

LICENSING AND SAFETY COMMITTEE

28 OCTOBER 2015

LICENSING ACT 2003

ENFORCEMENT REPORT ON LICENSING MATTERS

Report from: Perry Holmes - Assistant Director (Legal & Corporate Services)

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Summary

The purpose of this report is to enable both the Licensing Authority and Medway Police to present their annual report in respect of licensing compliance and enforcement to the Licensing and Safety Committee and for members to ask questions and make comments.

1. Budget and Policy Framework

1.1 The Council's statement of licensing policy in respect of its functions under the Licensing Act 2003 refers to the licensing objective of the prevention of crime and disorder and associated compliance and enforcement.

2. Background

2.1 The Council's Licensing Team works closely in partnership with Medway Police to deliver the statutory requirements of the Licensing Act 2003 and other licensing legislation.

2.2 As responsible authorities under the Licensing Act 2003, the Licensing Authority and Medway Police comment on all applications for premises licences and where appropriate make representations. If these representations are unresolved, they will present their objections to a Licensing Hearing Panel. Medway Police may also object to personal licence (authorisation to sell alcohol) applications and temporary event notices, where they consider the crime prevention objective within the Licensing Act would be undermined if the licence were to be granted.

2.3 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. The police have a key role in managing the night-time economy and

have good working relationships with those operating in the Medway area.

- 2.4 The Council has established protocols with Medway Police on licensing compliance and enforcement issues. These provide for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are well operated. All licence holders are expected to co-operate in order to promote the licensing objectives. Evidence of non-co-operation may be considered sufficient grounds for review, suspension or revocation of any licence.
- 2.5 A copy of the joint report is attached at **Appendix A** along with a further report from the Licensing Authority at **Appendix B** for Members' consideration.

3. Risk Management

- 3.1 It is important that the Licensing & Safety Committee is kept fully informed of work being carried out by Medway Police in respect of all licensing matters.

4. Financial and legal implications

- 4.1 There are no direct financial implications arising from this report
- 4.2 The Council has produced its Statement of Licensing Policy as required by the Licensing Act 2003.

5. Recommendations

- 5.1 That the reports at **Appendices A and B** prepared and presented by the Licensing Authority and Medway Police are considered by the Committee and Members be invited to comment where appropriate.

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Appendices

Appendix A – Joint report on Licensing Act 2003 by the Licensing Authority & Kent Police during 2014/15
Appendix B – Report on Compliance & Enforcement by the Licensing Authority during 2014/15

Background papers

None



APPENDIX A



**Joint Report on Licensing Act 2003
Compliance and Enforcement during
April 2014 to March 2015**

Prepared by Lynsey Keen, Senior Licensing & Enforcement Officer and
DC Gill Angus, Licensing Enforcement Officer

Introduction

The North Division Licensing Unit which currently covers Medway Council, Dartford Borough Council, Gravesham Borough Council and Swale Borough Council is comprised of:-

PSE Geoff Rowley – Licensing Co-Ordinator
DC Gill Angus – Licensing Enforcement Officer
PC Chris Hill – Licensing Enforcement Officer
PC Clare Cossar – Licensing Enforcement Officer
PC Diane Holroyd – Part-Time Licensing Enforcement Officer

As of February 2016 Swale will move to the East Kent Division Licensing Unit.

The council licensing enforcement team consists of:-

- Lynsey Keen - Senior Licensing Enforcement Officer
- Charles Bennett - Licensing Enforcement Officer
- Franco De Fazio - Licensing Enforcement Officer

Compliance

The licensing legislation promotes close working relationships with those who hold a licence and therefore much of the work done by Police and Council Licensing team falls under compliance work. During visits we are there to provide supportive advice and guidance. The benefit of this methodology promotes a professional, educational foundation for the promotion of the licensing objectives.

Enforcement

Enforcement is always seen as a last resort, because in effect it means that all other methods of working together and the support provided to promote the licensing objectives have failed. Where compliance visits have not achieved the required outcome then enforcement action will be taken, this includes sending warning letters, cautions, prosecutions and/or review of the Premises Licence/Club Premises Certificate. However, there are occasions when an incident occurs and compliance is not appropriate, such instances would be where there is serious crime and disorder and action must be taken immediately to promote the licensing objectives.

Licensed Premises

Due to the volume of licensed premises in Medway it is difficult with existing resources to implement a system where each premises get regular compliance visits. It is apparent that certain premises repeatedly come to our attention. Therefore, we must prioritise and focus our activity on high-risk premises that cause crime and disorder, endanger public safety or cause a nuisance as a result of bad management. In these circumstances, we deal with the issues through a multi-agency approach. This continues to provide results and contributes to the statistical information provided in this report.

As of 1 October 2015 we have the following 838 total licensed premises in Medway.

- 6 Night Clubs (Only 4 trading)
- 134 Pubs
- 127 Restaurants
- 76 Takeaways
- 276 Off Licences
- 58 Clubs Premises Certificate
- 21 Clubs that hold a Premises Licence

- 31 Community Premises
- 11 Hotels
- 13 Schools
- 13 Public Spaces
- 7 Leisure Centres
- 5 Theatres
- 2 Cinemas
- 5 Boats
- 66 Other

Police Role

Medway has the highest number of licensed premises within North Division and premises visits are therefore prioritised on a continued intelligence based assessment.

The team aim

- To provide a visible police presence within licensed premises and in particular licensed premises in the Night Time Economy. We engage in proactive tactical interventions to reduce crime and disorder and substance misuse in licensed premises.
- Provide tactical advice and guidance to Neighbourhood Policing and other police departments concerning licensable activities, proactively intervening in licensing issues and utilising warranted powers to gather intelligence and undertake compliance and enforcement.
- Making necessary representations to improve the promotion of the licensing objectives as and when required and applying for reviews regarding relevant licensing applications as our role as a responsible authority
- Represent the Chief Constable at licensing hearing panels and Magistrates Court as appropriate.
- Develop and maintain effective working relationships with other enforcement agencies, licence holders (locally and nationally), legal representatives to facilitate effective licensing processes.

Council Enforcement Role

The licensing enforcement team act as a responsible authority under the licensing legislation. This requires us to view all applications received under the legislation. Licensing authorities are not expected to act as a responsible authority on behalf of other parties i.e. the public, councillors or other agencies. It will be on rare occasions where there are issues that cannot be addressed in relation to the licensing objectives we will consider a review of a licence. It is more likely that another responsible authority will call officers as witnesses to any compliance and enforcement activities undertaken.

All complaints go through to the customer contact team who advise customers to complete an e-form either over the telephone or by going to the council website. This guides the public to provide the required details to be able to investigate a complaint. However, we still get a lot of anonymous complaints and in some situations they are determined as malicious or we are unable to gain further information to be able to fully investigate. Dealing with complaints can take considerable time to investigate. When acting on the complaint we try to keep the complainant up to date with our investigation and on completion we notify them of the result. In some cases, we have to direct complainants to other services or enforcement agencies as they can sometime lead onto other issues that licensing enforcement cannot deal with.

Police Investigative Activity

Using the Police call taking system (STORM) the divisional licensing unit review every call to police every crime report and all persons arrested relating to licensed premises on a daily basis. Officers use this information to assist in crime investigation, identify premises that have shown an increase in crime and disorder and look at ways to resolve the problems.

The following crime data is connected to licensed premises in Medway over the last year.

Crime Data	Number
Burglary	19
Criminal Damage	57
Drug Offences	24
Miscellaneous Crimes against society	3
Possession of Weapons	1
Public Order Offences	16
Robbery	2
Sexual Offences	7
Theft Offences	132
Violence against the person	237
ABH – Assault Occasional Actual Bodily Harm	106
Assault of a Police Officer	4
Common Assault & Battery	58
Harassment	2
Making Threats to Kill	1
Putting people in fear of violence	1
Racially / Religious aggravated assault	1
Wound / Inflict Grievous Bodily Harm	6
Wounding with intent GBH or to resist apprehension	9

Council Compliance and Enforcement Statistics

	2010/11	2011/12	2012/13	2013/14	2014/15
Complaints regarding licensed premises received by the Council	59	36	38	48	56
Verbal Warnings issued to premises	43	8	11	5	11
Written Warnings issued to premises	55	44	40	35	12
Cautions issued to licensees	0	2	2	0	0
S90 Withdrawal of Club Premises Certificate	0	0	2	5	0
Compliance Inspections to licensed and unlicensed premises	450	212	261	371	308
Notice Checks in connection with applications	84	144	142	165	134
Licences Surrendered / Lapsed	-	11	21	36	12

Police Administration

Across the North Division the team have dealt with 733 enquiries in relation to licensing applications during the financial year.

As of 2014 a new computer licensing system called Bacchus was introduced across Kent Police which enables each licensing division to supply monthly licensing reports to senior management on a summary of licences, a county summary of licences, incidents at licensed premises and the number of visits to licensed premises. The team have worked hard to update this system to enable the use of the data to be able to provide a complete history connected to each individual licensed premises.

Council Administration

Temporary Event Notices

The licensing enforcement team have been processing temporary event notices for the last few years to assist licensing services team when necessary.

There is a statutory requirement to acknowledge each temporary event notice to the responsible person within 24 hours of receipt of the notification.

This also requires electronic liaison with both the police and environmental health to make sure that the notice was served correctly in the timescales as this effects the times that they have to object to the notice or liaise with the responsible person.

	2011/12	2012/13	2013/14	2014/15
Notices Processed	338	373	395	381

Issuing of Premises Licences / Club Premises Certificate

Medway receives a lot of applications in connection with New Premises, Variations, Minor Variation, changes to those holding a premises licence (transfers 72 over the last financial year) and changes of designated premises supervisors (changes of DPS 111 over the last financial year). This requires a lot of issuing of licences/certificate and therefore the licensing enforcement team assist the licensing services team to issue these documents.

	2010/11	2011/12	2012/13	2013/14	2014/15
Issuing Licences/Certificates by Licensing Enforcement	404	441	373	179	80

Partnership Working

Both teams work closely with the partner agencies and have built up excellent working relationships. Partnership working takes on many guises and does not solely relate to the joint visits conducted or the multi-agency operations that are run.

The excellent working relationship with the agencies ensures that relevant information is shared, visits have been completed and the results of those visits shared with partner agencies.

There are a number of groups that meet to promote and discuss operations, problem areas, partnership working and how to utilise our resources for the best outcomes. Both teams attend these meetings on a regular basis.

- Safety Advisory Groups
- Medway Strategic Alcohol Partnership
- North Division Violent Crime Forum
- Safer Medway Partnership Group
- Historic Rochester Problem Solving Group
- Kent and Medway Regularly Licensing Steering Group
- Kent Licensing Officers Group

Operations

We both support joint operations and have run several operations during the year.

The priorities of interest include:-

- Complying with licensing conditions and hours
- Illegal Workers
- Food Hygiene
- Health and Safety
- Fire Measures including overcrowding and fire safety
- Waste Agreements
- Food Labelling
- Counterfeit Goods
- Non-Duty paid alcohol and tobacco
- Noise Levels
- Drugs
- Street Drinking
- Under Age Sales
- Anti-Social Behaviour
- Alcohol Pricing on high strength beers/ciders
- Alcohol related Harm as result of Hospital admissions connected to licensed premises

Priorities

It is evident from our past operations and our routine compliance and enforcement that there are areas that we need to prioritise.

Violence against the person and Night Time Economy

Kent Police focus their attention on the vicinity of licensed premises selling alcohol to achieve the greatest impact in the reduction of violence against the person. The Divisional Licensing Unit participates in a joint partnership Night Time Economy information sharing forum attended by the Divisional Licensing Unit, Neighbourhood Police and Door Supervisor. The briefing identifies those persons who have come to the attention of licencees/door supervisors within the Safer Medway Partnership and who it is felt need to be considered for exclusion from all licensed premises. This enables door supervisors to share information about incidents and offenders and assists in reducing Violence against the Person and Crime and Disorder within the town centres.

Off Licences

Over the forthcoming year we are looking at targeting the off licence trade in conjunction with Public Health, Trading Standards and HMRC. In particular, we are looking at the connection between high strength beers, street drinking, non-duty paid alcohol and tobacco and counterfeit goods being sold cheaply which potentially increases crime and disorder and affects public safety.



**Report on Compliance and Enforcement
During April 2014 to March 2015**

Our Responsibility

As a team we need to make sure that there is compliance with legislation and conditions relating to a wide variety of licences, permits and notifications that are granted by the council.

These are the areas we are responsible for:-

- **Licensing** – Persons/Premises that hold licensable activities, such as the sale by retail of alcohol, the supply of alcohol by or on behalf of a club to a member of the club, the provision of regulated entertainment or the provision of late night refreshment. Types of licences/applications include premises licences, club premises certificates, temporary event notices and personal licences. We also deal with any premises providing licensable activities which are not licensed.
- **Taxis** - Licensing vehicles, drivers and operators that provide a transport service (for up to eight passengers) for hire and reward. The relevant licences are: Hackney Carriage Vehicle, Hackney Carriage Driver, Private Hire Vehicle, Private Hire Driver and Operators. We also deal with drivers or vehicles that are not licensed.
- **Gambling** - Persons/Premises licensed to offer gaming machines or certain types of gambling at members club and public houses. We are not authorised to enforce those who are issued a Premises Licence under the Gambling Act 2005 such as bingo halls, adult gaming centres, family entertainment centres, betting shops, racetracks or casinos. Types of permits/notification for pubs and clubs are called licensed premises gaming machine permits, club gaming permits, club machine permits or notifications of 2 or less machines. Organisations can carry out lotteries either small society lotteries, incidental non-commercial lotteries, private lotteries and customer lotteries. We also deal with those premises carrying out gambling which are not licensed.
- **Sex Establishments** - Premises licensed as Sex Establishments; which includes Sex Shops Licence, Sex Cinemas Licence or Sex Entertainment Venues Licence. We also deal with those premises that operate unlicensed or monitor those who provide the exemption for up to 11 events per calendar year.
- **Charity Collections** - Those licensed for street collections and house to house collections. We also deal with those who are collecting unlicensed.
- **Street Trading** - Vendors who have temporary structures who wish to trade on the highway these are referred to as street trading consents. We also deal with those operating unlicensed.
- **Scrap Metal Dealers** – Site Licences and Collector Licences who wish to trade in scrap metal. We also deal with those operating unlicensed.

As of 1 August 2015 all compliance and enforcement activity relating to Street Trading and Scrap Metal has been passed to the Environmental Services team.

Compliance and Enforcement Statistics

Licensing Act 2003

Information provided in joint report with Police.

Taxis

We regularly inspect our Hackney Carriage and Private Hire Vehicles by visiting ranks, schools, supermarkets and licensed premises during the day and at night.

The most common issues we find are:-

- damage to the vehicle – failing to notify us of an accident

- not displaying door signs
- not displaying the plates correctly
- dirty vehicles

This tends to lead to further issues such as no fire extinguisher in the vehicle, cosmetic damage inside the vehicle and failing to display the fare card to name a few issues.

The biggest concern we have been facing is the increase in complaints over the last couple of years, which mainly are connected to our licensed drivers regarding their behaviour or driving concerns. We have also had an increase in complaints of taxi licensed outside Medway taking work away from Medway drivers and/or working for a Medway licensed operator as a private hire vehicle.

We have built up good partnership working with other councils on our boundaries and have been carrying out joint inspections in Medway and other areas in trying to control the issues.

	2010/11	2011/12	2012/13	2013/14	2014/15
Complaints	75	79	75	104	133
Warnings	55	18	27	38	28
Cautions	2	0	3	0	2
Vehicle Suspensions	39	18	59	50	47
Driver Suspensions	4	5	5	3	1
Revoked	0	0	1	0	0
Inspections at Gun Wharf	-	259	319	321	348
Inspections out and about	374	153	242	127	107

Gambling

The most common gambling offences are not having the correct permits for gaming machines, holding illegal lotteries mainly as a result of having rollovers, no controls on games such as bingo, poker and card games. These premises are highly regulated by the Gambling Commission. Each financial year we submit reports to the Gambling Commission to give them update of the number of licences/permits and the number of inspections carried out.

We currently have the following licences/permits:-

- 30 - Betting Shops
- 2 - Bingo Premises
- 9 - Adult Gaming Centres
- 1 - Family Entertainment Centres
- 129 - Alcohol licensed premises (automatic entitlement)
- 30 - Alcohol licensed premises gaming machine permits for more than 3 machines
- 2 - Unlicensed family entertainment centre gaming machine permit
- 21 - Club machine permits

	2010/11	2011/12	2012/13	2013/14	2014/15
Complaints	3	0	1	4	1
Inspections	-	42	27	76	134

Sex Establishments

We only have two sex establishments in Medway, a sex shop in Chatham and a sexual entertainment venue in Rochester. We have not received any complaints this year but have carried out an annual inspection at the sexual entertainment venue prior to its renewal.

	2010/11	2011/12	2012/13	2013/14	2014/15
Complaints	0	1	4	1	0

Charity Collectors

We have updated the council website to provide the public further information on charity collectors. We have not received any complaints this year.

We have provided the public some tips on bogus collectors:-

The council has also been made aware of some cases where fraudsters have used the name, logo and charity registration number of a genuine charity to appeal for donations and keep the profits. To ensure that your donations reach those most in need, we have compiled some tips for you to determine if they are bogus or not:

- Most genuine collections will be raising funds for a specific individually named charity. You should be suspicious of any leaflet that does not state the name of the charity.
- If a collection is for a registered charity, legally this must be stated on any document advertising the collection on behalf of the charity. Genuine leaflets will usually provide a charity registration number. Most door to door collections will leave their bags at least two days before they collect any donations, allowing you time to check the Charity Commission's online register of charities.
- Some advertising leaflets will give the impression that they are from a charity but provide a company registration number. This number is not the same as charity registration number and may be a sign that the organisation is operating commercially for profit and is not charitable. You can check company registration numbers on Companies House. This will confirm that the number is not a charity but operating commercially.
- If for whatever reason you are still unsure about whether a collection is genuine, for example if it looks unprofessionally produced, is badly worded or contains spelling mistakes, and if you still wish to donate then you should try contacting the charity to check that the collection is legitimate. If the leaflet only gives mobile phone contacts or none at all, it may be a sign that the organisation is not collecting on behalf of a legitimate charity.
- If you are concerned that your donations may not reach a registered charity then you can always give directly to your local charity shop or at any official clothing collection point.
- Get your friends and neighbours involved and contact your Neighbourhood Watch.

	2010/11	2011/12	2012/13	2013/14	2014/15
Complaints	0	2	7	5	0

Street Trading

We have seen a reduction in the number of street traders applying for consent and as a result we have not been receiving as many complaints.

	2010/11	2011/12	2012/13	2013/14	2014/15
Complaints	5	13	9	11	4

Scrap Metal

Since the legislation changed in 2013 we have had an increase in complaints including theft from people's rubbish or taking of metal from front gardens. This has led to us working in partnership with the police, environmental enforcement officers and wardens. Due to limited enforcement powers it has made investigating complaints very difficult and we have had to rely closely on our partners to assist us.

	2010/11	2011/12	2012/13	2013/14	2014/15
Complaints	2	1	2	7	25

Compliance and Enforcement Pads

The pads have made it easier for the team to be able to produce the required statistics for the relevant returns as requirement by the Government, other enforcement agencies and for the key performance indicators for our department. These pads make it easier for our licensees/permit holders to clearly understand the legislation and what has been checked by officers, what needs to be rectified and by what date. We have had a very positive result with compliance as a result of these pads and licensees/permit holders getting back to us to rectify any concerns. We have also been sharing our pads with other licensing authorities in Kent.

Conclusion

The forthcoming year is going to be extremely challenging for the licensing team as a whole. The volume of applications is continually increasing for the licensing services team and the variety of compliance and enforcement action continues to keep the licensing enforcement team extremely busy.

The enforcement team have had some positive results over the last year and we strive to improve and adapt to the constant changes.