks of employment and any new employees will be supervised until the training has taken place. Refresher training should be repeated a minimum of every six



months or earlier if required due to changes of legislation. Training records must be kept on the premises and shall contain the nature, content and frequency of all training. Records must be made available for inspection by Police, Police Licensing Officer and authorised officers from the Local Authority on demand either electronically or hard copy.

**27.2** All persons that sell or supply alcohol to customers must have licensing training. Training should take place within six weeks of employment and any new employees will be supervised until the training has taken place. Refresher training should be repeated a minimum of every six months or earlier if required due to changes of legislation. Training records must be kept on the premises and shall contain the nature, content and frequency of all training. Records must be made available for inspection by Police, Police Licensing Officer and authorised officers from Medway Council on demand either electronically or hard copy.

**27.3** Training must include (a) avoiding sales of alcohol or age restricted products to those under the age of 18 (b) recognising customers who appear drunk and refusing sale or supply of alcohol (c) knows the licensing objectives (d) have read and understood licence conditions (e) can produce licences/certificates/permits relevant to the premises in absence of licensee (f) can point out where the summary is displayed in absence of licensee (g) understands consequences for breaching legislation that can impact them as individuals and those that impact the licensee and the premises (h) have the relevant contact details of the designated premises supervisor or licensee.

## **28** **Outside Areas**

Interested parties have raised concerns about noise or rowdy behaviour of patrons using outside areas. The smoking ban has increased the number of complaints from residents where they feel intimidated by customers standing on the highway smoking and drinking when they are trying to pass. Some residential properties back on to licensed premises gardens and during the summer months find it noisy especially when windows and doors are being left open.

**28.1** The {garden/patio} must not be used by customers after {times}.

**28.2** Outdoor areas with the exception of the {location} at the premises shall not be used after 23:00 (11pm) on all days.

**28.3** Prominent, clear notices shall be displayed in the garden stating that customers must not use the garden after the hours of {times}.

**28.4** Prominent, clear notices shall be displayed in the garden requesting that customers keep the noise down and to respect the needs of local residents when using the garden.

**28.5** Regulated entertainment outdoors will be limited to {number} events a calendar year.

**28.6** Regulated entertainment outdoors will cease no later than 21:30 (9.30pm) on all days. ***Specify times and days***

- 28.7** No outside area shall be used for consumption of alcohol or provision of regulated entertainment after 23:00 (11pm) on all days. ***Specify activity, times and days***
- 28.8** The licensee will have a member of staff monitoring the outside and restricting access to only 5 people at a time to be outside smoking after 23:00 (11pm). No beverages will be allowed outside and non-smokers will not be allowed to accompany those who are smoking.

## **Mandatory Conditions**

### **Condition 1**

Added to premises licences where they are authorised for 'Sale of Retail of Alcohol' this relates to all premises with 'on or off sales'.

***No supply of alcohol may be made under this licence***

- a) at a time when there is no designated premises supervisor in respect of it; or***
- b) at a time when the designated premises supervisor does not hold a personal licence or his/her personal licence is suspended.***

***Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.***

Guidance relating to this condition - The Act does not require a designated premises supervisor (DPS) or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the designated premises supervisor and the premises licence holder remain responsible for the premises at all times including compliance with the terms of the Licensing Act and conditions attached to the premises licence to promote the licensing objectives.

### **Condition 2**

Added to premises licences and club premises certificate where they are authorised for 'Sale of Retail of Alcohol' or 'Supply of Alcohol to Members and Guests' and this is all premises with 'on sales only'.

***(1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.***

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale of supply of alcohol for consumption on the premises in a manner which carries a significant risk or leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children (a) games or other activities which require or encourage or are designed to require or encourage, individuals to (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol or (ii) drink as much alcohol as possible (whether within a time limit or otherwise) (b) Provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act) (c) Provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less (d) Provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on (i) The outcome of a race, competition or other event or process or (ii) The likelihood of anything occurring or not occurring (e) Selling or supplying alcohol in association

with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

Guidance relating to this condition - This condition does not ban all discounting of alcohol and licence holder will only fall foul of this condition if they are promoted and organised in an irresponsible way, which leads to crime and disorder. The government has put this condition in place and therefore no conditions of a similar nature can be added to a licence or certificate.

### **Condition 3**

Added to premises licences and club premises certificate where they are authorised for 'Sale of Retail of Alcohol' or 'Supply of Alcohol to Members and Guests' and this is all premises with 'on sales only'.

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

Guidance relating to this condition - This condition is directed at the so called "dentist chair" practice of dispensing alcohol directly from the bottle into the customers mouth or those who drink a yard of ale which is held by someone else.

### **Condition 4**

Added to premises licences and club premises certificate where they are authorised for 'Sale of Retail of Alcohol' or 'Supply of Alcohol to Members and Guests' and this is all premises with 'on sales only'.

***The responsible person shall ensure that free tap water is provided on request to customers where it reasonably available.***

Guidance relating to this condition - Premises must give customers tap water for free if they ask for it. This helps people to space out their drinks and not become intoxicated quickly, which reduces the risk of crime and disorder occurring. Tap water provided should be suitable for drinking and must be provided where reasonably available (it would not be reasonable if water is temporarily lost or a problem with water supply). If a person attends a premises solely to drink tap water they are not a customer.

### **Condition 5**

Added to premises licences and club premises certificate where they are authorised for 'Sale of Retail of Alcohol' or 'Supply of Alcohol to Members and Guests' and this is all premises with 'on and off sales'.

***(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.***

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

Guidance relating to this condition - This condition is intended to ensure that all licensed premises operate at a minimum standard of due diligence to ensure they do not sell alcohol to minors. The Home Office created a minimum standard policy which licensees can download from the Council website.

An age verification policy outlines how staff will ensure that alcohol is not served to under 18's or any older age specified in their own policy. They can decide to operate a Challenge 21 or Challenge 25 scheme and what identification they will accept.

Therefore, no other conditions can be put on the licence for example 'Challenge 25 scheme must be adopted' existing conditions are being removed from the licences and certificates as they are no longer enforceable. The Home office created this mandatory condition to put the responsibility back on to the licence holders to create their own age verification policy and also increased the penalties for selling alcohol to minors. If they have no policy in place then it would also be a breach of condition.

### **Condition 6**

Added to premises licences and club premises certificate where they are authorised for 'Sale of Retail of Alcohol' or 'Supply of Alcohol to Members and Guests' and this is all premises with 'on sales' only.

#### ***The responsible person shall ensure that:***

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:

- (i) beer or cider: ½ pint;***
- (ii) gin, rum, vodka or whisky: 25ml or 35 ml; and***
- (iii) still wine in a glass: 125ml; and***

(b) customers are made aware of the availability of these measures.

Guidance relating to this condition - This condition provides customers the opportunity to choose small measures of beer, ciders, spirits and wine as part of responsible drinking campaigns. This does not prevent licensees from serving larger sizes as well as the measures listed, such as 250ml wine, pints or doubles. This does not prevent licensees from only selling "ready to drink" pre-packaged alcoholic drinks, which come in different sizes.

### **Condition 7**

Added to premises licences where they are authorised for 'Sale of Retail of Alcohol' this relates to all premises with 'on or off sales'.

Only individuals licensed by the Security Industry Authority (SIA) maybe used at the premises to guard against:

- a) unauthorised access or occupation (e.g. through door supervision);***
- b) outbreaks of disorder;***
- c) damage.***

Guidance relating to this condition - This condition relates to security staff that control entry to the premises where they promote the licensing objectives by controlling outbreaks of disorder or damage to the premises. Therefore, conditions do not need to relate to door supervisors being registered with Security Industry Authority, as this would be duplication of this condition and the Private Security Industry Act 2001. Please see the wording for door supervisors later in this document.

### **Condition 8**

Added to premises licences and club premises certificate where they are authorised to show 'films' and this all premises with 'on or off' the premises.

***The admission of children under the age of 18 to film exhibitions permitted under the terms of this licence shall be restricted in accordance with any recommendations made by:***

- (a) The British Board of Film classification (BBFC), where the film has been classified by that Board or***
- (b) The Licensing Authority where no classification certificate has been granted by the BBFC, or, where the Licensing Authority has notified the licence holder that section 20 (3) (b) applies to the film in question and the admission of children must be in accordance with any recommendation made by the Licensing Authority.***

Guidance relating to this condition - This condition is put on premises to control the age certificates of films for the protection of children from harm.

### **Condition 9, 10 & 11**

Added to all club premises certificate.

The purchase of alcohol for the club and the supply of alcohol by the club are managed by a committee, the members of which must be 18 years of age or over, be members of the club and have been elected by other members of the club to sit on the committee.

***That there are no arrangements in place for anyone to receive any commission, percentage or similar payment at the expense of the club based upon purchases of alcohol made by the club.***

***That there are no arrangements for anyone to receive any direct or indirect monetary benefit from supplying alcohol on behalf of the club to members or guests, unless the benefit is one for the whole.***

Guidance relating to this condition - These conditions are put on club premises certificates to protect members and the funds related to the club.

**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 Minor Variation		All cases
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.





This appendix sets out in full the five responses that have been received to the Licensing consultation and officers comments/recommendations: -

### **Responses received in full**

#### **Response 1**

On Appendix 6 can you add the following if possible, it would be a good one to add to reduce street drinking etc.

No Beers, Lagers or Ciders will be sold above 5.5% ABV

Also at Section 52 of the policy there is a typo, I think it should be a working relationship

#### **Officer comments/recommendations to response 1**

*Officers agree to the inclusion of an additional condition (shown below) – Insertion of a new Para. 3 to appendix 6 and the remainder to be renumbered:*

#### *“Alcohol Strength*

*Due to irresponsible drinks promotion and public health concerns a maximum ABV (alcohol by volume) may be considered.”*

*Spelling and grammar will be checked and amended where required for the final version to be submitted to Council.*

#### **Response 2**

With regard to the licensing consultation that is currently being conducted by Medway Council I would ask that the following 3 issues be given due consideration.

- Introduction of a Cumulative Impact Policy to enable the control of the proliferation of licensed premises in certain areas
- Tens-review of procedure and issuing of these licenses to stop the misuse of these for inappropriate events at established venues
- A process to ensure that the planning and licensing teams communicate on matters where premises have no planning permission and licenses are issued
- Improved consistent input by Police on licensing applications.

It may well be that points 2 and 3 are for consideration on a national basis and if this were the case I would be seeking the relevant support of local MP's to make representation at Westminster with the support of Medway Council and member colleagues.

Officer comments/recommendations to response 2

The above matters raised are considered non-material for consideration for the following reasons: -

- *The policy clearly states at section 74 that the council does not currently have a Cumulative Impact Policy in place and goes on to state the type of evidence required for one to be considered. A consultation exercise would need to be conducted before a determination could be made.*
- *The powers the council has in respect of temporary event notices is very limited. This is where the event holder puts the Licensing Authority on notice of an event taking place. Only the Police and Environmental Health can object in respect of any of the 4 licensing objectives and existing conditions from the relevant premises licence may be imposed. For further clarification please see section 7 of the latest guidance issued October 2012.*
- *Planning is one of the responsible authorities for licensing and as such is informed of all applications. This is also covered under section 9.41 of the latest guidance issued October 2012.*
- *This is a matter for the police; however, the “Weight of Police Evidence” at sections 52 and 53 of the policy covers this within the current legislation.*

**Response 3**

Proposed alteration to the wording in paragraphs 74-80 of consultation draft regarding saturation and cumulative impact follows. New text is in red (**bold for the purposes of this report**), original text in black:

Saturation and Cumulative Impact:

74. This Licensing Authority does not currently have in place a saturation or cumulative impact policy.
75. **While no policy is currently in place the licensing authority will keep potential areas of saturation (areas where there is evidence that no further licensed premises can be accommodated), under review.**
76. **The licensing authority may, in its own right or, on receipt and consideration of relevant representations from any responsible authority or interested party that indicate that saturation has been reached, consider introducing a special policy to control any cumulative impact on the licensing objectives arising in an area.**
77. **The absence of a special policy does not prevent any responsible authority or interested party from making representations on any application for grant or variation of a relevant authorisation on the grounds that the premises may give rise to, or otherwise contribute to cumulative impact.**

**POLICY**

78. The licensing authority recognises that the number, type and concentration of licensed premises in any given area, may have a 'cumulative impact' on one or more of the licensing objectives over and above the impact of the individual premises themselves and that enforcement action taken to ensure that conditions are complied with may not always resolve any problems experienced. The licensing authority also recognises that such problems may occur both in the vicinity of and at some distance from the premises concerned.
79. In recognition of the potential for cumulative impact, and by way of promoting the licensing objectives, the licensing authority may act on or otherwise consider any of the following:
80. **Adoption of Special Policy**
81. For these purposes, any special policy shall be limited to the restriction of future applications for relevant authorisations within any area where the number, type or density of licensed premises may lead to, or is otherwise causing, serious problems with nuisance, crime and disorder or other relevant problems over and above the impact of individual premises in the area concerned. Any special policy may be limited to areas in the vicinity of and/or at some distance from the premises concerned.
82. When setting such a policy, the Licensing Authority shall have due regard to the Guidance, and will follow the consultation, adoption and review procedures applicable to the process.
83. The effect of a special policy is to create a rebuttable presumption that applications which are likely to add to the cumulative impact will be refused following relevant representations. This presumption can be rebutted by the applicant if they can show that their application will have no negative cumulative impact.
84. There should be an evidential basis for the decision to include a special policy. The licensing authority will consider evidence from partners, including responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine whether a special policy would be appropriate for the promotion of the licensing objectives.
85. When establishing its evidence base, a licensing authority may wish to consider:
  - a. Local crime and disorder statistics, including statistics on specific types of crime and crime hotspots
  - b. Local anti-social behaviour offences

- c. Health-related statistics such as alcohol-related emergency attendances and hospital admissions
  - d. Environmental Health complaints, particularly in relation to litter and noise
  - e. Complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations
  - f. Residents' questionnaires
  - g. Evidence from local councillors
  - h. evidence obtained through local consultation
86. This is not considered an exhaustive list of the types of evidence and where information is insufficient or not readily available, but the licensing authority believes there are problems in its area resulting from the cumulative impact of licensed premises, it can consider conducting or commissioning a specific study to assess the position.
- 87. The evidence gathered will inform the type of premises to be included within a special policy. A special policy can apply to all new premises licences and club premises certificates. Off licences can also come within a special policy if they can be shown to contribute to problems of street drinking, proxy purchasing, dispersal issues, preloading and excessive drinking and related disorder.**
88. The licensing authority will also consider
- a. The nature of the area
  - b. The number and types of licensed premises in the area
  - c. The capacity of those premises
  - d. The hours of operation of those premises
  - e. The approved operating schedules of the premises
  - f. The history of the premises
  - g. The arrangements for the management of the premises
  - h. The customer profile of the premises
  - i. Whether there is good evidence that crime and disorder or nuisance are occurring or whether there are activities, which pose a threat to public safety or the protection of children from harm.
  - j. If such problems are occurring, and identify whether these problems are being caused by the customers of a particular licensed premises or that the risk of cumulative impact is imminent
  - k. The boundaries of the areas where the problems are occurring
- 89. Other Controls for Controlling Cumulative Impact**
- 90. Licensing is only one means of addressing the problems identified above, and cannot in isolation provide a solution to many of the problems that may be experienced. Regardless of whether or not a special policy is in place, the licensing authority recognises and will, where appropriate, seek to promote, use and consider (where entitled to do so) alternative mechanisms to control the anti-social**

behaviour of consumers after leaving licensed premises. These mechanisms could include:

- Planning controls;
- Positive measures and local initiatives to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
- The provision of physical measures and services such as CCTV surveillance systems, taxi ranks, taxi marshalling schemes, provision of public conveniences, street cleaning and litter patrols
- Powers of Local Authorities or Police to designate parts of the Local Authority area as places where alcohol may not be consumed publicly and confiscation of alcohol in these areas;
- Police powers to close down premises or temporary events for up to 24 hours on the grounds of disorder, the likelihood of disorder or excessive noise;
- Prosecution of personal licence holders who sell alcohol to people who are drunk or underage;
- Police enforcement of general law concerning disorder and anti-social behaviour including the issuing of fixed penalty notices
- The power of the Police and other responsible authorities, councillors and/ or interested parties to seek a review of a relevant authorisation.
- Powers available to responsible authorities under the provisions of the Policing and Crime Act 2009 or Violent Crime Reduction Act 2006.

## REASON

91. The licensing authority will take into account whenever it receives representations about cumulative impact on the licensing objectives if warranted within a specific area of Medway.

### Officer comments/recommendations to response 3

*Officers agree in principle to the above recommendations with the exception of sections 80, 81, 89 and 90 for the following reasons: -*

*In respect of sections 80 and 81 relating to adoption - The licensing legislation is constantly changing and until such time as evidence is presented for a decision to be made, officers believe this wording is not required.*

*The policy would need to be amended following a saturation and/or cumulative impact being agreed and this would be the time to outline the impact such a policy would have on the application process.*

*In respect of sections 89 and 90 relating to other controls for cumulative impact – this is already covered by section 13.39 of the latest guidance issued October 2012.*

*When making a decision on an application at a licensing hearing the panel will have regard to the Statement of Licensing Policy, the Licensing Act (as amended) and the current guidance.*

**Response 4 (received twice)**

**General**

The Policy, if backed by adequate resources and vigorous implementation, could go a long way to promoting a healthy balance between the interests of all those who live in, trade in and visit the historic centre of Rochester. The imbalance caused by designating Rochester the vibrant centre of Medway's nightlife could be corrected.

We are in no doubt that before this important policy is published as a Medway Council document, all typos, grammatical errors and spelling mistakes will have been corrected.

**Contents**

If the Contents page below Premises Licences, Club Premises Certificates & Provisional Statements showed Application, Consultation and Responsible Authorities as separate or sub-headings, it would help readers navigate the document more easily.

Weight of Police Evidence should be shown in **Contents**.

**Legal Background**

Para 14 "The Licensing Act requires that licensing authorities consult with ..... representatives of local residents ..... and have regard to the views of these persons in the determination of policy and its periodic review."

Information about the current review was received by us via a Ward Councillor. We believe that when defining "representatives of local residents and businesses", well-founded residents' associations should be regarded as representative of their members and consulted directly as a matter of course on topics within their sphere of activity.

Para 16 We accept that the Appendices can only be altered at the Licensing Authority's discretion. However, in certain cases, where compliance with guidance given in an appendix is essential for making the policy work, we feel it necessary to comment, especially in respect of Appendix 4.

**Temporary Event Notices**

Para 27. "If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licensing conditions etc." This implies that, for the duration of the event, all conditions are suspended save those that may be imposed by the licensing authority. Surely this is not the case.

Para 30 Only police and environmental health are allowed to object to the acceptance of a TEN, yet this paragraph states that the aim of this procedure is to give residents greater protection from noise etc. Residents and others will neither be aware that a TEN has been accepted nor of its date, time and conditions. We assume that anyone adversely affected by such an event can only raise concerns afterwards.

### **Premises Licences, Club Premises Certificates & Provisional Statements**

Para 31-33 The guidance given in Examples of Good Practice for Licensed Premises (Appendix 4) is certainly comprehensive, but only of value to the extent that it is followed by licensees. The Licensing Authority “will expect all applicants to have regard to the Code” (presumably Appendix 4).

How far will the Licensing Authority go to ensure that the Code is put into practice where and whenever necessary? Its advisory nature is illustrated by the fact that about 190 instances of “should” and only 15 of “must” appear in the document. Much of the exhortation is certainly intended only to be advisory, but more provisions should be mandatory.

The guidance does not appear to envisage any means of auditing a licensee’s adoption and practice of the principles and procedures in the Appendix. This implies that the degree of “regard to the Code” will only be judged after a breach occurs. We recommend that the policy includes a commitment to audit compliance with the Code, with greater emphasis on known trouble spots.

Para 32 From the point of view of residents, the Good Practice Measures under Prevention of Public Nuisance are particularly important. When the Statement of Licensing Policy is in force it will be more clear what steps we may expect licensees to take to control nuisance from their premises.

### **Consultation**

Para 39 Advertisement of new licence applications and applications to vary existing licences on the Council’s website is welcome, but we assume that these will continue to be displayed on the premises in the usual way.

Those who are used to viewing planning applications on the website will expect to find the same ease of use as is now experienced with planning. It would be an advantage if one could register an interest in all applications for a certain area so that, when lodged, an email message is generated giving brief details. As is the case with planning, we recommend that when a new licence or variation is applied for, both the immediate neighbours and those who have previously submitted representations about the premises should be informed. This should also include “minor variations”.

### **Responsible Authorities**

Para 50 “Licensing authorities are not expected to act as responsible authorities on behalf of other parties (for example, local residents, local councillors or community groups) etc.”

This position is understandable, but it should not preclude the Licensing Authority from establishing a database of “other parties” which are automatically informed when a relevant licensing matter (initial application, variation etc.) occurs. Above all, surely ward councillors are as entitled to be advised that such applications have been lodged.

### **Weight of Police Evidence**

Para 52 “The police have a key role in managing the night-time economy.” Not so; they police it, but certainly don’t manage it. Perhaps it would be more true to say that they have a key role in preventing and controlling crime, disorder and antisocial behaviour that may result from the operations of the night-time economy.

The police should certainly promote good working relationships but we believe that this should include, as well as operators in the night-time economy, businesses, residents and visitors – those who are affected by such operations.

### **Location of Premises and Licensing Hours**

Para 63 “Residents have a reasonable expectation that their sleep will not be unduly disturbed between the hours of 23.00 and 07.00.” We do not know if this could read “a statutory right to expect”, but, if not, a preferred wording would include “every right to expect”. The term “reasonable” can be too loosely interpreted.

As far as we know, the standard definition of noise nuisance is that which can be detected at the façade of the nearest neighbouring building. This would include a range of frequencies from high pitch to vibration that is felt rather than heard. Such a definition could be included in Appendix 4.

### **Consideration of the Impact of Licensed Activities**

Para 71 “Your attention is drawn to Appendix 4.” Since the Policy Statement is not addressed to any person or organisation in particular, this could be changed to either “Attention is drawn to” or “The aim of this code and guidance given in Appendix 4 is to provide etc.”.

### **Saturation and Cumulative Impact**

The policy expressed in this section provides very welcome protection for the interests of residents and others. We believe that sufficient evidence already exists for such a policy to be implemented for Rochester from the river to Star Hill. Medway Council designated this area a centre of “vibrant nightlife” some years ago and it is clear that the problems that have resulted from this decision require dealing with under this policy.

Para 77 A procedure should be published through which evidence in the form of complaints from individuals or residents’ associations can be correctly channelled to the Licensing Authority.



### **Early Morning Restriction Orders**

Implementation of this policy would be as welcome as that above. We believe it should be applied to the same area and with the same provisions for communicating complaints.

Para 86 The potential benefits from this paragraph could be enhanced by means of a rewrite to improve clarity.

### **Late Night Levy**

The power to impose such a levy is welcome and we believe that the Council should take up the option of applying it to the whole of Medway. However, it is not clear how payees would be selected. For example, would a levy apply to all late-night licensed premises in a designated area? This would seem unfair to those smaller premises which cause no trouble. Should it only apply to those which are identified as being the source of problems? Yet if a particular outlet is identified as being a candidate for the levy, might it not have reached the stage of being a suitable case for a review?

We believe the Council should automatically apply a levy to premises with a late-night licence and above a certain maximum number of customers? This number can easily be obtained from the premises' fire certificate (see Appendix 4, PS6). A levy on troublesome premises could be made on a case by case basis.

### **Suspension for Non-payment**

Para 94 "A premises licence or certificate that has been suspended does not have effect to authorise licensable activities." The intention behind this sentence is hard to fathom.

### **Planning**

This policy is new, but does little to settle what has been in the past an uneasy relationship between planning and licensing (see below).

Para 101 Why "normally"? What are the circumstances under which an alcohol license may be granted to premises that do not have authorisation for uses associated with the sale of alcohol?

Para 102 This policy should be expressed in stronger terms, and procedural matters arranged, so that licensing and planning considerations are better coordinated. The lack of coherence can result in an applicant playing one off against the other, seeking to gain an advantage. It would seem logical only to grant a premises licence in cases where planning consent for related activities has already been obtained.

### **Enforcement**

Para 111 We suggest a minor rewording such as "The Licensing Authority will carry out compliance inspections to help maintain standards in well-managed premises, while implementing a targeted enforcement regime to improve standards in problem or high-risk premises. Particular attention will be

paid to the steps that have been taken to follow the advice given in Appendix 4, Examples of Good Practice”.

### **Reviews**

Par 119 There are good reasons to consider that calling for a review is something of a last resort – see Medway Council’s Enforcement Policy; Revocation, 16.2. The Council will also wish to avoid the considerable expense that a review might entail. We believe that vigorous follow-up of the Enforcement Policy and encouragement to follow guidance in Appendix 4 of this Statement of Licensing Policy provide the best means of avoiding the need for a review.

Para 120 The meaning of “the licensing authority determines that the crime prevention objective is being used to further crimes” is entirely unclear.

#### Officer comments/recommendations to response 4

Officers agree in respect of **Contents** and **Weight of Police Evidence** and these will be added along with page numbers for the final version.

#### Officer comments in respect of Legal Background

*Para 14 – The consultation is advertised on the Council’s website and in the local paper and sent to all ward councillors. The council does not have details of all contacts for residents associations and would be discriminating against individuals who may also feel that as objectors they also had a right to be consulted.*

*Para 16 – Appendix 4 (Examples of Good Practice) The aim of this document is to provide applicants and licensees with examples of good practice for the promotion of the four licensing objectives and outlines what this licensing authority and its responsible authority partners recommend for applicants to consider when completing their operating schedules.*

*Officers advise that the suggested amendment should not be made in respect of TENs.*

*Para 27 and 30 - The powers the council has in respect of temporary event notices are very limited. This is where the event holder puts the Licensing Authority on notice of an event taking place. Only the Police and Environmental Health can object in respect of any of the 4 licensing objectives and existing conditions from the relevant premises licence may be imposed.*

*Please note that no existing conditions apply to a TEN in respect of premises that already has a licence or certificate for other hours/activities. On objection from Environmental Health they could use the reports from residents of disturbance during normal licensed hours or during a TEN, which could then be considered in looking to impose existing conditions from the relevant premises licence or club premises certificate, if all parties agree that a hearing is not*

*required. For further clarification on TENs please see section 7 of the latest guidance issued October 2012.*

*Officer comments in respect of Premises Licences, Club Premises Certificates & Provisional Statement.*

*Para 31-33 –Appendix 4 is a new idea of listing examples of good practice as an aid to others and is only intended as guidance. This is not a statutory document, however, it may be used to assist licensees and responsible authorities to deal with concerns identified at an early stage that prevent or minimise subsequent problems.*

*Officer comments in respect of Consultation*

*Para 39 – Following a change in legislation the Council must now advertise all new licence applications and applications to vary existing licences on its web site, hence this inclusion in the policy. For further clarification on advertising, please see section 8.73 to 8.81 of the latest guidance issued October 2012.*

*Officer comments in respect of Responsible Authorities*

*Para 50 – All Ward Councillors are already included on the weekly circulation list alongside responsible authorities. For further details please see sections 8.12 to 8.14 of the latest guidance issued October 2012.*

*Officer comments in respect of Weight of Police Evidence*

*Para 52 – Officers are not able to comment on how the police operate. Section 9.12 of the latest guidance issued October 2012 relates to representations from the Police*

*Officer comments in respect of location of Premises and Licensing Hours*

*Officers advise that the suggested amendment should not be made.*

*Para 63 - Public nuisance is narrowly defined within the Licensing Act, for further details and clarification on this subject please see sections 2.18 to 2.24 of the latest guidance issued October 2012.*

*Officer comments in respect of Consideration of the Impact of Licensed Activities.*

*Officers advise that the suggested amendment should not be made.*

*Para 71 – Please see Para 70, this part of the policy is addressed to applicants. The use of the guidance at appendix 4 in this case is to aid them in completing their application, demonstrating their local knowledge and meeting the four licensing objectives when completing their operating schedule.*

Officer comments in respect of in respect of Saturation and Cumulative Impact

Para 77 – Licensing already has in place an in-depth page on the council's website in relation to Licensing complaints. Anything relating to complaints and/or objections in relation to licensing should always in the first instance be sent to the Licensing Team.

<http://www.medway.gov.uk/business/licencesandstreettrading/licensedpremises/licensingcomplaints.aspx>

Officer comments in respect of Early Morning Restriction Orders (EMRO).

The Licensing authority will need to be satisfied that sufficient evidence has been produced that an EMRO is appropriate for the promotion of the licensing objectives in a particular area.

Para. 86 has been amended.

Officer comments in respect of Late Night Levy.

For clarity on how this process works, how it can be implemented, whom it affects, what it costs etc. please see the amended guidance on late night levy published by the home office in December 2012

<http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/alcohol-supporting-guidance/late-night-levy-guidance?view=Binary>

Officer comments in respect of Suspension for Non-payment.

The premises licence or certificate gives the “authority” for licensable activities to take place during the licensable periods. When the licence is suspended for non-payment this “authority” is suspended until such time as payment is made.

Officer comments in respect of Planning

Planning, as a responsible authority, is informed of all licensing applications received and have processes of their own under the planning legislation to inform applicants of the need to apply for planning permission whereby a premises does not have the required planning use. Section 9.41 of the latest guidance issued October 2012 also covers this point.

Officer comments in respect of Enforcement.

Officers advise that the suggested amendment should not be made.

Para 111 – Appendix 4 is only guidance and therefore not enforceable. Compliance and enforcement action will have regard to risk assessment, consistency, transparency and proportionality as detailed at Para 109.

Officer comments in respect of Reviews

Para 119 - Comments noted. Para 120 – has been amended.

**Response 5 (submitted as a petition)**

We have received the draft Licensing Policy from Medway Council and make the following comments. These are based on our experience of the enactment of the current policy and our understanding of what is proposed in the draft document. We ask that this response should also be treated as a petition.

As a group of residents, we have lived with the consequences of the current licensing policy. You will appreciate that we have tended to notice the negative effects rather than those which have benefited us as a community.

**1. Aims and intentions of Licensing Policy.**

We think it might be helpful if you state explicitly, at the outset, who this policy is aimed at or intended for. This may also clarify issues such as the item about consultation for New Licences and Variations. You have stated that Medway Council will advertise on the Council website but it would be helpful to state the responsibility of the applicant.

**2. Consultation for New Licences and Variations**

Item 39 states that the Licensing Authority (LA) will advertise all new licence applications and applications to vary existing licences on the LA website. Approximately 1 in 2 people in the Medway Towns do not have access to a computer of their own. We feel that the LA should specify and insist that the applicant continues to advertise applications using notices on the premises/visible from the street and the local press.

**3. Police and Public engagement**

We suggest the policy should explicitly state that it recognises that all parties have a duty to work together to produce thriving businesses and harmonious communities. Item 52 states that the Police have a key role in managing the night-time economy and should have good working relationships with those operating in the local area. We feel that this statement recognise (and state) that the Police should have good working relationships with other stakeholders including residents and local businesses. We also suggest that the term "Night time economy" should include the term "evening" as well e.g. early evening and nighttime economy.

**4. Temporary Event Notices (TENs)**

We feel strongly that Medway Council should have a clear policy on TENs. The policy should be worded in a such a way as to include:

- a. TENs cannot be for regular events. For example: if the Licensing Panel has decided that liquor cannot be sold after 12 midnight on Friday, it would be quite wrong for the applicant to ask for a TEN to sell alcohol after midnight every Friday evening for each month of the year.
- b. It is suggested that an appointed member of the Licensing Panel is also able to review (and object to) applications for a TEN. We feel that Medway

Council should explicitly state this in view of the way TENs have been granted recently. There should be democratic accountability for TENs.

- c. TENs may only be granted to a whole premises/building. For example, a Nightclub should not be able to benefit from 12 TEN's for one bar and 12 for another bar on the same site (see item 3d).
- d. We suggest that TENs may not be applied for by the holder of a Premises Licence or in respect of a premises for which there is a Premises Licence; they are appropriate for pubs and community organisations but not nightclubs.
- e. Appendix 3 is unclear and should be clarified especially regarding "length of times" (second bullet point).

### **5. Transfer of Licenses**

We suggest the Medway Council states that Premises Licences cannot be transferred from one holder to another such as when a new business holder takes over. In the spirit of the Licensing Policy, every case should be decided on its merits. We have seen how licences have been transferred in the past and even been allowed to continue despite a new licence being granted. We feel that a licence holder should only hold one licence for each premises and no other.

### **6. Planning Permissions and Licensed Premises**

Item 101 states that Any premises for which a licence is required should normally have an authorised use under the Town and Country Legislation. We suggest that the policy should be strengthened so that only in exceptional circumstances should a licence be granted before a Planning application is granted.

### **7. Noise Management**

There are various references to Noise Management in the draft document. Item 63 states Residents have a reasonable expectation that their sleep will not be unduly disturbed between 2300 and 0700 hours. Appendix 4 refers to noise including vibration. We feel that an explicit statement should be made that sounds systems and the premises they are in, must be so designed that no vibration can be detected in any residential property within a 30 metre radius. We also feel that a low threshold should be set for adjudging sound heard locally. Currently, residents living near a nightclub or public house are expected to call Environmental Health officers and complain about noise. We suggest that there should be no audible noise emanating from a premises' sound system within a range of 30 metres.

### **8. Irresponsible Drink Promotions**

We agree that this is an important aspect of managing licensed premises properly. We suggest that Medway Council should state that no encouragement should be given in the form of drink related (in anyway) incentives/concessions for entry to another premises. The pub to club

incentive should be legislated against in order to promote responsible consumption of alcohol and to address “pre-loading”.

**9. Drug Seizure Policy**

The zero tolerance to drugs (outlined in appendix 4) needs to be credible. It is suggested that it is explicitly stated in the new Licensing Policy that anyone found to be in possession of drugs will not be admitted to a licensed premises. Drugs should be immediately surrendered to the Police and only in exceptional circumstances should drugs be retained by a venue overnight.

**10. Saturation and Cumulative Impact Policy**

We feel that there should be a Policy in respect of selling of alcohol to cover River and Chatham Central Wards. We note that there has been a move in recent licence applications in Medway, to restrict the hours at which alcohol of a specific strength (i.e. 5.5% or greater) can be sold in retail outlets. This may be detail which can be adopted in due course but it may be helpful that the Licensing Policy identifies the Council’s determination to address the issue of street drinking.

**11. Adult Entertainment.**

Adult Entertainment, such as lad dancing and striptease, should not be permitted unless a specific licence has been applied for. There should be no minimum exclusions e.g. premises should not be able to carry out strip shows on 12 occasions or less every year.

**Officer comments/recommendations to response 5**

Officer comments in respect of point 1 - Aims and intentions of Licensing Policy

*Point 15 has been amended.*

*Responsibilities of the applicant are clearly set out within the legislation and the application and guidance documentation.*

Officer comments in respect of point 2 – Consultation for New Licences and Variations

*Item 39 – Following a change in legislation the Council must now advertise all new licence applications and applications to vary existing licences on its web site, hence this inclusion. For further clarification on advertising, please see section 8.73 to 8.81 of the latest guidance issued October 2012.*

Officer comments in respect of point 3 - Police and Public engagement

*Officers advise that the suggested amendment should not be made.*

*Para 52 – Officers are not able to comment on how the police operate.*

*The term “night time economy” is well used by officers and members of the public when referring to the activities and business use outside of the normal daytime activities and use of an area.*

*Section 9.12 of the latest guidance issued October 2012 relates to representations from the Police*

*Officer comments in respect of point 4 - Temporary Event Notices (TENs)*

*Officers advise that the suggested amendment should not be made.*

*The powers the council has in respect of temporary event notices are very limited.*

*This is where the event holder puts the Licensing Authority on notice of an event taking place. Only the Police and Environmental Health can object in respect of any of the 4 licensing objectives and existing conditions from the relevant premises licence may be imposed.*

*Please note that no existing conditions apply to a TEN in respect of premises that already has a licence or certificate for other hours/activities. On objection from Environmental Health they could use the reports from residents of disturbance during normal licensed hours or during a TEN that could then be considered in looking to impose existing conditions from the relevant premises licence or club premises certificate, if all parties agree that a hearing is not required. For further clarification on TENs please see section 7 of the latest guidance issued October 2012.*

*Officer comments in respect of point 5 – Transfer of Licences.*

*Officers advise that the suggested amendment should not be made.*

*Current legislation allows for more than one licence/certificate to be in place for a premises.*

*Section 8.93 to 8.96 of the latest guidance issued October 2012 covers Transfer of a premises Licence.*

*Officer comments in respect of point 6 – Planning permission and Licensed Premises.*

*Officers advise that the suggested amendment should not be made.*

*Planning, as a responsible authority, is informed of all licensing applications received and have processes of their own under the planning legislation to inform applicants of the need to apply for planning permission whereby a premises does not have the required planning use.*

*Section 9.41 of the latest guidance issued October 2012 also covers this point.*



Officer comments in respect of point 7 – Noise Management

Officers advise that the suggested amendment should not be made.

Item 63 - Public nuisance is narrowly defined within the Licensing Act, for further details and clarification on this subject please see sections 2.18 to 2.24 of the latest guidance issued October 2012.

Officer comments in respect of point 8 – Irresponsible Drink Promotions.

Officers advise that the suggested amendment should not be made.

This is covered by a mandatory condition. Any further amendments would require changes in legislation.

Officer comments in respect of point 9 – Drug Seizure Policy.

Officers advise that the suggested amendment should not be made.

Appendix 4 is only guidance and therefore not enforceable. Officers are not in a position to state how the police operate or deal with the surrender of drugs.

Officer comments in respect of point 10 – Saturation and Cumulative Impact Policy.

Officers advise that the suggested amendment should not be made.

The policy clearly states at section 76 and 77 the type of evidence required for a saturation and cumulative impact policy to be considered. A consultation exercise would need to be conducted before a determination could be made.

For further details and clarification on this subject please see sections 13.19 to 13.27 of the latest guidance issued October 2012.

Officer comments in respect of point 11 – Adult Entertainment.

Officers advise that the suggested amendment should not be made.

This is covered under a separate policy, as referred to at point 100.



## Diversity Impact Assessment: Screening Form

<b>Directorate</b> BSD	<b>Name of Policy</b> Licensing Act Policy Statement		
<b>Officer responsible for assessment</b> Alison Poulson		<b>Date of assessment</b> 6 February 2013	<b>New or existing?</b> Existing
<b>Defining what is being assessed</b>			
<b>1. Briefly describe the purpose and objectives</b>	<p>The purpose of this statement is to review and publish the principles that they proposed to apply when exercising their functions. The four licensing objectives are:</p> <ul style="list-style-type: none"> <li>• the prevention of crime and disorder</li> <li>• public safety</li> <li>• the prevention of public nuisance</li> <li>• the protection of children from harm</li> </ul> <p>Medway Council is the Licensing Authority under the Licensing Act 2003 (as amended).</p>		
<b>2. Who is intended to benefit, and in what way?</b>	Businesses, visitors and residents of Medway, by defining the principles underlying making an application, making representations about an application, or applying for a review of a licence.		
<b>3. What outcomes are wanted?</b>	Licensing arrangements that comply with the statutory requirements of the Licensing Act 2003 (as amended).		
<b>4. What factors/forces could contribute/detract from the outcomes?</b>	<b>Contribute</b> Good relations with the Police & other responsible authorities within the council, and licensees	<b>Detract</b> Changing demographics	
<b>5. Who are the main stakeholders?</b>	Licensees/businesses, Medway Council, Medway Police, members of licensed premises and residents of Medway		
<b>6. Who implements this and who is responsible?</b>	Medway Council as the Licensing Authority		

<b>Assessing impact</b>		
<b>7. Are there concerns that there <u>could</u> be a differential impact due to <i>racial groups</i>?</b>	YES	Brief statement of main issue
	NO	
<b>What evidence exists for this?</b>	This policy statement applies to all individuals and owners of premises regardless of race/ethnicity.	
<b>8. Are there concerns that there <u>could</u> be a differential impact due to <i>disability</i>?</b>	YES	Brief statement of main issue
	NO	
<b>What evidence exists for this?</b>	This policy statement applies to all individuals and owners of premises regardless of disability.	
<b>9. Are there concerns that there <u>could</u> be a differential impact due to <i>gender</i>?</b>	YES	Brief statement of main issue
	NO	
<b>What evidence exists for this?</b>	This policy statement applies to all individuals and owners of premises regardless of gender.	
<b>10. Are there concerns there <u>could</u> be a differential impact due to <i>sexual orientation</i>?</b>	YES	Brief statement of main issue
	NO	
<b>What evidence exists for this?</b>	This policy statement applies to all individuals and owners of premises regardless of sexual orientation.	
<b>11. Are there concerns there <u>could</u> be a have a differential impact due to <i>religion or belief</i>?</b>	YES	Brief statement of main issue
	NO	
<b>What evidence exists for this?</b>	This policy statement applies to all individuals and owners of premises regardless of religion or belief.	
<b>12. Are there concerns there <u>could</u> be a differential impact due to people's <i>age</i>?</b>	YES	Brief statement of main issue
	NO	
<b>What evidence exists for this?</b>	This policy statement applies to all individuals and owners of premises regardless of age.	
<b>13. Are there concerns that there <u>could</u> be a differential impact due to <i>being transgendered or transsexual</i>?</b>	YES	Brief statement of main issue
	NO	
<b>What evidence exists for this?</b>	This policy statement applies to all individuals and owners of premises regardless of being transgender or transsexual.	

14. Are there any <i>other</i> groups that would find it difficult to access/make use of the function (e.g. young parents, commuters, people with caring responsibilities or dependants, young carers, or people living in rural areas)?	YES	If yes, which group(s)?
	NO	
What evidence exists for this?	This policy statement applies to all individuals and owners of premises regardless of other factors, including socio-economic status, people whose command of English or ability to read.	
15. Are there concerns there <u>could</u> have a differential impact due to <i>multiple discriminations</i> (e.g. disability <u>and</u> age)?	YES	Brief statement of main issue
	NO	
What evidence exists for this?	This policy statement applies to all individuals and owners of premises regardless of one or more of the equality strands.	

#### Conclusions & recommendation

16. Could the differential impacts identified in questions 7-15 amount to there being the potential for adverse impact?	YES	Brief statement of main issue
	NO	
17. Can the adverse impact be justified on the grounds of promoting equality of opportunity for one group? Or another reason?	YES	Please explain
	NO	Not applicable

#### Recommendation to proceed to a full impact assessment?

NO	This function/ policy/ service change complies with the requirements of the legislation and there is evidence to show this is the case. The changes to the policy recommended reflect current changes in legislation and updated guidance on the matters the Licensing Authority can have regard to when considering applications and to confirm our arrangements for ensuring that premises comply with their licence conditions and responsibilities.	
NO, BUT	<b>What is required to ensure this complies with the requirements of the legislation? (see DIA Guidance Notes)?</b>	Minor modifications necessary (e.g. change of 'he' to 'he or she', re-analysis of way routine statistics are reported)
YES	<b>Give details of key person responsible and target date for carrying out full impact assessment (see DIA Guidance Notes)</b>	

<b>Action plan to make Minor modifications</b>		
<b>Outcome</b>	<b>Actions (with date of completion)</b>	<b>Officer responsible</b>
Publication of Statement	Publication of Statement on Council website and to be made available if and when required in line with Council Policy in other formats/ media.	Licensing Manager
Annual Stats to be compiled and assessed for change	Straw poll to be conducted on an annual basis	Licensing Manager

<b>Planning ahead: Reminders for the next review</b>		
<b>Date of next review</b>	January 2018	
<b>Areas to check at next review (e.g. new census information, new legislation due)</b>	<p>Include detailed breakdown of who/how many people have been consulted and the areas of midway they represent</p> <p>Review representations made on applications for licence to assess whether any equalities issues have been raised.</p>	
<b>Is there <i>another</i> group (e.g. new communities) that is relevant and ought to be considered next time?</b>		
<b>Signed (completing officer/service manager)</b>	<b>Date</b>	20 February 2013
<i>Aison Rowson</i>		
<b>Signed (service manager/Assistant Director)</b>	<b>Date</b>	20 February 2013
<i>Perry Johnson</i>		

## Licensing and Safety Committee – Terms of Reference

### 6. Licensing and Safety Committee

- Functions relating to licensing and registration as set out in schedule 1 to the Functions Regulations, the Licensing Act 2003, Gambling Act 2005, Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009, and other licensing functions reserved by law to the Council's Licensing and Safety Committee and its Sub-Committees;
- To act in a quasi-judicial capacity to consider appeals that may require determination upon receipt of representation from an aggrieved party where a licence has either been refused, amended or revoked by officers and make decisions related thereto;
- To act in a quasi-judicial capacity to determine application of licences where there is substantial objection by other parties to the grant of a licence or where in the officer's opinion the issue is of a sensitive nature and make decisions related thereto;
- To consider objectively other ad hoc matters relating to the licensing process which officers or the Council deems appropriate;
- To recommend to Council to determine a policy not to permit casinos, in accordance with section 166 of the Gambling Act 2005;
- To recommend to Council final approval of the Statement of Gambling Act Policy;
- To recommend to Council approval of the Statement of Licensing Policy, ~~in accordance with the Council's policy framework rules~~;
- To recommend to Council approval of the Statement of Policy in respect of Sex Establishments and Sexual Entertainment Venues;
- To determine matters relating to health and safety under any 'relevant statutory provision' within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as employer.

Note: For the purpose of these terms of reference the term "licence" or "licensing" includes any such controlling measure such as permit, certificate or registration.





**Licensing and Safety Committee – 7 March 2013**

**Discussion:**

The Licensing and Local Land Charges Manager submitted a report which set out the draft Statement of Licensing Policy, including comments received following public consultation and some minor proposed amendments to the Committee's terms of reference.

She stated that there had been considerable changes in legislation over the last twelve months through the Police Reform and Social Responsibility Act 2011 that have been included in the draft statement for consideration, which was attached at Appendix A to the report. These changes included:

- Statement of Licensing Policy to be reviewed every five years instead of every three years
- Abolition of the vicinity test – allowing anyone in the country to send a relevant representation or an application
- Locally set fees
- Late night levy
- Early Morning Alcohol Restriction Orders
- The Primary Care Trust (soon to be the Medway Clinical Commissioning Group) had become a responsible authority for the notification of an application and being able to respond to it
- The use of the word “appropriate” instead of “necessary” - amended by S109 Police Reform and Social Responsibility Act, introduced with a view to lowering the evidential threshold required for a Licensing Authority to make such decisions which may be harder to challenge on appeal
- Review of a licence can now be made by a responsible authority or any other person
- Changes to standard Temporary Event Notices (TENs)
- Introduction of a late Temporary Event Notice with no hearings and no right of appeal.

As part of the review of the Statement of Licensing Policy, the draft documentation had been correctly advertised as part of a six-week consultation.

She stated that not all the requests within the responses could be considered, as they did not meet the requirements of the legislation or guidance in respect of licensing. In these cases a short explanation had been provided against each request for inclusion.

The main areas of concern to come out of the consultation related to Temporary Event Notices (TEN) and Cumulative Impact Policies. In respect of Temporary Event Notices, the current legislation under Part 5 of the Licensing Act 2003 sections 98 to 110 allowed for the following: A TEN was a form that was provided to the local Council, the Police and Environmental Health, letting them know about the planned event and she explained the difference between the two types of TEN, namely a standard TEN, which was to be submitted no later than 10 working days before the event to which it related or a late TEN, which was to be submitted not before 9 and not later than 5 working days before the event. It was noted that a TEN was for a relatively small-scale event attracting fewer than 500 people, lasting no more than 168 hours either outdoors or indoors. Any premises could be used for 12 temporary events per year, up to a total maximum of 21 days. The temporary event holder needed to be aged 18 or over.

She explained the number of TENs which could be held as follows: If a person already held a personal licence, 50 TENs (made up of standard and late TENs) could be held per calendar year; if a person did not hold a personal licence only 5 (made up of standard and late TENs) could be held per calendar year.

If a person held a personal licence, 10 late TENs could be held per calendar year; if a person did not hold a personal licence, only 2 late TENs could be held per calendar year.

It was noted that there must be at least 24 hours between temporary events organised by the same person or an associate in relation to the same premises.

Once the police or environmental health received a TEN, they had three working days to make any objections to it on the grounds of any of the four licensing objectives: prevention of crime and disorder; prevention of public nuisance; public safety; protection of children from harm.

If they objected, the council would organise a panel to consider the evidence and may decide that the event could not proceed. If there was an objection to a late TEN the event would not be allowed to proceed. Otherwise the event could go ahead as planned. The current legislation did not allow for public objections, notification or advertisement.

She also provided the Committee with detailed information on cumulative impact policies which had been introduced as a mechanism for licensing authorities to limit the growth of licensed premises in certain areas. These were currently set out in guidance and no decision had been taken to put this forward through legislation.

The statutory guidance governing Cumulative Impact Policies was focused on local needs and easier for licencing authorities to implement. This focused on the evidential requirements as detailed in the draft policy set out at section 77.

The phrase Cumulative Impact was defined in the guidance as "the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The number, type and density of licensed premises selling alcohol within an area may be such to give rise to serious problems of crime, disorder and/or public nuisance." She stated that the draft policy had been written in such a way to highlight the types of evidence required for the introduction of cumulative impact policies to be pursued.

Members sought further clarification on the issue of TENs with particular regard to existing licence holders, the new provision for Environmental Health to object to TENs and on what grounds it could object to a TEN and who would hear any objections to a TEN.

The Licensing and Local Land Charges Manager stated that an existing licence holder could hold 50 TENs per calendar year outside of the existing premises with 12 TENs on the existing premises. Where an existing licence holder held a TEN on the existing premises this counted as one TEN in respect of both the licence holder's and the existing premises' quota per calendar year. Environmental Health's ability to make objections to TENs were required to be within the four licensing objectives. Objections to a TEN would be heard by an emergency meeting of the Licensing Hearing Panel. She stated that other legislation, including the Live Music Act 2012, also had an impact on the types of objections either the Police or Environmental Health could make in respect of TENs.

Members discussed each of the representations made, as set out in Appendix B to the report, with particular regard to the issue of cumulative impact policies. Members discussed and sought clarification on the type of evidence required to enable the introduction of a cumulative impact policy in specific areas of Medway, with particular regard to Rochester and the way forward on this matter, including a proposal for a public meeting with relevant stakeholders. Members also discussed ICT arrangements in relation to licensing matters.

The Licensing and Local Land Charges Manager stated that a cumulative impact policy could be introduced in relation to certain types of premises or certain areas. Sufficient evidence would be required before any such policy could be introduced. A request for a cumulative impact policy could be made, for example, by the public, Members, the Police or Public Health.

The Licensing and Local Land Charges Manager informed Members that it was envisaged that new licensing software could be introduced in the future which would provide website users with a service similar to that provided in respect of planning applications. The introduction of such software was subject to the Council's Better for Less programme.

A Diversity Impact Assessment (DIA) screening form had been undertaken on the draft policy as set out in Appendix C to the report. It was concluded that a

full DIA was not necessary, however, a couple of actions had been identified for future reviews.

## **Decisions**

- (a) The Committee noted the documentation set out in Appendix A to the report and recommendations set out in Appendix B to the report and recommended approval of the draft Statement of Licensing Policy to Council on 25 April 2013 for use from 1 May 2013.
- (b) The Committee recommended to Council to agree the amendments to the Licensing and Safety Committee's terms of reference, as set out in Appendix D to the report.
- (c) The Committee asked the Licensing and Land Charges Manager to arrange an all Member training session with key stakeholders/responsible authorities on the issue of cumulative impact policies to enable Members to be fully informed of the requirements to pursue any such policies in Medway.