

## **CABINET**

**21 DECEMBER 2010**

### **LICENSING ACT 2003 – REVIEW OF COUNCIL STATEMENT OF LICENSING POLICY (POLICY FRAMEWORK)**

Portfolio Holder:	Councillor Janice Bamber, Customer First and Corporate Services Councillor Mike O'Brien, Community Safety and Enforcement
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#### **Summary**

The purpose of this report is to ask the Cabinet to review the current Council Statement of Licensing Policy and to take into account the comments of the Licensing and Safety Committee and the Business Support Overview and Scrutiny Committee and to recommend approval to Council on 13 January 2011, as part of the policy framework.

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

- 1.1 This is a policy framework document and as such is a matter for Full Council. The existing statement was approved for use by Council in November 2007 (amended in October 2009 in line with changes in legislation) and remains in force for a period of 3 years until January 2011.

#### **2. Background**

- 2.1 The current policy has provided a stable but flexible background to our consideration of licensing applications. This is illustrated by the fact that the policy has not been legally challenged.
- 2.2 Officers are of the view that the existing statement of licensing policy is working well in achieving the promotion of the 4 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.

- 2.3 The Licensing and Safety Committee on 18 November 2010 considered this report and its comments are outlined later in this report.

### 3. Consultation

- 3.1 As part of the review of the Licensing Policy Statement, the proposed revisions have been correctly advertised as part of a 6-week consultation in the local paper, on the Council website and at the local offices. Details of the consultation have also been sent to responsible authorities, members and members of the trade.

- 3.2 Two representations were received, only one of which raised objections, which was from a local residents association based in Rochester. The association's comments are set out below (the items relate to the paragraphs in the draft revision of the policy);

**Item 1.13** – They contest the assumption that longer licensing hours are desirable, but appreciate that this content comes from the section 182 guidance to the Licensing Act 2003. Residents are disturbed by anti social behaviour and sometimes violence in the early hours due to the late hours of closing.

They would like to see this clause deleted (as well as the later reference in para 11.3) or that it is allowed that an opposite outcome to that intended may equally occur under certain circumstances (i.e. it may exacerbate crime, nuisance and disorder).

**Item 1.15** – This paragraph relating to licensing conditions to make explicit reference to licensee's responsibility for the behaviour of its patrons both inside and *in the vicinity* of their premises.

The existing measures detailed in para 1.15 are aimed at dealing with the *consequences* of alcohol misuse. In order to tackle the current problems the residents would like to see conditions put in place that allow for at least equal emphasis upon the responsibility of licensees to *prevent* excessive consumption of alcohol in the first place.

**Item 10.4** – In light of the new mandatory conditions that have been introduced residents believe the statement would benefit from detail being included on the specifics of the conditions to allow all parties to be aware of the responsibilities of the licensees without the need to refer to other documentation.

**Item 17.6** – Residents would like to see in recognition that the congregation of patrons outside premises to smoke/drink can be an equal source of disturbance that the item of the list of "factors, which impact upon the likelihood of public nuisance" be amended accordingly.

In view of the heightened profile of alcohol misuse as a social issue, residents would also like to see reference to the Alcohol Strategy (and its associated Action Plan) in the Statement of Licensing Policy.

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

- 4.1 Officers have considered the points raised as a result of the consultation and propose the following changes be made.
- 4.2 Reference to the Council website where details of the mandatory conditions will be listed has been added as 10.5. It is not practicable to list the mandatory conditions in the policy as the policy would need to be changed if the mandatory conditions changed.
- 4.3 The wording in respect of factors that may impact on public nuisance to be amended at 17.6 to include reference to outside space likely to be used by patrons.

#### **5. Proposed Amendments**

- 5.1 The committee is asked to consider the comments received as a result of the consultation listed at paragraph 3 and officers' comments thereon. The following changes to the policy as set out in Appendix 1 (some of which are housekeeping and minor amendments as a result of legislative changes and some responses to consultation) are recommended by officers: -
  - 5.1.1 The removal of reference to particular paragraphs of the guidance issued by the Government - this is constantly being updated and affects the quality of our document.
  - 5.1.2 The removal of information covered in detail within other existing and/or proposed Policy Statements relating to Gambling and Sexual Entertainment Venues.
  - 5.1.3 The inclusion in line with changes in legislation to paragraphs in respect of: -
    - Minor Variations
    - Removal of the requirements for a Designated Premises Supervisor in a Community Premises
    - Adult Entertainment
    - Mandatory Conditions
    - Early Morning Alcohol Orders
  - 5.1.4 House keeping changes and provision of additional information in respect of: -
    - Reviews
    - Enforcement
  - 5.1.5 Changes referred to in paragraphs 4.2 and 4.3 of this report.

## **6 Licensing and Safety Committee – 18 November 2010**

- 6.1 The Licensing and Safety Committee considered the comments received as a result of the consultation process and recommend the proposed changes to the Licensing Policy as set out in paragraphs 5.1.1 - 5.1.5 of the report.

## **7. Business Support Overview and Scrutiny Committee – 15 December 2010**

- 7.1 The Business Support Overview and Scrutiny Committee will consider this report on 15 December 2010 and its views will be submitted to Cabinet via an addendum report.

## **8. Diversity Impact Assessment**

- 8.1 A Diversity Impact Assessment (DIA) has been undertaken. The screening (attached at Appendix 2) concluded that a full DIA was not necessary, however, a couple of actions have been identified for future reviews

## **9. Risk Management**

- 9.1 This triennial review of the policy statement 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.

## **10. Financial and legal implications**

- 10.1 There are no direct financial implications for the 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.
- 10.2 Section 5 of the Licensing Act 2003 requires a licensing authority to prepare and publish a statement of its policy every 3 years. During the 3-year period, the policy must be kept under review. It should be noted that an inappropriately worded policy could result in a legal challenge by way of judicial review.

## **11. Recommendations**

- 11.1 The Cabinet is asked to consider the views of the Licensing and Safety Committee and the Business Support Overview and Scrutiny Committee.
- 11.2 The Cabinet is asked to recommend the proposed changes to the Licensing Policy as set out in paragraphs 5.1.1 – 5.1.5 to Council on 13 January 2011 for approval as part of the Council's policy framework.

## **12. Suggested reasons for decision**

- 12.1 The Council must review its Statement of Licensing Policy every three years. The proposed changes to the policy reflect legislative changes and the outcome of consultation.

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### **Background papers**

1. The Licensing Act 2003
2. Amended Guidance issued under section 182 of the Licensing Act 2003 – dated 13 October 2010
3. Consultation papers





# Statement of Licensing Policy

Under the  
Licensing Act 2003

Licensing Unit  
Gun Wharf  
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## **CONTENTS**

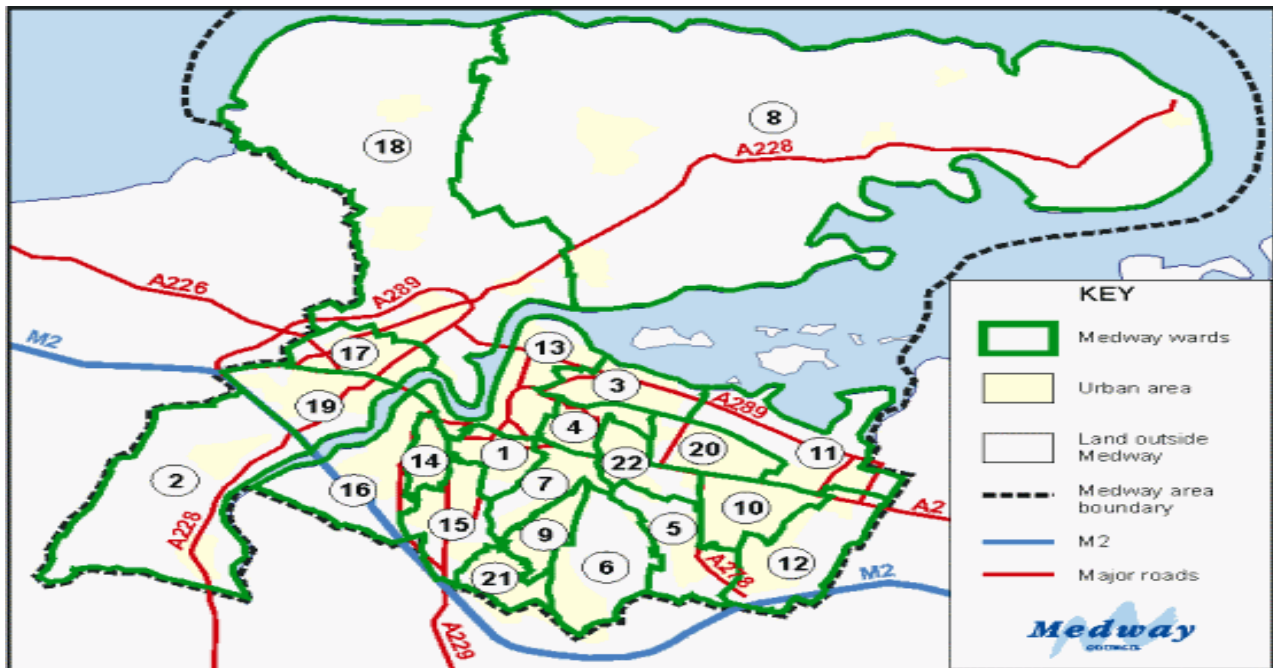
	<b>Page</b>
<b>1 Introduction</b>	<b>2</b>
<b>2 Licences and planning permission</b>	<b>4</b>
<b>3 Cumulative Impact of a Concentration of Licensed Premises</b>	<b>5</b>
<b>4 Advice and Guidance</b>	<b>6</b>
<b>5 Consultation</b>	<b>6</b>
<b>6 Amusement with prizes machines</b>	<b>7</b>
<b>7 Minor Variations</b>	<b>7</b>
<b>8 Removal of the requirement for a Designated Premises Supervisor in a Community Premises</b>	<b>7</b>
<b>9 Adult Entertainment</b>	<b>8</b>
<b>10 Mandatory Conditions</b>	<b>8</b>
<b>11 Early Morning Alcohol Orders</b>	<b>9</b>
<b>12 Reviews</b>	<b>9</b>
<b>13 Enforcement</b>	<b>10</b>
<b>14 Licensing Objectives</b>	<b>11</b>
<b>15 Prevention of Crime and Disorder</b>	<b>13</b>
<b>16 Public Safety</b>	<b>14</b>
<b>17 Prevention of Public Nuisance</b>	<b>16</b>
<b>18 Prevention of Children from Harm</b>	<b>17</b>
<b>Appendix A Delegation of Functions</b>	<b>20</b>



# ALL applications will be considered on their merits

## 1. Introduction

1.1 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        | 9. Princes Park                 | 16. Rochester West |
| 2. Cuxton and Halling     | 10. Rainham Central             | 17. Strood North   |
| 3. Gillingham North       | 11. Rainham North               | 18. Strood Rural   |
| 4. Gillingham South       | 12. Rainham South               | 19. Strood South   |
| 5. Hempstead and Wigmore  | 13. River                       | 20. Twydall        |
| 6. Lordswood and Capstone | 14. Rochester East              | 21. Walderslade    |
| 7. Luton and Wayfield     | 15. Rochester South and Horsted | 22. Watling        |
| 8. Peninsula              |                                 |                    |

1.2 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 the sale and/or supply of alcohol. The Licensing Authority also licences the provision of regulated entertainment and late night refreshment.

1.3 The Act requires the Licensing Authority to carry out its various licensing functions so as to promote the following four licensing objectives: -

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

- 1.4 The Act further requires that the Licensing Authority publish a ‘Statement of Licensing Policy’ that sets out the policies the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications made under the Act.
- 1.5 The aims of this ‘Statement of Licensing Policy’ in line with the four licensing objectives are to:
- a. Help build and maintain a fair and prosperous society that properly balances the rights of individuals and their communities
  - b. Integrate its aims and objectives with other initiatives, policies plus strategies that will:
    - Encourage young people and culture
    - Encourage arts and entertainment activities
    - Reduce crime and disorder
    - Encourage tourism
    - Encourage an early evening and night time economy which is viable and sustainable
    - Reduce alcohol misuse
    - Encourage employment
    - Encourage the self sufficiency of local communities
    - Reduce the burden of unnecessary regulation on business
- 1.6 This ‘Statement of Licensing Policy’ has been prepared in accordance with the provisions of the Act and having regard to the Guidance issued under Section 182 of the Act. Where it is necessary to depart from the guidance either in this policy or at any other time, the Licensing Authority will give clear and cogent reasons for doing so. The Licensing Authority shall endeavour to work with other licensing authorities (particularly where licensing authorities' boundaries meet) to ensure that a consistent approach is taken in licensing matters whilst respecting the differing needs of individual communities.
- 1.7 **The bold sections** of this Policy indicate the outcomes the Licensing Authority is seeking to achieve. When assessing applications, the Licensing Authority must be satisfied that the measures proposed in the applicant’s operating schedule aim to achieve that outcome, as far as possible. **Passages in bold type** also refer to matters that the Licensing Authority expects to see in the applicant’s operating schedule. Passages of text that are not in bold type are provided to assist applicants to understand what the Licensing Authority is seeking to achieve, the factors that influence the achievement of those outcomes and the control measures that could be implemented by the applicant to achieve those outcomes.
- 1.8 However, it should be recognised that this policy covers a wide variety of premises and activities carried on in them including theatres, cinemas, restaurants, pubs, nightclubs, private members’ clubs, village halls and community centres, as well as off-licences, fast food outlets, late night cafes etc. For this reason, this policy cannot detail all the factors that influence the achievement of the licensing objectives nor can this policy detail all the control measures that may be appropriate in any given circumstances.

- 1.9 **In respect of each of the four licensing objectives, applicants will need to provide evidence to the Licensing Authority that suitable and sufficient measures, as detailed in their operating schedule, will be implemented and maintained, relevant to the individual style and characteristics of their premises and events. Reference will need to be made as to whether additional measures will be taken on a permanent basis or specific occasion such as when a special event or promotion is planned, which is intended to, or likely to attract, a larger audience.**
- 1.10 **When considering applications, the Licensing Authority will have regard to this Policy, the Licensing Act 2003, particularly the Licensing Objectives and Guidance issued under Section 182 of the Act, and any supporting regulations that may from time to time be made. It will also seek proper integration with local crime prevention, planning, transport, employment and cultural strategies.** To this end, the Licensing Authority will provide reports to appropriate parts of the Council on the situation regarding licensed premises in the area and arrangements will be made for the Licensing Committee process to receive reports on the needs of the local tourist economy and the cultural strategy for the area to ensure that these are reflected in their considerations. The Licensing Authority will monitor the impact of licensing on the provision of regular entertainment particularly live music and dancing. Care will be taken to ensure that only necessary, proportionate and reasonable licensing conditions are imposed.
- 1.11 The Policy does not undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits. It does not override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.

In formulating this policy the Licensing Authority has had regard to the provisions of the Human Rights Act 1998. This Act places a duty on public authorities to protect the rights of individuals in a variety of circumstances and to balance those rights against the rights of persons trading in licensable activities and to achieve proportionality. The Licensing Authority has also had regard to the Race Relations Act 1976 as amended by The Race Relations (Amendment) Act 2000.

- 1.12 Applicants and those making representation in respect of applications to the Licensing Authority have a right of appeal to the Magistrates' Court and subsequently to the Crown Court against the decisions of the Licensing Authority.
- 1.13 The Licensing Authority recognises that longer licensing hours with regard to the sale of alcohol may be beneficial to ensure that the concentration of customers leaving premises simultaneously are avoided.
- 1.14 **The objective of licensing is to maintain appropriate control of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the 2003 Act. Where any party makes relevant representations, the Licensing Authority will seek to make objective judgements as to whether conditions may need to be attached to a licence or certificate in order to secure achievement of the licensing objectives. Any such conditions will primarily focus on the direct impact of the activities taking place at licensed premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the vicinity and will cover issues that are reasonably within the control of individual licensees.**
- 1.15 When considering any conditions, the Licensing Authority acknowledges that the licensing function cannot be used as a vehicle for the general control of the anti-social

behaviour of individuals once they are outside licensed premises and beyond the direct control of the licensee of any premises concerned. However, other mechanisms may be utilised, where appropriate, to tackle unruly or unlawful behaviour of patrons when beyond the control of premises. These include:

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

- 1.16 As part of its overall policy the Licensing Authority expects every holder of a licence or Temporary Event Notice to be responsible for minimising the impact of their activities and anti-social behaviour by their patrons within the immediate vicinity of their premises.
- 1.17 The Licensing Authority will also expect holders of temporary events to comply with all other relevant legislation. These areas might include health and safety, noise pollution and regulations covering the building of temporary structures. It should also be noted that applicants will be responsible for making any other necessary related applications for issues such as road closures and the use of pyrotechnics in public places and should have regard to any local byelaws.
- 1.18 A key aim of the licensing policy is to maintain a safe and family friendly environment in the Licensing Authority area. It may be that conditions that would be relevant in the town and city centres may not be appropriate in rural areas but each application will be considered on its merits.
- 1.19 Further, when the Licensing Authority is considering any application, it will avoid duplication with other regulatory regimes, (e.g. health and safety at work, environmental protection, disability discrimination and the Fire Safety Regulation Reform Order so far as possible. The licensing regime is not intended to be used to achieve outcomes that can be achieved by other legislation. In particular, its licensing functions will be discharged separately from its functions as the Local Planning Authority.

## **2 Licences and planning permission**

- 2.1 The use of any licensed premises or places may be subject to planning controls. There are several key differences between licensing and planning control.
- 2.2 Licensing is concerned with the fitness of the operator and detailed issues concerning the operation and management of the premises that are not addressed by the planning process, which relates to the use of the premises.
- 2.3 It will be expected in general that the grant or variation of planning permission would be resolved before a licence application is made. The licensing committee may refuse to grant a licence following representations from the local planning authority if the:
- (1) Activity sought to be licensed would amount to an unlawful use of the premises
  - (2) Hours being sought exceed those authorised by any planning permission
- 2.4 It will be for the applicant to demonstrate any special circumstances to justify a departure from this policy in the face of representations from the local planning authority.

2.5 With the exception of the approval and review of its Licensing Policy, decisions on licensing matters will be taken in accordance with a published and approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making. This will enable, in appropriate circumstances, officers to approve applications. A list of the scheme of delegations approved by members is attached as Appendix A (this may be amended from time to time in line with the Council Constitution and/or changes in any relevant legislation).

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

3.1 "Cumulative impact" means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. For example, the potential impact on crime and disorder or public nuisance on a town or city centre of a large concentration of licensed premises in that part of the Local Authority area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the local authority to consider in its policy.

3.2 Where, after considering the available evidence and consulting the Statutory Authorities listed in section 5(3) of the Act and any others, the local authority is satisfied that it is appropriate and necessary to include an approach to cumulative impact in the licensing policy statement, it will indicate in the policy that it is adopting a special policy of refusing new licences whenever it receives relevant representations about the cumulative impact on the licensing objectives from responsible authorities and interested parties which it concludes after hearing those representations should lead to refusal.

3.3 There will be an evidential basis for the decision to include a special policy within the policy. For example, Crime and Disorder Reduction Partnerships will often have collated information that demonstrates cumulative impact as part of their general role on anti-social behaviour and crime prevention strategies may have already identified cumulative impact as a local problem. Similarly, environmental health officers may be able to demonstrate concentrations of valid complaints relating to noise disturbance.

3.4 In summary, the steps to be followed in considering whether to adopt a special policy within the policy are:

- Identification of concern about crime and disorder or public nuisance
- Consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises and if so identifying the area from which problems are arising and the boundaries of that area or that the risk factors are such that the area is reaching a point where a cumulative impact is imminent
- Consultation with those specified by section 5(3) of the Act as part of the general consultation required in respect of the whole policy
- Subject to that consultation, inclusion of a special policy about future premises licence or club premises certificate applications from that area within the terms of the licensing policy
- Publication of the special policy as part of the policy required by the Act

3.5 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or material variations will normally be refused, if relevant representations to that effect are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced. Applicants would need to address the special policy issues in their operating schedules in order to rebut such a presumption. However, a special policy must stress that this presumption does not relieve responsible authorities or interested parties of the need to make a relevant

representation before the local authority may lawfully consider giving effect to its special policy. If no representation is received, it would remain the case that any application must be granted in terms that are consistent with the operating schedule submitted. However, responsible authorities such as the police or interested parties can make a written representation maintaining that it is necessary to refuse the application for the promotion of the prevention of crime and disorder and referring to information that had been before the Licensing Authority when it developed its policy.

- 3.6 If adopted, special policies will be reviewed regularly to assess whether they are needed any longer or need expanding. While a special policy is in existence, applicants will need to demonstrate why the operation of the premises would not add to the cumulative impact being experienced.
- 3.7 The absence of a special policy does not prevent any responsible authority or interested party making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.
- 3.8.1 The Licensing Authority recognises that the diversity of premises selling alcohol, serving food and providing entertainment covers a wide range of contrasting styles and characteristics and will have full regard to those differences and the differing impact these will have on the local community.
- 3.9 It therefore also recognises that, within this policy, it may be able to approve licences that are unlikely to add significantly to the problems arising from saturation and will consider the circumstances of each individual application.

#### **4 Advice and Guidance**

- 4.1 The Licensing Authority recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act provide and welcomes the diversity of activities that are provided by licence holders. For this reason, pre-application discussions will be encouraged to assist applicants to develop their operating schedule to the standards the Licensing Authority will normally expect. Council services, Kent Police and/or Kent & Medway Fire and Rescue Service will offer as much advice and guidance to applicants, as resources permit. In the event of complex or lengthy issues the Council services may make a charge for this service.
- 4.2 The Licensing Authority will also seek to liaise with applicants and/or mediate between applicants and others who may make representations, to achieve a satisfactory outcome for all involved wherever possible and where resources permit. Where an applicant considers that representations may be likely or probable, it is recommended that the applicant discuss the proposal with the Licensing Authority and those from whom they think representations are likely, prior to submitting their application. Once an application has been lodged, there are statutory timescales imposed upon the application and determination process, which restrict the opportunity for such discussions, liaison and mediation.
- 4.3 The Licensing Authority will produce information on licensing legislation and procedures and this can be obtained on the Council website or from the Licensing Unit.4.4 Licensed premises are visited as part of the enforcement protocol and will provide advice and guidance on licensing legislation and procedures.

#### **5 Consultation**

- 5.1 There are a number of groups who have a stake in the leisure industry, including businesses, customers, residents and regulators, all of whom have views and concerns

that require consideration as part of the licensing function and promotion of the licensing objectives.

- 5.2 In developing this Policy Statement, the Licensing Authority consulted widely. Along with the statutory consultees (the Chief Police Officer for the District and the Kent & Medway Fire and Rescue Service) and the Crime and Disorder Reduction Partnership, the views of existing licence holders, businesses, voluntary groups and residents were also taken into account. Due consideration was given to the views of all those who responded to that consultation process.
- 5.3 This Policy Statement will remain in force until revised by the Council. It will be subject to regular review by the council's Licensing Committee. This may lead to Interim Provisions that would then be published in a revised policy statement.

## **6. Amusement with prizes machines**

- 6.1 These are governed by the Gambling Act 2005 and covered in more detail by the Statement of Gambling Policy.

## **7. Minor Variation**

- 7.1 In July 2009 further regulations were passed to allow holders of Premises Licences and Club Premises Certificates to make variation to licences and certificate.
- 7.2 A minor variation may be appropriate to:
- Make minor changes to the structure or layout of a premises
  - Make small adjustments to the licensing hours
  - Remove out of date, irrelevant or unenforceable conditions or the addition of volunteered conditions
  - Add certain licensable activities and
  - Reduce the licensing hours for the sale/supply of alcohol or to move (without increasing) the licensed hours between 07:00 and 23:00 hours.
- 7.3 The impact of the minor variation application must not adversely impact on the licensing objectives.
- 7.4 The Licensing Authority may consult with such responsible authorities as it thinks appropriate and must consider any representation made by an interested party.
- 7.5 Valid representations from interested parties must be made within 10 days of the application. The Authority must make its determination within 15 days of the application. Should the Authority fail to determine the application within this time it is deemed to have been rejected. The decision as to whether to allow a minor variation rests with the Licensing Authority and may only be challenged by way of judicial review.

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

- 8.1 In July 2009 further regulations were passed to allow the removal of the requirement for a designated premises supervisor in a community premises. 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.

- 8.2 There is the need to complete an additional form as well as the application form for a new or variation of a premises licence, requesting that instead of a designated premises supervisor 'the alternative licence condition' is granted and there is no additional fee.
- 8.3 Where a community premises applies only to remove the requirement for a designated premises supervisor and no other changes, an application form is required and relevant fee.

## **9 Adult Entertainment**

9.1 Premises that wish to provide adult entertainment by way of lap dancing, pole dancing or other types of activities involving nudity (relevant entertainment) are required to be licensed under the Local Government (Miscellaneous Provisions) Act 1982 unless they provide such entertainment less than 11 times in any rolling year and there is at least one calendar month between performances. Where this exemption applies the premises licence holder under the Licensing Act 2003 (premises licences, club premises certificates or temporary event notices) will be expected to implement measures to actively promote the four licensing objectives. In particular the Licensing Authority encourages measures that will protect children from moral, physical or mental harm.

9.2 Such measures may include the following: -

- Measures to ensure that any adult entertainment cannot be viewed from the public highway or from any part of the premises not being used for adult entertainment. Such measures may include the screening of doors and windows or the screening of the stage area to reduce the field of vision in respect of the performance.
- A proof of age scheme where persons under the age of 18 years are required to provide photographic means of identification.
- The provision of door supervisors registered by the Security Industry Authority (SIA) for the purposes of ensuring good behaviour during any performance and to ensure that age restrictions are complied with.
- Measures to ensure that members of the audience are not permitted to be in physical contact with the performer. This may include a barrier or enforced sterile area immediately in front of the stage at a distance that will prevent contact.

9.3 Where premises licences or club premises certificates have conditions attached in respect of regulated entertainment in the form of adult entertainment such conditions will remain in force unless the premises are licensed for relevant entertainment under the Local Government (Miscellaneous Provisions) Act 1982. This is because it is anticipated that the conditions in respect of premises with relevant entertainment are likely to be stricter than those with regulated entertainment.

## **10 Mandatory Conditions**

- 10.1 Alcohol related violent crime; nuisance and disorder remain a serious problem in many areas in England and Wales. Those who retail or supply alcohol also have a responsibility to protect their customers, members, the public and communities.
- 10.2 The Policing and Crime Act 2009 allowed the Government to impose further mandatory conditions. These conditions are intended to support and actively promote the



licensing objectives and aim to ensure that business, both large and small, who maybe selling alcohol irresponsibly, act more responsible to help tackle alcohol related crime and disorder.

- 10.3 The mandatory conditions apply to all existing or future relevant premises where the licence authorises the sale/supply of alcohol.
- 10.4 A lot of the conditions involve restrictions on irresponsible drinks promotions or practices. The other conditions require premises to adhere to particular good practice such as providing free tap water, proof of age policy, alcohol sold in certain measures.
- 10.5 Details of the mandatory conditions currently in place can be found at <http://www.medway.gov.uk/business/licencesandstreettrading.aspx>

## **11 Early Morning Alcohol Orders**

- 11.1 The Crime and Security Act 2010 has amended the Licensing Act 2003 in that a licensing authority may make an order providing: -
- Premises licences and club premises certificates granted by the authority and temporary event notices given to the authority, shall not have effect to the extent that they authorise the sale of alcohol between 3am and 6am. And
  - Club premises certificates granted by the authority shall not have effect to the extent that they authorise the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club between 3am and 6am.
- 11.2 It is immaterial for the purposes of an order under this section whether a premises licence or club premises certificate is granted, or a temporary event notice is given before or after the order is made. The effects of this provision is that where such an order is made it becomes enforceable on all premises where a premises licence, club premises certificate or temporary event notice is in force notwithstanding that the permitted hours were granted prior to the order being made.
- 11.3 The Licensing Authority has considered that a primary objective of the Licensing Act 2003 is to allow for a phased closure of licensed premises at the end of an evening thus reducing the crime and disorder and nuisance associated with a number of premises closing at the same time. It is the intention of this Licensing Authority to make orders under this section only where it is shown to be necessary in order that the licensing objectives and in particular those relating to crime and disorder and public nuisance will be promoted.
- 11.4 Where it is intended to make such an order the Licensing Authority will advertise the intention in a local newspaper.
- 11.5 Where relevant representations are made a hearing will be held to consider the likely effect of the making of the proposed order on the promotion of the licensing objectives.
- 11.6 The following persons can make a relevant representation:
- An affected person (existing licence holder within the affected area)
  - An interested party
  - A responsible authority

## **12. Reviews**

- 12.1 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.
- 12.2 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.
- 12.3 Responsible authorities and/or residents living in the vicinity can trigger a review of a premises licence but an evidentiary basis would be required to be presented to the Council.
- 12.4 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.
- 12.5 Where reviews arise and the licensing authority determines that the crime prevention objective 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 good
  - 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
- 12.6 When the licensing authority receives notice that a magistrate's court has made a closure order it has 28 days to determine a review of the licence. A hearing must be held within 10 working days of the Magistrates notifying the Licensing Authority.

### **13. Enforcement**

- 13.1 The Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services. The Council fully supports the principals of the Government's Enforcement Concordat designed to ensure effective and efficient public protection services. Specifically, the Council is committed to accord with the principles of good enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner.
- 13.2 The Enforcement Concordat is based on the principles that businesses should:
- Receive clear explanations from enforcers of what they need to do and by when

- Have opportunities to resolve differences before enforcement action is taken, unless immediate action is needed
- Receive an explanation of their rights of appeal

13.3 The Council recognises the interests of both individual citizens and the requirements of businesses and will work closely with partners to assist licence holders to comply with the law and the four licensing objectives it seeks to promote. However, proportionate but firm action will be taken against those who commit serious offences or persistently break the law. The Council has, in its corporate enforcement policy, set clear standards of service and performance that the public and businesses can expect.

13.4 The Council has agreed and formalised arrangements for licensing enforcement, in respect of the Kent and Medway Regulatory Licensing Steering Group which members are Kent Police, Kent Fire and Rescue and the local authorities in the Kent and Medway areas. The Kent and Medway Licensing Enforcement Protocol provides guidance regarding the legal requirements and operational procedures 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.

13.5 All licence holders will be expected to co-operate in order to promote the licensing objectives. Evidence of non-cooperation maybe considered sufficient grounds for review and revocation of any licence.

13.6 The principle of using a scoring scheme based on risk factors will normally prevail and proactive inspections will usually be undertaken in accordance with a priority inspection scheme. This should ensure that resources are more effectively allocated to higher risk or 'problem premises'. Monitoring visits will also take place in around premises.

## 14 LICENSING OBJECTIVES

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

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

14.2 The Licensing Authority will attach conditions to licences where considered necessary and proportionate for the promotion of the licensing objectives. They will be tailored to the individual style and characteristics of the particular premises and events concerned. Each case will be considered on its merits.

14.3 In each section relating to the objectives the Licensing Authority has defined its intended outcome (**in bold type**). Each section then lists the factors that would influence the achievement of that objective but because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive. Applicants know their premises best and will be expected to address all aspects relevant to the individual style and characteristics of their premises and events.

14.4 Further, in each section, a list of possible control measures is provided, to be of assistance to applicants but again is not intended to be an exhaustive list. Many control measures achieve more than one objective but have not necessarily been listed under each objective. Applicants will not be required to mention a control measure more than once in their operating schedule.

- 14.5 The Licensing Authority will expect the selection of control measures to be based upon a risk assessment of the premises, events, activities and the customers expected to attend (e.g. their age, number, etc.). Whilst the Licensing Authority may not require such risk assessments to be documented (other than where required by other legislation), it considers such documentation to be good practice and a useful tool in the instruction and training of staff. It is also a sound basis for review by the licence holder, in the event of an application for variation or a response to changing circumstances/conditions at the premises being required.
- 14.6 Additional measures may be necessary on a specific basis such as when a special event (e.g. popular live band) or promotion (e.g. during major sporting occasions) is planned, which is intended to, or likely to attract larger audiences and/or audiences of a different nature, and which can have a significant impact on the achievement of the licensing objectives. **Reference must be made in an applicant's operating schedule, where applicable, to such occasions and the additional measures that are planned in order to achieve the licensing objectives.**
- 14.7 **The Licensing Authority considers the effective and responsible management of the premises, instruction, training and supervision of staff and the adoption of best practice to be amongst the most essential control measures for the achievement of all the licensing objectives. For this reason, the Licensing Authority will expect these elements to be specifically considered and addressed within an applicant's operating schedule.**
- 14.8 **In addition, the occupancy capacity for premises (which includes performers and staff) and events as appropriate is also considered to be an essential factor in the achievement of the four licensing objectives (except in respect of premises licensed for the consumption of food and/or alcohol off the premises). The Licensing Authority will expect the issue of occupancy capacity to be considered and addressed within an applicant's operating schedule and in most instances, will agree a maximum occupancy capacity based on the applicant's assessment within their operating schedule, unless satisfied that it is not appropriate to specify occupancy.**
- 14.9 The design and layout of premises are important in determining capacity, as is the availability and size of exits within recommended travel distances. Other factors should also be considered when assessing the appropriate capacity for premises or events. These might include:
- The nature of the premises or event
  - The nature of the licensable activities being provided
  - The provision or removal of such items as temporary structures, such as a stage or furniture
  - The number of staff available to supervise customers both ordinarily and in the event of an emergency
  - The customer profile (e.g. age and disability)
  - The attendance by customers with disabilities or whose first language is not English
  - Availability of suitable and sufficient sanitary accommodation
  - Nature and provision of facilities for ventilation
- 14.10 The agreement to a capacity for premises or events should not be interpreted as a requirement to also provide permanent monitoring arrangements such as door supervisors, attendance clickers or maintenance of attendance records. The Licensing Authority recognises that the person in charge at the premises can often readily assess the capacity of premises without resort to such measures. **However, where the capacity is likely to be reached (such as on known busy evenings) and**

**particularly where a special event or promotion is planned, the applicant will be expected to be able to give details of the additional arrangements that will be put in place to ensure that the capacity of the premises is not exceeded.**

- 14.11 Where the expected capacity of the site is to be over 5,000 people (including customers, performers and staff) on one or more occasions during the year additional fees will relate to the initial application and on an annual basis.

## **15. PREVENTION OF CRIME AND DISORDER**

- 15.1 Medway Council is committed to further improving the quality of life for the people of Medway by continuing to reduce crime and the fear of crime. The Local Authority will also consult and involve the Safer Medway Partnership and the Medway Community Safety Partnership in order to maximise the effectiveness of reducing crime, misuse of drugs and the fear of crime.
- 15.2 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on Medway Council, Kent Police and others to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003 reinforces this duty for Local Authorities.
- 15.3 **The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, in particular in relation to those visiting and departing from their premises, relevant to the individual style and characteristics of their premises and events.**
- 15.4 When addressing the issue of crime and disorder, the applicant must demonstrate that those factors that impact on crime and disorder have been considered. These might include:
- Underage drinking
  - Drunkenness on premises
  - Public drunkenness
  - Drugs
  - Violent behaviour
  - Anti-social behaviour
- 15.5 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and/or activities:
- Effective and responsible management of premises
  - Training and supervision of staff
  - Adoption of best practice guidance (e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice, including those relating to drinks promotions e.g. The Point of Sale Promotions published by BBPA)
  - Acceptance of accredited 'proof of age' cards (must have the PASS logo). Medway Trading Standards and Kent Police would promote the 'new type'

driving licences with photographs, passports, and an official identity card issued by H M Forces.

- Provision of effective CCTV in and around premises
- Employment of a sufficient number of Security Industry Authority licensed door supervisors. If two or more are employed it is preferable that there be at least one male and one female
- Provision of toughened or plastic glasses
- Provision of secure deposit boxes for confiscated items ('sin bins')
- Provision of litterbins and other security measures, such as lighting, outside premises
- Membership of the Safer Medway Partnership or similar scheme within the Medway area.

- 15.6 Within the operating schedule for premises from which alcohol will be sold, a Designated Premises Supervisor (DPS) must be identified and named. **The Licensing Authority will normally expect the DPS to have been given the day-to-day responsibility for running the premises by the premises licence holder. In addition to the DPS holding a personal licence, the Licensing Authority will normally expect the DPS to have relevant ability and experience commensurate with the nature and style of the premises.**
- 15.7 In exceptional circumstances, the police may object to the designation of a new premises supervisor where they believe that such appointment would undermine the crime prevention objective.
- 15.8 The Council will normally expect either the DPS or a personal licence holder to be present on the premises during operational hours in order to ensure adequate supervision of the sale of alcohol.
- 15.9 Certain events that are held occasionally may not require a premises licence or a temporary event notice depending on the activities being held and whether they fall within an exemption. It is therefore recommended that you notify the Licensing Authority and Police as soon as possible to determine if you need to apply for a premises licence or temporary event notice. It is recommended that you contact the relevant authorities at least 3 months prior to the event. Depending on the nature and location of such events, these can have serious crime and disorder implications. Organisers of these events are encouraged to submit their notification or application as soon as reasonably practicable to enable the police and the Licensing Authority to work with them to identify and reduce the risk of crime and disorder.
- 15.10 The police may object to a temporary event notice on the grounds of crime prevention within prescribed time limits. If the police object a hearing will be arranged to determine the temporary event notice.
- 15.11 Where the Licensing Authority has given notice in writing to the holder of the premises licence prohibiting the exhibition of a film on the grounds that it contains matter, which, if exhibited, would be likely to:
- Encourage or incite crime or lead to disorder or
  - Stir up hatred or incite violence towards any section of the public on grounds of colour, race or ethnic or racial origin, disability, religious beliefs, sexual orientation or gender
- 15.12 The Licensing Authority will expect that the film shall not be exhibited in the premises except with the consent in writing of the Licensing Authority and in accordance with any conditions attached to such consent.

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

## 16. PUBLIC SAFETY

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

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

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

16.3 The Fire Authority may set capacity limits as part of a representation on applications or at a licensing hearing panel as a result of representation from another responsible authority or interested party at the following types of premises:

- Nightclubs
- Cinemas
- Theatres
- Other types of premises where regulated entertainment takes place

16.4 The Secretary of State's revised guidance refers to the Regulatory Reform (Fire Safety) Order 2005 whereby any fire certificate previously issued by the Fire Authority under the Fire Precautions Act 1971 will have ceased to have effect. "Safe capacities" should only be imposed where necessary for the promotion of public safety or the prevention of disorder on the premises. For example, if a capacity has been imposed through other legislation, it would be unnecessary to reproduce it in a premises licence. Responsibility for complying with the Order rests with the "responsible person" at the premises and includes undertaking fire risk assessments with the necessary fire precautions including where relevant, capacity limits.

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

16.6 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in

their operating schedule, having regard to their particular type of premises and/or activities:

- Suitable and sufficient risk assessments
- Effective and responsible management of premises
- Provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons
- Appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons
- Adoption of best practice guidance, including proof of age checks
- Provision of effective CCTV in and around premises
- Provision of toughened or plastic glasses
- Implementation of crowd management measures
- Appropriate measures as recommended by Health and Safety Executive (HSE) 'The Event Safety Guide: A guide to health, safety and welfare at music and similar events'
- Regular testing (and certification where appropriate) of procedures, appliances, systems - pertinent to safety

## **17. PREVENTION OF PUBLIC NUISANCE**

- 17.1 Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. The Council wishes to proactively maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.**
- 17.2 The Council intends to interpret 'public nuisance' in its widest sense. This includes such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.**
- 17.3 Applicants need to clearly understand that the responsible authorities as part of their representation or at a Licensing Hearing Panel as a result of representation by a responsible authority or interested party will normally look to impose stricter conditions, including controls on licensing hours, where licensed premises are in residential areas with a view to protecting the quality of life of residential occupiers.**
- 17.4 In the case of shops, stores and supermarkets and garages selling alcohol, the Council will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless there are exceptional reasons relating to disturbance or disorder.**
- 17.5 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.**
- 17.6 When addressing the issue of prevention of public nuisance, the applicant must demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include:
- The location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship



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

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

- Effective and responsible management of premises
- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance
- Control of operating hours for all or parts (e.g. garden areas) of premises, including such matters as deliveries
- Adoption of best practice guidance (e.g. Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics)
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- Windows and doors closed during regulated entertainment and monitored by a responsible person.
- Management of people, including staff and traffic (and resulting queues) arriving and leaving premises
- Liaison with public transport providers
- Siting of external lighting, including security lighting
- Management arrangements for collection and disposal of litter
- Effective ventilation systems to prevent nuisance from odour

- 18. PROTECTION OF CHILDREN FROM HARM (For the purposes of this document a child is defined as someone under the age of 16 and a young person are defined at 16 or 17 years old.)**
- 18.1 **Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events.**
- 18.2 The protection of children from harm is an important issue. It is hoped that family friendly premises will thrive but the risk of harm to children remains a paramount consideration when determining applications.
- 18.3 The appropriate body for advising and making representations on the protection of children from harm is the Medway Safeguarding Children Board.
- 18.4 The relaxation in the Licensing Act giving accompanied children greater access to licensed premises is seen as a positive step, which may bring about a social change in family friendly leisure. Clearly, this relaxation places additional responsibilities upon licence holders. However, it is recognised that parents and others accompanying children also have responsibilities.
- 18.5 The protection of children from harm includes the protection of children from moral, psychological and physical harm and in relation to the exhibition of films, or the transmission of programmes by video or DVD. This includes the protection of children from exposure to strong language, sexual imagery and sexual expletives. In certain circumstances children are more vulnerable and their needs will require special consideration. This vulnerability includes their susceptibility to suggestion, peer group influences, the unpredictability of their age and the lack of understanding of danger.
- 18.6 Whilst children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. When addressing the issue of protecting children from harm, the applicant should demonstrate that those factors that impact on harm to children have been considered. These may include the potential for children to:
- Purchase, acquire or consume alcohol
  - Be exposed to drugs, drug taking or drug dealing
  - Be exposed to gambling
  - Be exposed to activities of an adult or sexual nature
  - Be exposed to incidents of violence or disorder
  - Be exposed to environmental pollution such as noise or smoke
  - Be exposed to special hazards such as falls from a height
- 18.7 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and/or activities:
- Effective and responsible management of premises
  - Provision of a sufficient number of people employed or engaged to secure the protection of children from harm
  - Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm
  - Adoption of best practice guidance
  - Limitations on the hours when children may be present, in all or parts of the premises

- Limitations or exclusions by age when certain activities are taking place
- Imposition of requirements for children to be accompanied by an adult
- The placing of gaming machines provided under the Gambling Act 2005 so that they can be properly supervised.
- A proof of age scheme where persons under the age of 18 years are required to provide photographic means of identification

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

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

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

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

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

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

## Appendix A

### Recommended delegation of functions

<b>Matter to be dealt with</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence	If a police objection	If no objection made
Application for personal licence with relevant unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for 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.

## Appendix 2 - 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> 18 November 2010	<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.</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.		
<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 race/ethnicity.	
<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 race/ethnicity.	
<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 race/ethnicity.	
<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 race/ethnicity.	
<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 race/ethnicity.	
<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 race/ethnicity.	

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.	
NO, BUT	<del>What is required to ensure this complies with the requirements of the legislation? (see DIA Guidance Notes)?</del>	<del>Minor modifications necessary (e.g. change of 'he' to 'he or she', re-analysis of way routine statistics are reported)</del>
YES	<del>Give details of key person responsible and target date for carrying out full impact assessment (see DIA Guidance Notes)</del>	

<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>	November 2013	
<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>Checks to be made on the outcomes of annual straw poll of both applications and representations received</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>  Alison Rowson	<b>Date</b>	1 December 2010
<b>Signed (service manager/Assistant Director)</b>  	<b>Date</b>	1 December 2010