



*Serving You*

**Licensing Act 2003**

**Draft Statement of Licensing Policy**

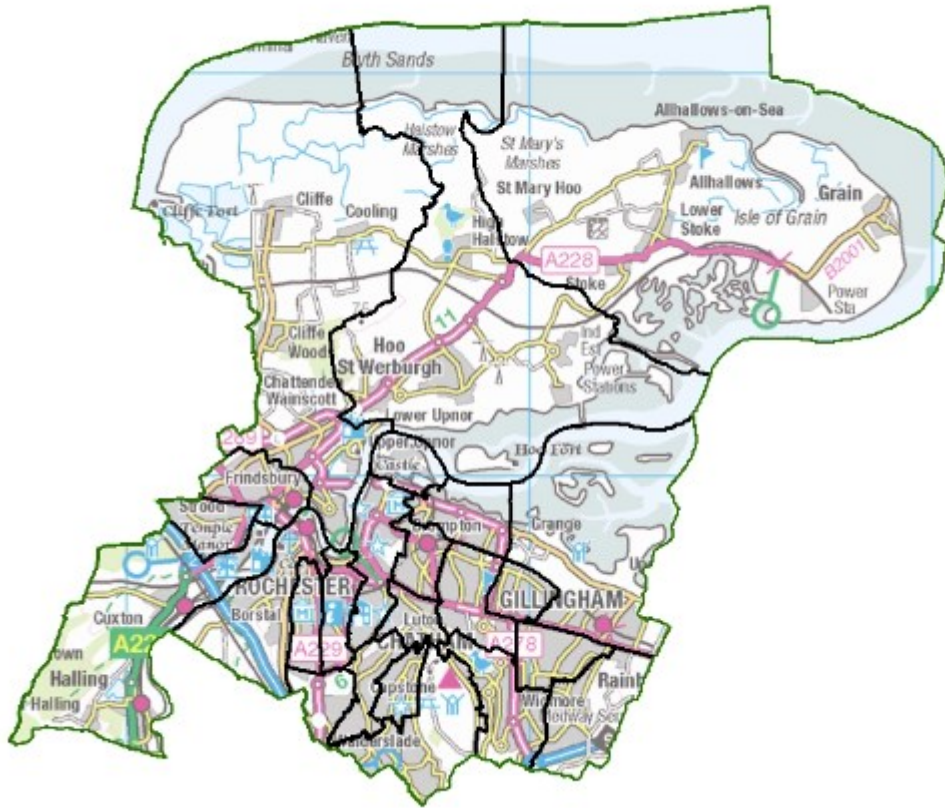
May 2023 to April 2028

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## Political Map for Medway Council.

This map shows the clear boundaries for the Council's Wards as of May 2023.



## 1. Introduction and legal context

1.1 The Licensing Authority (the Authority) is required to publish a Statement of Licensing Policy (the Policy). This Policy has been prepared and published in accordance with the provisions of the Licensing Act 2003 (the Act) and the Guidance issued under section 182 of the Act (the Guidance).

1.2 In drawing up this Policy the Authority has had regard to the nature of the area and the needs and wishes of local communities and business. The Authority has consulted with all the statutory consultees, residents and businesses and given due consideration to all comments received.

1.3 This Policy is intended to inform and guide applicants, responsible authorities and other persons about how the Authority will make licensing decisions. An application that follows this Policy is less likely to give rise to relevant representations, or, if the Authority is asked to make a determination on receipt of representations, less likely to have additional measures imposed to promote the licensing objectives. This approach is supported by Guidance and case law. In the *British Beer and Pub Association, The Association of Licensed Multiple Retailers, The British Institute of Innkeeping v Canterbury City Council* [2005] EWHC 1318 (Admin) Mr Justice Richards stated:

*'A policy ... not only guides the decision-maker but also serves to inform an applicant about what he should consider in preparing his application. Far from being objectionable, that is one of the purposes of having such a policy...An application that takes account of the matters set out in the policy, for example by including what is referred to in the policy or by giving a reasoned justification for not doing so, is less likely to give rise to relevant representations and more likely to be granted without additional conditions...'* [para 82]

1.4 The licensing regime is built around the promotion of the licensing objectives:

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

1.5 The Policy is intended to support the aims of promoting the licensing objectives by giving the Authority the policies to effectively manage the evening and night-time economy, promote business and improve our communities, but it is also intended to reflect the needs and concerns of our residents and responsible authorities. It represents the Authority's view of the most appropriate way of promoting these four objectives in Medway and its expectations of applicants, responsible authorities and other persons. This approach is supported by Guidance and case law. In the *British Beer and Pub Association, The Association of Licensed Multiple Retailers, The British Institute of Innkeeping v Canterbury City Council* [2005] EWHC 1318 (Admin) Mr Justice Richards stated:

*'The Council is entitled to indicate in the policy its own expectations with regard to the promotion of the licensing objectives; and I do not think that an applicant can legitimately complain if a failure to take account of those expectations gives rise to representations.'* [para 83]

*'An applicant who does not tailor his application to the policy therefore faces an uphill struggle.'* [para 86]

- 1.6 In formulating this Policy, the Authority has had regard to the provisions of the European Convention on Human Rights that everyone has the right to respect for his home and private life and that every person is entitled to the peaceful enjoyment of his possessions. The Human Rights Act 1998 makes it unlawful for a public authority to act in a way that is incompatible with a convention right. Consequently, an aim of this Policy, particularly in relation to the decision-making process of the Council Corporation, is to ensure that a licensing decision does not breach such a right.
- 1.7 The Equality Act 2010 and prior legislation requires the Council to give due regard to the elimination of unlawful discrimination when exercising its public duties, to promote equality between people who share and do not share a particular protected characteristic and to promote good relations between people who share and who do not share a particular characteristic.
- 1.8 The Equality Act 2010 defines a number of protected characteristics and generally provides that no one should be discriminated against or subject to less favourable treatment on the basis of these characteristics. The characteristics are age, disability, race, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion or belief, sex and sexual orientation. It also ensures rights of access to everyday facilities and services and, in the context of disability, may require service providers to consider making permanent physical adjustments to their premises.
- 1.9 The Authority expects licensees to be familiar with the contents of any codes of practice issued by the government under the Equality Act 2010.
- 1.10 This Policy is to aid everybody in the application process, and will be used as part of the decision-making process by the Authority and covers:
1. New applications;
  2. Provisional statements;
  3. Transfers;
  4. Designated premises supervisor changes;
  5. Variations;
  6. Temporary event notices;
  7. Personal licences;
  8. Renewals, where applicable;
  9. Reviews of premises licences or club premises certificates.
- 1.11 This Policy and attached appendices may be amended if there are changes in legislation or case law and the Authority deems it appropriate to make changes. Only changes made to the main policy document will be consulted upon; any changes to the appendices will be at the Authority's discretion.

## 2. Policy vision and strategic objectives

'The Licensing Authority wants Medway to be a great place to live, work and visit, with a wide choice of high quality and well-maintained licensed venues within a safe environment, while supporting and protecting the growth of our towns, district centres and developing communities'

- 2.1 Medway sits at the mouth of the River Medway on the north Kent coast. The five historic towns of Strood, Rochester, Chatham, Gillingham and Rainham are linked by the A2 and form a complex urban conurbation, which retains the distinct identities of

the individual towns and their suburbs. There is also a large countryside element with the urban area surrounded by a network of villages on the Hoo Peninsula and the Medway Valley.

- 2.2 Medway is one of the largest urban areas in the south east, and has been growing rapidly in recent years to a population of 279'800\* in 2021 The population has a slightly younger age profile than the Kent and England averages, and has an increasing number of people over 65 years. This has implications for services such as leisure and shopping facilities. Medway has seen steady growth in recent years, and this is projected to continue with expansion of the population projected to reach 330,200 people in 2035. In contrast to other areas in Kent, much of Medway's growth is from natural change, with births outnumbering deaths.
- 2.3 Licensing policy has a strong role to play in supporting the delivery of the Council's vision for Medway by providing the right policy framework, within a licensing context, to ensure it is a safe and welcoming place, which appeals to all, and protects and supports our communities. It is therefore important the Policy, as far as is reasonably practicable, supports, and is consistent with, the strategic aims of the Council and its partners. This approach is supported by the Guidance.
- 2.4 The Authority wants members of the licensing trade to be part of our vision and to help shape the future of our communities, centres and environment.
- 2.5 The Authority has an important role in supporting Medway's cultural identity, which sets Medway apart as an attractive and dynamic place to live, work, study and visit. Medway is unique due to the combination of rich history, naval heritage, world-renowned connections with Charles Dickens, a growing arts scene, and many days of festivals and events every year. There is a well-established urban regeneration programme that has brought universities to Medway with over 10,000 students, along with a host of associated economic and cultural benefits.
- 2.6 An important part of the cultural offer is the dynamic night-time economy, centred around Rochester, but with other, smaller, centres in Chatham and Gillingham, consisting of pubs, nightclubs, restaurants and late-night bars. It is an important part of the Medway economy, providing employment and attracting tourists and visitors. However there is also a tension between residents and these businesses. Our residents, responsible authorities and other agencies tell the Council that crime, disorder and public nuisance associated with late-night licensed premises, their customers and alcohol misuse can cause problems.
- 2.7 By working together with the licensing trade, responsible authorities and residents the Authority wants to create a vibrant, safe and welcoming early evening and night-time economy, which supports and promotes local businesses, creating the environment for viable and sustainable business models supporting the Council's regeneration goals. The Authority wants to encourage and support family friendly venues and businesses which are not alcohol led, broadening the cultural offer to a greater number of people, both residents and visitors.
- 2.8 Medway experiences local problems and trends such as pre loading, binge drinking and street drinking, created, in part, by the availability of cheap alcohol and the fierce price competition between the many off licenced premises, particularly in the more deprived areas and our neighbourhood centres. Off sales are also evidenced to fuel domestic abuse, crime, anti-social behaviour and alcohol related health harms, all of

which are, again, greatest in our more deprived areas. There has been a growth in off licensed premises during the past few years and this is now the single largest type of premises licence in Medway, most of which are small convenience stores, corner shops and newsagents. Many of these sell cheap, high-strength beer and cider, making alcohol readily available at little cost. Residents, responsible authorities and other agencies tell the Council the continual increase in off sales premises across Medway is a cause for concern, but in particular in and around those areas with the most alcohol related harms.

- 2.9 The Authority wishes to protect and grow our neighbourhood centres, as well as the wider environment, by working closely with responsible retailers in a way that ensures off licensed premises operate to address the needs and aspirations in their areas, but do not add to the existing issues and problems across Medway.
- 2.10 The Authority wants to work in partnership with residents, the licensed trade, responsible authorities and others:
1. To provide a safe environment for people to live in, work and enjoy.
  2. To broaden the appeal of the evening and night-time economy, while taking into account the needs of residents.
  3. To create an environment which attracts the appropriate investment and allows businesses to thrive and grow.
  4. To promote and support responsible alcohol retailing, while addressing the irresponsible sale of alcohol, particularly cheap high-strength products.
  5. To tackle alcohol related harm.
  6. To promote health and wellbeing, within the ambit of the four licensing objectives.

### Reference

[Office of National Statistics Census 2021 Change to population in Medway](#)

## 3. Applications

- 3.1 An application is required if an individual(s) or business wishes to carry out one or more of the following activities:
- The sale by retail of alcohol;
  - The supply of alcohol by or on behalf of a club;
  - Regulated entertainment;
  - The supply of hot food and drink between 2300 hours and 0500 hours.

Some regulated entertainment has been deregulated through the deregulation of Schedule 1, Licensing Act 2003 (Regulated Entertainment) in 2015. Further details of deregulation can be found at Appendix 2 – Deregulation Schedule 1 – Regulated Entertainment.

- 3.2 There are three stages to the licensing process for a licensing application. These are:
- 3.2.1 Completion by the applicant of the application form including the operating schedule
  - 3.2.2 Receipt and process of the application by the Council.

- 3.2.3 The application will be granted if there are no outstanding relevant representations at the end of the consultation period **or** where outstanding relevant representations exist after the final date of consultation then a hearing would normally follow and the licensing sub-committee will make a decision on the application.
- 3.3 Applications for new licences to replace licences which have lapsed because of the failure to submit an interim authority notice in due time in the event of the death or insolvency of a licence holder will be considered by the licensing authority as possible exceptions. Unless there are representations which indicate there have been problems associated with the premises, licences may be granted with conditions which replicate the effect of those of the previous licence.

## POLICY 1

Applicants are required to produce an operating schedule included in their application. The Authority's policy is to expect applicants, when completing the operating schedule, to set out in some detail how they intend to promote the four licensing objectives. Applicants are expected to have regard, among other things, to this Statement of Licensing Policy when completing their operating schedules.

### Reason for the policy

- 3.4 Experience has shown that the quality of the majority of operating schedules submitted with applications is poor, often with little, or no, detail about the area in which the premises will operate, addressing few, if any, relevant problems or issues relating to licensable activities or how applicants intend to promote the four licensing objectives, other than in general and generic ways.

### Expectations of the Authority

- 3.5 As outlined in the Guidance, the Authority recommends that applicants complete a risk assessment of their business in order to understand what steps are required to complete the operating schedule in a manner which enables the Council, responsible authorities and other persons to assess how they will seek to promote the licensing objectives in this area. Risk assessments will vary according to the nature of the business, and it is for applicants to decide what is appropriate in each case.
- 3.6 The risk assessment should contain many of the key factors which the responsible authorities will be expecting applicants to meet in order to fulfil the licensing objectives. The risk assessment approach will reduce the possibilities of representations. Information and data to inform a risk assessment can be obtained from many different sources. Parts of Appendix 6 – Alcohol, health and licensing may be relevant.
- 3.7 The Authority recognises that it cannot insist on a risk assessment. However an applicant who decides not to complete or provide a risk assessment may face representations and the expense of a hearing as a result. If a risk assessment is not completed then applicants will need to demonstrate how these matters have been addressed through the operating schedule.
- 3.8 As recommended by the Guidance, applicants are advised to seek the views of responsible authorities before submitting an application, as they are best placed to have the detailed and expert knowledge about local issues that should be taken into consideration when making an application. The Authority also recommends applicants contact other persons, such as neighbours, local residents and businesses, as this can address concerns before an application is made. This will assist the applicant by giving



an understanding of what the community believe is acceptable in their area. A link to the contact details of responsible authorities can be found at Appendix 5.

### What the Authority will do

- 3.9 When there are no relevant representations the application must be processed and granted, in compliance with the second stage of the licensing process, in those terms as set out in the operating schedule, subject to the mandatory conditions as set out in the Act. A link to the mandatory conditions can be found in Appendix 9. Where there are no representations there is no discretion for the Authority to refuse the application or to alter or add to those conditions which are compliant with the operating schedule.
- 3.10 The Authority will only exercise its discretion in the third stage of the licensing process. When exercising its discretion the Authority will have regard to this Policy, amongst other things. Any applicant is therefore advised that when completing an operating schedule for an application they read the Policy carefully.
- 3.11 Where there are relevant representations and the operating schedule departs from the Policy the licensing sub-committee will normally expect there to be a good reason for the departure from the Policy, if it is being asked to make an exception, as it represents the Authority's view of the most appropriate way of addressing the licensing objectives in Medway. However the Authority will not apply this Policy rigidly, and will always take into account the merits of any application and promote the licensing objectives.
- 3.12 When its discretion is engaged the Authority will only amend, or add to, an operating schedule to the extent that is appropriate to promote the licensing objectives. Blanket or standard conditions will not be applied without regarding each application on its merits in compliance with **Policy 18**.
- 3.13 The Authority recognises that there are licensed premises which are unlikely to add significantly to problems and will consider each application on its merits.

## 4. The Licensing Objectives

### General aims and objectives

- 4.1 The legislation provides a clear focus on the promotion of the four licensing objectives, which must be addressed when licensing functions are undertaken. The licensing objectives are:
- The prevention of crime and disorder.
  - Public safety.
  - The prevention of public nuisance.
  - The protection of children from harm.
- 4.2 Each objective is of equal importance. The promotion of the four objectives is of paramount consideration at all times and this Policy is considered by the Authority to be the most appropriate way of promoting the four licensing objectives in Medway.
- 4.3 In addition the Policy also supports a number of other key aims and objectives of licensing legislation. These are:
1. Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;

2. Giving the police and the Authority the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
  3. Recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
  4. Providing a strategic framework to support the determination of licensing applications, by reflecting the needs of local communities and empowering the Authority to make and enforce decisions about the most appropriate licensing strategies for its local area; and
  5. Encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.
- 4.4 The policies contained within this document are intended to assist applicants when they are drawing up their operating schedule. They may not necessarily apply, or apply equally to all applications. The policies have been developed with reference to the Guidance and in consultation with responsible authorities. The criteria give an indication of the issues that responsible authorities are likely to consider when deciding on whether to make representations or call for a review. They are also intended to draw attention to matters where the Authority may consider attaching conditions, if representations are made, and the Authority's discretion is engaged.
- 4.5 The proposed criteria and considerations for each licensing objective are considered appropriate by the Authority, depending on the type of operation, to promote the licensing objectives in Medway. Applicants are not limited to only these considerations and should propose any measures in accordance with the risk assessment. If an applicant does not address these concerns, and the Authority's discretion is engaged, consideration will be given to attaching appropriate conditions to promote the licensing objectives. Applicants should also take into account **Policies 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17**, which outline the Authority's views regarding different types of licensed premises and can be found in Chapter 5.
- 4.6 The Authority has produced a good practice guide to assist applicants in completing their operating schedules. Responsible authorities will also refer to this document when considering applications. A link to this guidance can be found in Appendix 9.

The Authority recommends applicants read the guide as it represents, in detail, the Authority's view of the most appropriate way of promoting the four licensing objectives in Medway. The Good practice guidance will be considered when the Authority's discretion is engaged, as will the Suggested premises licence conditions document, a link to which can also be found in Appendix 9.

#### Prevention of crime and disorder

- 4.7 Kent Police has told the Authority the majority of crime and disorder problems in Medway occur close to licensed premises.
- 4.8 The link between the consumption of alcohol and crime is well documented, and the relationship between the two in Medway is outlined in Appendix 6 – Alcohol, health and licensing. Violence, public order offences, anti-social behaviour, criminal damage, sexual offences and domestic abuse are all examples of alcohol related crime which causes the Authority concern in Medway. It is recognised that Medway has the highest number of reported domestic abuse incidents in Kent and Medway.

- 4.9 Residents have made comments about alcohol related crime and disorder in our neighbourhoods and the Authority wishes to work in partnership with licensed premises to ensure this is prevented as far as is possible.

## POLICY 2

*To promote the prevention of crime and disorder the Authority, when its discretion is engaged, will apply the following criteria and considerations, where relevant, in determining applications and reviews.*

### Reason for the policy

- 4.10 The Authority must ensure that the prevention of crime and disorder is promoted and will need to be satisfied that any measures proposed are appropriate to address this licensing objective.

### Expectations of the Authority

- 4.11 Suggestions of the measures which the Authority expects applicants to consider, dependent on the nature and type of operation, are in the Good practice guide. The Suggested conditions document (link found in Appendix 9) and Appendix 8 – Sexual harassment are also relevant.
- 4.12 The Authority will expect applicants to set out in detail, using the risk assessment and operating schedule, how they will deal with the potential for crime and disorder arising from the licensable activities as suggested in **Policy 1**
- 4.13 For pubs, bars and nightclubs the Authority expects a specific assessment of how the risks of violence and crime within the premises and in the vicinity of the premises will be managed and this objective promoted. This is particularly important for premises in residential areas where the likelihood of crime and disorder affecting residents is high. Information and assistance with identifying relevant risks in particular areas can be found at Appendix 6 – Alcohol, health and licensing.

### What the Authority will do

- 4.14 The criteria used by the Authority in making a determination will be based on whether the premises make, or will make, a significant contribution to levels of crime and/or disorder and whether this has been adequately addressed in the risk assessment used to inform the operating schedule. This will change depending on the location, style and type of premises and the licensable activities carried out at the premises. If the premises are in a residential area and/or in an area where there are high rates of alcohol related crime, these considerations will be of particular importance in order to balance the requirements of business against the issues of crime and disorder affecting our community.
- 4.15 The Authority will take into consideration, among other things, the following points. This is not an exhaustive list, and provides an illustration of the types of issues that the Authority expect to see addressed in an operating schedule, depending on the type of premises.
1. Relevant staff training;
  2. Security in and around the premises;
  3. The levels of crime and disorder in and around the premises, including the control of conflict, violence and anti-social behavior;
  4. Drugs and weapons;

5. Theft from premises;
6. Disorder from customers;
7. The prevention of drunkenness, including the control of sales of alcohol to drunk persons;
8. Consumption of alcohol on the premises, but in the open air, such as in a licensed beer garden; off the premises such as in a non-licensed garden, or patio area next to a premises, and street drinking;
9. Tackling sexual harassment and discrimination;
10. Preventing the threat of terrorism.

4.16 When its discretion is engaged the Authority may impose a range of conditions, in compliance with **Policy 18**.

#### The prevention of public nuisance

4.17 Noise nuisance, particularly in residential areas, can disturb people in their homes, whether it is airborne or structural noise, or generated from within a building or from the open air. Noise can be generated by a variety of means, such as music or customers and staff gathering outside buildings to eat, drink and smoke. Some of our residents tell us they are often disturbed by those loitering in the streets in the vicinity of licensed premises. This can affect residents even at some distance from the premises themselves, especially late-night premises such as hot food and takeaway businesses. The nuisance from noise depends on its nature and whether it is during the day, the evening or at night. Late-night noise is often unsettling; particularly shouting and screaming. The degree of nuisance caused by noise increases with the lateness of the hour, especially if it disturbs or prevents sleep.

4.18 Public nuisance can also be generated by a variety of other means, such as litter, smells, smoke, street fouling, light pollution, waste disposal or deliveries, all of which may cause a disturbance to people in the vicinity. The Authority will pay particular regard to this type of nuisance, which affects people in their homes, going about their day-to-day business or in work, and consideration will be given to adding stricter conditions to premises licences in residential areas, or to those premises that have residential buildings close by.

#### POLICY 3

To promote the prevention of public nuisance the Authority, when its discretion is engaged, will apply the following criteria and considerations, where relevant, in determining applications and reviews.

#### Reason for the policy

4.19 The Authority recognises that licensing is not the primary mechanism for controlling anti-social behaviour away from licensed premises and which is out of the direct control of premises licence holders or designated premises supervisors. However it can play an important part in the control of such behaviour and the Authority will use licensing law as part of the overall approach to managing the evening and night-time economy in our centres, as well as other alcohol related nuisance, particularly nuisance caused by street drinking.

#### Expectations of the Authority

4.20 Suggestions of the measures which the Authority expects applicants to consider, dependent on the nature and type of operation, can be found in the Good Practice Guide and the Suggested conditions. Please see Appendix 9.

- 4.21 The Authority will expect applicants to set out in detail, using the risk assessment and operating schedule, as suggested in **Policy 1**, how they will deal with the potential for public nuisance arising from the licensable activities.
- 4.22 If the premises are in a residential area, or there is the potential for significant public nuisance to residents, this will be of particular importance in order to balance the requirements of business against the quality of life of our residents and the environment in our communities. Information and assistance with identifying relevant risks in particular areas can be found at Appendix 6 – Alcohol, health and licensing.

#### What the Authority will do

- 4.23 The criteria used by the Authority when determining an application will be based on the location, style and type of the premises, the licensable activities and the steps proposed to mitigate the risk of nuisance occurring.
- 4.24 While public nuisance is narrowly defined in other pieces of legislation, public nuisance under the Act retains a broad common law definition. The prevention of public nuisance can therefore include low level nuisance perhaps only affecting a few, as well as a large-scale nuisance causing disturbance to the whole community. It may include a reduction of the quality of the living and working environment of persons in the vicinity of the licensed premises.
- 4.25 The Authority will take into consideration, among other things:
1. Noise and vibration breakout from the premises;
  2. Noise and nuisance from customers arriving and leaving the premises;
  3. Noise and nuisance from customers using external areas, such as beer gardens;
  4. Noise from staff, entertainers and contractors;
  5. Litter and waste in and around the premises;
  6. Disturbance from external lighting;
  7. Noise or odours from plant and machinery.
- 4.26 When its discretion is engaged the Authority will pay particular regard to noise nuisance which causes disturbance to people in their homes or work and consider adding stricter conditions to premises licences in residential areas, or those that have residential buildings close by, in compliance with **Policy 18**, which may include those in the Suggested conditions. Please see Appendix 9.

#### Public safety

##### POLICY 4

*To promote public safety the Authority, when its discretion is engaged, will apply the following criteria and considerations, where relevant, in determining applications and reviews.*

#### Reason for the policy

- 4.27 The Authority must try to ensure the safety of people visiting and working in licensed premises and it will need to be satisfied that measures to promote public safety including risk assessments, setting safe capacities, adequate means of escape, and where appropriate, CCTV are put in place and maintained, if not adequately provided for by other regulatory regimes. Crime, disorder and anti-social behaviour inside and in the vicinity of licensed premises may threaten public safety and affect perceptions of public safety.

### Expectations of the Authority

- 4.28 Suggestions of the measures which the Authority expects applicants to consider, dependent on the nature and type of operation, can be found in the Good practice guide and Suggested conditions. Please see Appendix 9.
- 4.29 The Authority will expect applicants to set out in detail, using the risk assessment and operating schedule, as suggested in **Policy 1**, how they will deal with issues of public safety arising from the licensable activities.

### What the Authority will do

- 4.30 The criteria used by the Authority to promote public safety when determining an application when its discretion is engaged, will be based on whether appropriate and satisfactory risk assessments and management procedures have been made available to the relevant responsible authorities that demonstrate public safety has been addressed both within and in the vicinity of the premises.
- 4.31 When its discretion is engaged the Authority will take into consideration, among other things:
1. General safety of staff and customers;
  2. Control of overcrowding;
  3. Accumulation and disposal of glasses/drinking vessels;
  4. Control of accidents or other emergency incidents on the premises;
  5. Drug use and drink spiking;
  6. Safety of customers when they are leaving the premises.
- 4.32 When its discretion is engaged the Authority may impose a range of conditions, in compliance with **Policy 18**, which may include those in the Suggested conditions. Please see Appendix 9.

### The protection of children from harm

#### POLICY 5

*To protect children from harm, the Authority, when its discretion is engaged, will apply the following criteria and considerations in determining applications and reviews.*

#### Reason for the policy

- 4.33 The Authority acknowledges that protecting children from harm not only includes harms associated with alcohol consumption, but also wider harms, such as moral harms, for example exposure to strong, or inappropriate, language and displays of a sexual nature. Safeguarding issues and child sexual exploitation are also relevant areas for the Authority's concern.
- 4.34 The Authority wants to ensure that children in Medway are protected from alcohol related harm, and needs to satisfy itself the proposed measures are appropriate to promote this licensing objective.

### Expectations of the Authority

- 4.35 Suggestions of the measures which the Authority expects applicants to consider, dependent on the nature and type of operation, can be found in the Good practice guide and Suggested conditions. Please see Appendix 9.

- 4.36 The Authority expects applicants to consider the measures necessary in the risk assessment and operating schedule, as suggested in **Policy 1**, to promote the protection of children from harm when on the premises and in the vicinity, where this is relevant. Further information and assistance in identifying relevant risks in particular areas can be found at Appendix 6 – Alcohol, health and licensing and Appendix 7 – Child safeguarding and Child Sexual Exploitation.

#### What the Authority will do

- 4.37 The considerations used by the Authority to promote the protection of children from harm when determining an application, will be based on whether appropriate and satisfactory risk assessments, management procedures and measures have been demonstrated, in the operating schedule.
- 4.38 When its discretion is engaged the Authority will take into consideration, among other things:
1. Children accessing licensed premises
  2. Child safeguarding
  3. Child sexual exploitation
  4. Underage sales of alcohol
  5. Access to age restricted films
  6. Access to age restricted gaming machines
  7. Access to entertainment of an adult nature
- 4.39 The Authority cannot impose conditions prohibiting the admission of children to any premises, believing this should remain a matter of discretion for the licence holder. The use of licensed premises by children can support the provision of premises attractive to all age groups. However, the Authority will, where appropriate, impose conditions designed to protect children in compliance with **Policy 18**, which may include those in the Suggested conditions. Please see Appendix 9.
- 4.40 The Authority cannot attach conditions requiring the admission of children to any licences or certificates.

#### Sale of alcohol to children

##### POLICY 6

*This policy applies to premises licences and club premises certificates. The Authority considers the sale of alcohol to children as a serious matter. It is the policy of the Authority, when its discretion is engaged, and where it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence and the sale of alcohol to children has occurred, to consider the following measures, even in the first instance, to promote the licensing objective.*

- Revocation of the licence/certificate
- Suspension of the licence/certificate for any period of time up to three months
- The addition of conditions to the licence
- The exclusion of the sale of alcohol by retail from the scope of the licence;
- The exclusion of the supply of alcohol from the scope of the certificate
- Restricting the hours for the sale or supply of alcohol



In the case of two sales within three months, which is considered by the Authority to be particularly serious, revocation of the licence will be considered unless there are exceptional circumstances.

#### Reason for the policy

- 4.41 It is an offence to sell alcohol to children, who are defined as persons under the age of 18 years. In addition there is also an offence of persistently selling alcohol to children, where a sale is made to a child on two or more separate occasions within a period of three consecutive months.

#### Expectations of the Authority

- 4.42 The consumption of alcohol by children can have serious long-term health and social harms and the Authority expects premises licence holders, designated premises supervisors and all other responsible persons to take all appropriate measures to mitigate any risks posed to children by the potential for them to obtain alcohol.

#### What the Authority will do

- 4.43 The Authority regards the sale of alcohol to children as being particularly serious, and if relevant representations are made, even in the case of a first incident, the Authority will consider all options available to it under the Act, including suspension or revocation of a premises licence, depending on circumstances.

#### Child Safeguarding and Child Sexual Exploitation (CSE)

- 4.44 The Authority is committed to protecting children from harm. Local authorities have an overarching responsibility for safeguarding and promoting the welfare of all children and young people in their area. While local authorities play a lead role, safeguarding children and protecting them from harm is everyone's responsibility. Everyone who comes into contact with children and families has a role to play.
- 4.45 The licensing authority is aware that alcohol use, misuse and abuse is one of the recurring key 'parental factors' in child protection and safeguarding, often contributing to parental neglect of children and domestic abuse and violence within families. The density of licensed premises, particularly off licences in the most deprived areas, where there are the highest rates of domestic abuse, is a cause for concern to the Authority.
- 4.46 The Authority expects that premises will operate in a responsible manner to ensure that children are not desensitised to the potential harm of alcohol. Desensitisation can occur by many ways. For example, through the manner in which the business operates, through the products that they offer for sale, the layout of their premises or through how promotional/advertising material is displayed. Matters that may be considered by the Authority if its discretion is engaged are:
1. Whether due regard is paid to industry codes of good practice on the labelling and display of alcoholic products<sup>1</sup>, such as not displaying these next to soft drinks, sweets or toys.
  2. The likelihood of children being attracted to the premises; e.g. by the nature of activities or facilities provided whether or not these are licensed.
  3. The use and display of promotional material for alcohol products.

- 4.47 Alcohol can be a factor in child sexual exploitation (CSE), where young people may be encouraged or coerced to drink, or alcohol may be a factor in risk-taking behaviour by young people who drink irresponsibly and then get involved in activities that otherwise



they would not. Nationally, evidence has been found of the sexual exploitation of children taking place on licensed premises and licensed premises being used for the purposes of grooming and enticement.

- 4.48 The Medway Safeguarding Children Partnership (MSCP) is also aware children are attracted to takeaway and fast-food restaurants and there is evidence this type of licensed premises has been used for the purposes of grooming and enticement in Medway.
- 4.49 The licensing authority encourages premises licence holders to make sure they are fully aware of the signs of child sexual exploitation and to understand that the sexual exploitation of a child is sexual abuse and a crime. The Authority also expects licence holders to raise the awareness of their staff about child sexual exploitation and provide intelligence for the appropriate authorities about concerns, including perpetrators who may be operating in their areas.
- 4.50 To support organisations that come into contact with the public, or which employ under 18s, the MSCP and Council expects staff to have access to safeguarding training and are briefed on local safeguarding initiatives. Full details of MSCP recommendations can be found at Appendix 7 – Child Safeguarding and Child Sexual Exploitation.

## Films

- 4.51 Where films are to be shown the Authority expects applicants to outline the measures they will take to restrict children from viewing age restricted films classified according to the recommendations of the British Board of Film Classification or the Council, in line with the Guidance. The Authority will impose conditions on film exhibitions in order to protect children from inappropriate exposure to portrayals of violence or sexual activities, strong language and sexual expletives.

## 5. Impact of licensable activities by premises type

- 5.1 The matters outlined below are considered appropriate by the Authority, depending on the type of operation, to promote the licensing objectives, taking into account the evidence of alcohol related crime, disorder and public nuisance in Medway. Applicants are not limited to addressing these issues and should propose any measures in accordance with the risk assessment recommended as part of the application process at **Policy 1**, and the Guidance. Applicants should also take account of the Authority's policies regarding the promotion of the licensing objectives outlined in **Policies 2–6**, contained in Chapter 4.
- 5.2 During the process for considering evidence for cumulative impact, addressed in Chapter 6, ward members, responsible authorities and members of the public identified there are issues with alcohol related harms in Medway. The Authority acknowledges that while control measures, such as a Cumulative Impact Policy ('CIP') are defined by a boundary, alcohol related harms do not conform to, and are not contained within, boundaries and the Authority believes it is appropriate and necessary to address issues outside of the cumulative and stress areas across Medway.
- 5.3 The Authority recognises that there are licensed premises which are unlikely to add significantly to alcohol related harms and will consider each application on its merits.
- 5.4 The policies outlined in this section do not relieve responsible authorities or any other

person of the need to make a relevant representation. Where no relevant representations are received, there is a presumption that an application will be granted in terms that are consistent with the submitted operating schedule. This presumption remains.

### Overview and aims

5.5 The Authority recognises that the quality of the local environment has an important influence on an area and the perception of its safety by local residents. Residents across Medway have raised concerns about safety and the way crime and anti-social behaviour are dealt with. The Authority encourages any application which seeks to improve and enhance our neighbourhoods, but which will not add to any harms related to licensed premises that are experienced by residents.

5.6 Licensed premises, and the activities that take place in those premises, exist in a dynamic environment and the Authority, when its discretion is engaged, will not consider applications entirely in isolation. The Authority will take into consideration the impact that licensable activities have on a range of factors, which are outlined in the Policy, in order to promote the licensing objectives. This approach is supported in *R (on application of Hope and Glory Public House Ltd) v City of Westminster Magistrates' Court and Others* (2011) EWCA Civ 312, where Lord Justice Toulson stated

*'Licensing decisions often involve weighing a variety of competing considerations: the demand for licensed establishments, the economic benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on. Sometimes a licensing decision may involve narrower questions, such as whether noise, noxious smells or litter coming from premises amount to a public nuisance. Although such questions are in a sense questions of fact, they are not questions of the 'heads or tails' variety. They involve an evaluation of what is to be regarded as reasonably acceptable in the particular location. In any case, deciding what (if any) conditions should be attached to a licence as necessary and proportionate to the promotion of the statutory licensing objectives is essentially a matter of judgment rather than a matter of pure fact.'* [para 42]

5.7 While Medway as a whole is not deprived, it has pockets of very deprived areas, which also have clusters of licensed premises, particularly off licences, and high levels of alcohol related health and social harms. The evidence detailing the range of alcohol related harms across Medway is shown in the separate CIP and in parts of Appendix 6 – Alcohol, health and licensing. However, the Authority is aware harms do not follow boundaries and wants to address concerns in Medway as a whole, including areas not covered by the special policies. Proposed areas of regeneration and development, such as Rochester Riverside and Strood and Temple Waterfront, which are very close to CIP and SAP areas, have the potential to suffer from displacement issues, which the Authority expect to be addressed in any applications.

5.8 Medway has experienced an increase in the number of licensed premises since the implementation of the Licensing Act 2003, and now has nearly 850 licensed premises. Medway has an average of over 3 licensed premises per square kilometre, against the England average of 1.3. (June 2017), with some areas, such as Chatham High Street and Gillingham High Street, having in excess of 100 in a one kilometre radius.

5.9 Alcohol related health harms, such as alcohol related hospital admissions and

ambulance callouts where alcohol is deemed to be a contributory factor, are showing an upward trend. Alcohol related crime, such as domestic abuse, and anti-social behaviour is also a concern. Medway has one of the highest number of reported domestic abuse incidents in Kent and there is extensive evidence linking alcohol consumption, particularly at harmful or hazardous levels, with domestic abuse. There is also evidence which links the density of alcohol outlets, particularly off licensed premises, with the rate of domestic abuse in an area.

- 5.10 Addressing alcohol harms is included in several Medway policies and strategies. The Authority sees this Policy as supporting the overall strategy aims of Medway Council and intends to work with the licensed trade to raise standards, ensuring all appropriate procedures are in place, promoting the licensing objectives and addressing the above concerns as far as possible within the ambit of the licensing process.
- 5.11 The aim of this Policy is to support and encourage licensed premises which are considered by the Council as consistent with supporting the wider strategies, plans and policies in place to improve Medway and to encourage a diversity of licensed premises which complement, enhance and support the communities in which they are situated.
- 5.12 The Authority wants to encourage, depending on the specific area:
1. Premises which extend the diversity of entertainment and attract a wider range of participants.
  2. Premises where the sale of alcohol is ancillary to other activities at the premises.
  3. Family friendly venues, where adults and children can go. These may be specific places where children attend, but can also be premises appealing to adults, but which also have a provision for children.
  4. Exhibition and art venues.
  5. Theatres and cinemas.
  6. Restaurants and cafés where the sale of alcohol is ancillary to the sale of food.
  7. Community venues.
  8. Good quality hotels and other premises which support the tourism industry and complement Medway's heritage.
  9. Local shops which support the community in which they are situated, but do not add to alcohol related harms.
- 5.13 The Authority strongly recommends applicants read and take into account **Policies 2–6** referring to the promotion of the licensing objectives when completing their application, **Policy 7** concerning hours, and the premises specific Policies outlined below.
- 5.14 If the Authority's discretion is engaged, it will be for the members of the Licensing Committee to decide if a specific premises falls within the relevant policy on the evidence provided.

## Hours

### Policy 7

*This policy applies to applications, variations and reviews for premises licences and club premises certificates. It is the policy of the Authority, when its discretion is*

*engaged on receipt of relevant representations, that hours within the criteria for individual types of licensed premises as set out in Policies 8–17 will, in general, be granted, subject to their not being contrary to other policies set out in the Statement of Licensing Policy.*

*Applications for hours outside of these criteria for individual types of licensed premises will be considered on their merits, subject to the other relevant policies and with particular regard to the following:*

- The proximity of residential premises and the likelihood of residents being adversely affected by the premises operating at the hours proposed;*
- The proposed hours of the licensable activities and when customers will be on the premises;*
- The hours when customers will be outside the premises or be within open areas which form part of the premises, whether drinking, eating or smoking;*
- The existing hours of licensable activities and the past operation of the premises (if any) and the existing hours of licensed premises in the vicinity;*
- The capacity of the premises;*
- The type of use. The Authority believes pubs, bars, nightclubs and fast food outlets are more likely to be associated with crime, disorder and public nuisance than other types of licensed premises. Off licensed premises can also be a focus of crime, disorder and nuisance, depending on location and type of operation;*
- Any proposed measures for a 'cool down' period.*

*The Authority expects non-standard hours to be justified to allow responsible authorities and other persons to assess the impact that these licensable activities may have, and to plan accordingly. Later hours for Bank Holiday Mondays will take into account the later hours that are generally granted for preceding Sundays and that the next day is a working day.*

### Reason for the policy

- 5.15 The Guidance acknowledges that the Authority is best placed to make decisions regarding licensing opening hours based on their local knowledge in consultation with responsible authorities and local communities.

### Expectations of the Authority

- 5.16 Where there are relevant representations and the operating schedule departs from **Policy 7** the licensing sub-committee will normally expect there to be a good reason, if it is being asked to make an exception. However the Authority will not apply this policy rigidly, and will always take into account the merits of any application and promote the licensing objectives.
- 5.17 The Authority expects the circumstances in which non-standard hours apply to be clearly identifiable. This is to allow for a proper consideration by those who will be affected and provide predictability of the proposed non-standard events.

### What the Authority will do

- 5.18 This is not a policy to refuse applications for hours which are longer than those given as guidance, and the Authority will consider every application on its merits.
- 5.19 Consideration of the hours of operation will be made in the context of each application and the licensing objectives. Proximity to residential areas and the possible disturbance of residents' rest, relaxation and sleep will be of particular concern. The effect of noise is greater later at night when ambient noise levels are lower and people are at home relaxing or sleeping. In considering hours of operation and conditions the Authority will focus on those periods when disturbance is most likely to occur. In general the Authority will consider restricting closing hours on nights when residents have to get up for work the next morning in those areas where this is relevant.
- 5.20 The Authority wishes to support and encourage a less alcohol led evening and late-night economy and will allow for a greater flexibility to those premises that propose a more diverse range and variety of entertainment at this time. The Authority believes this will promote the prevention of crime and disorder and public nuisance objectives.

### Public houses and bars

#### POLICY 8

*It is the policy of the Authority, when its discretion is engaged, to determine applications and reviews for public houses and bars by reference to Policies 2, 3, 4, 5 and 6 and Policy 7.*

*In addition, the Authority will, when its discretion is engaged, determine applications for those premises in a Cumulative Impact Policy Area by further reference to the Cumulative Impact Policy.*

*This policy applies to premises being used exclusively or primarily for the sale or supply of alcohol for consumption on the premises.*

### Reasons for the policy

- 5.21 Medway has a wide variety of pubs and bars which provide facilities for both residents and visitors. They provide both economic and cultural benefits to our community. The traditional, small community pub has seen a decline in recent years, mainly leaving larger town centre premises, which benefit from a licence allowing later operating hours, or destination type premises outside of the centres. Several of our town centres are in the process of undergoing extensive regeneration, which will continue along Chatham and Rochester Riverside into Strood, increasing the number of residents in these areas.
- 5.22 The Authority wants to encourage, depending on the specific area, premises which may fall within this category and are:
1. Premises which extend the diversity of entertainment and attract a wider range of participants.
  2. Family friendly venues, where adults and children can go. These may be specific places where children attend, but can also be premises appealing to adults, but which also have a provision for children.

The Authority will broadly support applications which fall into the above two categories, provided the applications demonstrate compliance with **Policies 2–7**.

- 5.23 Premises which primarily sell alcohol, with or without the ancillary provision of music and/or food, can give rise to issues of public nuisance, particularly in residential areas, often due to noise from the premises and from customers, either gathering outside the building to drink, eat and smoke, or when leaving late at night. Pubs and bars can also be focal points for crime and disorder.

#### Expectations of the Authority

- 5.24 The Authority expects a detailed risk assessment and operating schedule, as outlined in **Policy 1**, to address the considerations outlined in **Policies 2–6** (including relevant parts of Appendix 6 – Alcohol, health and licensing, Appendix 7 – Child safeguarding and Child Sexual Exploitation, Appendix 8 – Sexual harassment and Appendix 9 – Suggested conditions and Good practice guide).
- 5.25 If the application is for the hours of licensable activity and operation generally beyond:
- 0900 - 2300 hours Sunday to Thursday.
  - 0900 - midnight on Friday and Saturday.

The Authority will expect the risk assessment and operating schedule to propose specific measures to promote the four licensing objectives and reference **Policy 7**. If they are not, it is likely extended hours will be refused.

- 5.26 While the contents of the operating schedule are a matter for the applicant, the licensing committee, if their discretion is engaged, will expect an explanation if these issues are not adequately addressed.
- 5.27 The sale of alcohol for consumption off the premises and activities, such as drinking and smoking outside the premises, will also be of concern.

#### What the Authority will do

- 5.28 The Authority will want to be assured that the operating schedule of premises, and the overall management, training and staffing levels are appropriate to ensure that the licensing objectives are promoted. The Authority will take into account **Policies 2–6** (including Appendix 9 - Suggested conditions and Good practice guide) when making a determination and set any appropriate conditions in compliance with **Policy 18** in Chapter 7.
- 5.29 Where there are relevant representations and the operating schedule departs from **Policy 8** the licensing sub-committee will normally expect there to be a good reason if it is being asked to make an exception. However the Authority will not apply this policy rigidly, and will always take into account the merits of any application and promote the licensing objectives.
- 5.30 Where representations are made in relation to an application for the grant, variation or review of this type of premises, and its discretion is engaged, the Authority will give specific consideration to restricting the hours for the sale of alcohol and hours of operation taking notice of **Policy 7**.



Alcohol led music and dance venues, such as nightclubs.

## POLICY 9

*It is the policy of the Authority, when its discretion is engaged, to determine applications and reviews for premises by reference to Policies 2, 3, 4, 5 and 6 (including Appendix 9 - Suggested conditions and Good practice guide) and Policy 7.*

*In addition, the Authority will, when its discretion is engaged, determine applications for those premises in a Cumulative Impact Policy Area by further reference to the Cumulative Impact Policy.*

*This policy applies to premises being used for the provision of music or dancing or similar entertainment coupled with the sale of alcohol.*

### Reason for the policy

- 5.31 Nightclubs are an important part of Medway's cultural offer, and are a central part of the social life of many young people. However the large number of people attending these venues and congregating outside and nearby can lead to concerns of public nuisance, crime and disorder, particularly where people gather outside to drink and smoke. Customers leaving the premises, walking by nearby residential premises and causing a nuisance, is also a concern. The playing of music and the noise from the premises can also cause nuisance. Our residents have told the Authority of their concerns about these issues, particularly in Rochester and Gillingham.

### Expectations of the Authority

- 5.32 The Authority expects a detailed risk assessment and operating schedule, as outlined in **Policy 1**, to address the considerations outlined in **Policies 2–6** (including Appendix 9 - Suggested conditions and Good practice guide and relevant parts of Appendix 6 – Alcohol, health and licensing Appendix 7 – Child safeguarding and Child Sexual Exploitation and Appendix 8 – Sexual harassment) and **Policy 7**.
- 5.33 If the application for the hours of licensable activity and operation is generally beyond:
- 0900 - 2300 hours Sunday to Thursday.
  - 0900 - 0200 on Friday and Saturday.

the Authority will expect the operating schedule to propose specific measures to address the concerns expressed in the policies above, and if they are not it is likely extended hours will be refused.

### What the Authority will do

- 5.34 The Authority will want to be assured that the operating schedule of premises, and the overall management, training and staffing levels are appropriate to ensure that the licensing objectives are promoted. The Authority will take into account **Policies 2–6** (including Appendix 9 - Suggested conditions and Good practice guide) when making a determination and set any appropriate conditions in compliance with **Policy 18** in Chapter 7.
- 5.35 Where there are relevant representations and the operating schedule departs from **Policy 9** the licensing sub-committee will normally expect there to be a good reason if it is being asked to make an exception. However the Authority will not apply this policy rigidly, and will always take into account the merits of any application and promote the licensing objectives.

- 5.36 Where representations are made in relation to an application for the grant, variation or review of this type of premises within Medway on the grounds of one or more of the four licensing objectives, and its discretion is engaged, the Authority will give specific consideration to restricting the hours for the sale of alcohol, the hours for regulated entertainment and hours of operation as outlined in **Policy 7**.
- 5.37 The sale of alcohol for consumption off the premises and drinking outside the premises, which may give rise to disturbance and nuisance, will also be of concern.

#### Off licensed premises

##### POLICY 10

*It is the policy of the Authority, when its discretion is engaged, to determine applications and reviews for off licences by reference to Policies 2, 3, 4, 5 and 6 (including Appendix 9 – Suggested conditions and Good practice guide) and Policy 7.*

*In addition, the Authority will, when its discretion is engaged, determine applications for those premises in a Cumulative Impact Policy Area by further reference to the Cumulative Impact Policy. This policy applies to premises being used exclusively or primarily for the supply of alcohol for consumption off the premises.*

#### Reason for the policy

- 5.38 The Authority acknowledges the requirement for good quality local shops supporting our communities and neighbourhood centres, creating jobs and contributing to the local economy. There is evidence that many convenience stores, corner shops and newsagents have an over reliance on the sale of alcohol, particularly cheap beer, lager and cider known as 'super strength' products over 5.5% alcohol by volume (ABV). Over recent years the Authority has become increasingly aware of the problems experienced in our local communities arising from the availability of alcohol for sale at local shops for consumption off the premises. The public face of these problems shows itself in congregations of street drinkers, consuming alcohol in public places causing nuisance, anti-social and intimidating behaviour at all times of the day and night. The hidden harms of the ready availability of cheap alcohol manifests itself in unacceptable rates of domestic abuse and alcohol health harms, such as alcohol related hospital admissions and ambulance callouts where alcohol has been deemed to be a contributory factor, particularly in the more deprived areas, and where there are concentrations of these type of premises.
- 5.39 There is a trend towards more alcohol being purchased from off licences, such as shops and supermarkets, for consumption at home, than in on licensed premises, such as pubs and clubs. Nationally, in 2015, more beer was sold through off licences than in pubs and bars.
- 5.40 The single largest type of premises in Medway is off licensed premises, which has also seen the highest increase over the last 5 years. Most of these off licensed premises are small convenience/newsagents/corner shops, many of which sell cheap, strong alcohol, commonly termed 'super strength' beer, cider and lager, and are clustered in and around our most deprived areas.
- 5.41 Shops selling alcohol can be a focus of antisocial behaviour, disorder and disturbance, both in our town centres and residential neighbourhoods. They can cause problems including consumption of alcohol all day in public by groups of street drinkers who engage in antisocial behaviour, to the detriment of our residents and visitors. The



proliferation of premises for the sale of alcohol off the premises is of concern if it leads to consumption of alcohol on the streets.

5.42 The Council has introduced Public Space Protection Orders (also known as Alcohol Control Zones) in several parts of Medway; Rochester, Chatham, Gillingham and Strood. These orders do not mean a blanket ban on drinking in public, but does mean that a police officer, police community support officer (PCSO) or authorised council officer can prevent an individual drinking alcohol if they are behaving anti-socially. They also have the power to confiscate and dispose of their alcohol and fine them up to £500. If they fail to comply they can be arrested.

5.43 The Authority wants to encourage, depending on the specific area, local shops which support the community in which they are situated, but do not add to the alcohol related harms.

The Authority will broadly support applications which demonstrate compliance with **Policies 2–7**.

#### Expectation of the Authority

5.44 The Authority expects a detailed risk assessment and/or operating schedule, as outlined in **Policy 1**, to address the considerations outlined in **Policies 2–6** (including Appendix 9 - Suggested conditions and Good practice guide and relevant parts of Appendix 6 – Alcohol, health and licensing and Appendix 6 – Child safeguarding and Child Sexual Exploitation).

5.45 The Authority believes the sale of alcohol from off licences should generally be:

- 0900 hours to 2300 hours.

This is to specifically address the problem of anti-social behaviour, begging and intimidation and the impact this can have on the community. The Guidance states that licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on local knowledge and in consultation with responsible authorities, and the Authority is aware that vulnerable dependent and street drinkers are attracted to off licences that open early in the morning, resulting in street drinking and anti-social behaviour. In addition off licences open late at night attract drinkers going into pubs and clubs looking to pre load on cheap alcohol, which can lead to public nuisance, litter and disorder.

5.46 The Authority expects applicants to consider what measures are necessary to protect children from harm while on the premises, and, where appropriate, in the vicinity, for example if the premises is situated near to a school, and address the issues outlined in **Policies 5 and 6**.

#### What the Authority will do

The Authority will want to be assured that the operating schedule of premises, and the overall management, training and staffing levels are appropriate to ensure that the licensing objectives are promoted. The Authority will take into account **Policies 2–6** (including Appendix 9 - Suggested conditions and Good practice guide) when making a determination and set any appropriate conditions in compliance with **Policy 18** in Chapter 7.

5.47 Where there are relevant representations and the operating schedule departs from

**Policy 10** the licensing sub-committee will normally expect there to be a good reason if it is being asked to make an exception. However the Authority will not apply this policy rigidly, and will always take into account the merits of any application and promote the licensing objectives.

- 5.48 The Authority will take into account the location, style of premises and measures offered in the operating schedule to decide on the appropriate hours for an application, which will not necessarily be the same as the opening hours. If the application is for the hours of licensable activity and operation is generally beyond that outlined above the Authority will expect the operating schedule to include proposed specific measures to address the concerns expressed in **Policy 7**. If they are not it is likely the extended hours will be refused.
- 5.49 Where representations are made against the grant of a licence for off sales within Medway on the grounds of crime and disorder, public nuisance or the protection of children from harm, the Authority will give specific consideration to restricting the closing hours of premises selling alcohol exclusively for consumption off the premises, because of concerns over problems of street drinking or late-night disorder associated with the off sale of alcohol in the area. The earliest hours of opening will also be of concern. This is because the Authority knows problematic street drinkers, and other people who are seriously addicted to alcohol, are drawn to shops that sell alcohol earlier in the morning than other premises and can create public nuisance.
- 5.50 When representations are made by responsible authorities or other persons, the Authority may impose conditions that there should be no sale of alcoholic beverages over 5.5% ABV or of specified quantities (e.g. of beers, lagers, ciders and spirit mixers) as there is evidence which shows street drinkers and other dependent drinkers in Medway often buy this type of product due to its price and availability, and this can lead to public nuisance. If an applicant is asking the Authority to make an exception there is an expectation that additional steps will need to be taken to promote the licensing objectives. Other conditions may be imposed directly aimed at reducing street drinking and associated problems.

## Restaurants

### POLICY 11

*It is the policy of the Authority, when its discretion is engaged, to determine applications and reviews for restaurants, by reference to Policies 2, 3, 4, 5 and 6 (including Appendix 9 – Suggested conditions and Good practice guide) and Policy 7.*

*The Authority, when its discretion is engaged, will determine applications for those premises in a Cumulative Impact Policy Area by reference to the Cumulative Impact Policy.*

*This policy applies to restaurants, which are premises where dining, with waiter service, is the main activity and the consumption of alcohol is ancillary to this. This distinguishes between restaurants where dining is the main evening activity and fast food premises which at certain hours are likely to attract and provide food for people at the end of an evening's drinking.*

### Reason for the policy

- 5.51 A wide variety of good quality restaurants attract people over a wide range of ages, may appeal to families and older customers, and have little association with crime and

disorder. The Authority wish to encourage and support these types of businesses in order to increase the diversity of licensed premises in Medway. This will provide residents with a greater choice of venues and support Medway's cultural and heritage offer, raising Medway's image as a tourist destination.

- 5.52 The Authority wants to encourage, depending on the specific area, premises which may have a restaurant facility and fall within this category such as:
1. Family friendly venues, where adults and children can go. These may be specific places where children attend, but can also be premises mainly appealing to adults, but which also have a provision for children.
  2. Restaurants and cafés where the sale of alcohol is ancillary to the sale of food.
  3. Good quality hotels and other premises which support the tourism industry and complement Medway's heritage.

The Authority will broadly support applications which fall into the above categories, provided the applications demonstrate compliance with **Policies 2–6**.

#### Expectation of the Authority

- 5.53 The Authority expects a detailed risk assessment and/or operating schedule, as outlined in **Policy 1**, to address the considerations outlined in **Policies 2–6** (including Appendix 9 - Suggested conditions and Good practice guide and relevant parts of Appendix 6 – Alcohol, health and licensing and Appendix 7 – Child safeguarding and Child Sexual Exploitation).

- 5.54 If the application is for the hours of licensable activity and operation is beyond:

- 0900 - 2300 hours Sunday to Thursday.
- 0900 - midnight on Friday and Saturday.

The Authority will expect the risk assessment and operating schedule to include proposed specific measures to promote the four licensing objectives and reference **Policy 7**. If they are not, it is likely extended hours will be refused. These types of premises can have an impact in residential areas as customers can stay on the premises after licensable activities cease. Customers finishing their meals and leaving the premises, clearing the premises and the handling and removal of waste can all give rise to public nuisance and impact on residents.

#### What the Authority will do

- 5.55 If its discretion is engaged the Authority will take into account **Policies 2–6** (including Appendix 9 - Suggested conditions and Good practice guide) when making a determination and set any appropriate conditions in compliance with **Policy 18** in Chapter 7.
- 5.56 Where there are relevant representations and the operating schedule departs from **Policy 11** the licensing sub-committee will normally expect there to be a good reason if it is being asked to make an exception. However the Authority will not apply this policy rigidly, and will always take into account the merits of any application and promote the licensing objectives.
- 5.57 If relevant representations are made and the application is for the hours of licensable activity and operation is generally beyond that outlined above the Authority will expect

the operating schedule to propose specific measures to address the concerns expressed in **Policy 7**. If they are not it is likely the extended hours will be refused.

- 5.58 When considering applications for restaurants and representations are made, the Authority will take into account the increased likelihood of disturbance from activities late at night and will give specific consideration to restricting the hours if this is appropriate to promote the licensing objectives.

#### Fast food and takeaway premises – Late night refreshment

##### POLICY 12

*It is the policy of the Authority, when its discretion is engaged, to determine applications and reviews for late-night refreshment, by reference to Policies 2, 3, 4, 5 and 6 (including Appendix 9 - Suggested conditions and Good practice guide) and Policy 7.*

*It applies to fast food and takeaway premises which are premises that provide late-night refreshment either by way of takeaway for immediate consumption, or fast food on a counter or self-seated basis.*

##### POLICY 13

*The Authority has determined not to adopt the prescribed list of exemptions set out in the Licensing Act 2003 (Late Night Refreshment) Regulations 2015.*

#### Reason for the policy

- 5.59 While the Authority recognises late-night refreshment premises can play an important role by providing food and drink for visitors and workers, public nuisance and crime can arise from these premises affecting residents and businesses.
- 5.60 Fast food and takeaway premises which are open after 2300 hours can attract groups of customers, many of whom have consumed alcohol in pubs, bars and nightclubs. This can lead to crime generally, and noise and disturbance particularly when these premises are located in residential areas. Additionally consumption of food and drink outside of these premises results in food waste and litter, which, on occasions, amounts to a public nuisance and causes a strain on public waste management services.
- 5.61 These issues are of particular concern in the Cumulative Impact Policy area, although the issues are still relevant in the rest of Medway. While fast food premises have not been included in either policy, the Authority still has a concern that premises open late at night create opportunities for crime, disorder and nuisance as a result of congregations of people who have been drinking.

#### Expectations of the Authority

- 5.62 The Authority expects a detailed risk assessment and operating schedule, as outlined in **Policy 1**, to address the considerations outlined in **Policies 2–6** (including Appendix 9 - Suggested conditions and Good practice guide and relevant parts of Appendix 6 – Alcohol, health and licensing and Appendix 7 – Child safeguarding and Child Sexual Exploitation).
- 5.63 Generally late-night fast food premises will be expected to be closed at:
- Midnight Sunday to Thursday.
  - 0200 hours Friday and Saturday.

The Authority will expect the risk assessment and operating schedule to include proposed specific measures to promote the four licensing objectives and reference **Policy 7**. If they are not, it is likely extended hours will be refused or imposed.

#### What the Authority will do

- 5.64 If its discretion is engaged the Authority will take into account **Policies 2–6** (including Appendix 9 - Suggested conditions and Good practice guide) when making a determination and set any appropriate conditions in compliance with **Policy 18** in Chapter 7.
- 5.65 Where there are relevant representations and the operating schedule departs from **Policy 12** the licensing sub-committee will normally expect there to be a good reason if it is being asked to make an exception. However the Authority will not apply this policy rigidly, and will always take into account the merits of any application and promote the licensing objectives.
- 5.66 When considering applications and reviews for these types of premises, the Authority will take into account the likelihood of crime and public nuisance from activities late at night, particularly if the premises are in a residential area, on a route away from late-night licensed premises, or close to late-night licensed premises.
- 5.67 If the application is for the hours of licensable activity and operation is generally beyond that outlined above, and its discretion is engaged, the Authority will expect the operating schedule to include proposed specific measures to address **Policy 7**. If they are not it is likely the extended hours will be refused. The Authority will consider restricting the hours of operation of late-night fast food and takeaway premises to ensure premises are closed before pubs and nightclubs in the area so they do not become a focus for disturbance or nuisance.

#### Premises used for ancillary alcohol sales and qualifying clubs

##### POLICY 14

*It is the policy of the Authority, when its discretion is engaged, to determine applications and reviews for premises used for ancillary alcohol sales, by having regard to Policies 2, 3, 4, 5 and 6 (including Appendix 9 - Suggested conditions and Good practice guide) and Policy 7.*

*When relevant the Authority, when its discretion is engaged, will determine applications for those premises in a Cumulative Impact Policy area by further reference to the Cumulative Impact Policy.*

*This applies to venues where alcohol is ancillary to the main purpose of the premises, where alcohol sales make up a small percentage of the business and to qualifying clubs. This type of premises may include:*

- Qualifying clubs requiring a Club Premises Certificate;
- Cinemas;
- Theatres;
- Bowling alleys;
- Hotels and B&B premises where alcohol is provided for consumption on the premises for the benefit of residents;
- Art galleries/exhibition venues;
- Hairdressers/florists;
- Internet Sales.

'Ancillary alcohol sales' will NOT apply to:

- Sexual entertainment venues.
- Hotel bars with public access (not just available to customers staying in overnight accommodation).

#### Reason for the policy

- 5.68 The Authority wishes to encourage and support these types of premises in order to increase the diversity of licensed premises in Medway. This will provide residents and visitors with a greater choice of venues and support Medway's cultural and heritage offer, raising Medway's image as a tourist destination.

#### Expectations of the Authority

- 5.69 The Authority expects a detailed risk assessment and operating schedule, as outlined in **Policy 1**, to address the considerations outlined in **Policies 2–6** (including Appendix 9 – Suggested conditions and Good practice guide and relevant parts of Appendix 6 – Alcohol, health and licensing Appendix 7 – Child safeguarding and Child Sexual Exploitation and Appendix 8 – Sexual harassment).
- 5.70 There are no suggested hours as the Authority accepts that generally these types of premises have minimal impact on crime, disorder and nuisance, and have less impact on our residents than other licensed premises. The hours of operation would normally be those of the primary use, and the Authority would not expect the sale of alcohol to be extended beyond this.
- 5.71 Bars are, however, often a normal feature of these premises however and the Authority expects the sale of alcohol to be ancillary to the primary use.

#### What the Authority will do

- 5.72 The Authority wants to promote a variety of non-alcohol led activities in licensed premises in Medway and generally supports these types of businesses.
- 5.73 The Authority will take into account **Policies 2–6** (including Appendix 9 - Suggested conditions and Good practice guide) when making a determination and set any appropriate conditions in compliance with **Policy 18** in Chapter 7.
- 5.74 Where there are relevant representations and the operating schedule departs from **Policy 14** the licensing sub-committee will normally expect there to be a good reason if it is being asked to make an exception. However the Authority will not apply this policy rigidly, and will always take into account the merits of any application and promote the licensing objectives.
- 5.75 Where these types of premises give rise to public nuisance and impact on residents the Authority, when its discretion is engaged, will take into account the increased likelihood of disturbance from activities late at night and will give specific consideration to restricting the hours if it is appropriate to promote the licensing objectives.

#### Outside event or performance venues

##### POLICY 15

*It is the policy of the Authority, when its discretion is engaged, to determine applications and reviews for outdoor event or performance venues by reference to*



*Policies 2, 3, 4, 5 and 6 (including Appendix 9 Suggested conditions and Good practice guide) and Policy 7.*

*When relevant the Authority, when its discretion is engaged, will determine applications for those premises in a Cumulative Impact Policy Area, by further reference to the Cumulative Impact Policy.*

*This policy applies to premises being used for the provision of music or dancing or similar entertainment coupled with the sale of alcohol.*

### Reason for this policy

- 5.76 The Authority welcomes the contribution that outdoor and performance venues bring to the cultural life of Medway and wish to support these types of applications where they do not have a disproportionate impact on residents. The Authority accepts these events generally do not have an impact on crime and disorder and will broadly support applications, provided they demonstrate compliance with **Policies 2–6** (including Appendix 9 - Suggested conditions and Good practice guide and relevant parts of Appendix 6 – Alcohol, health and licensing Appendix 7 – Child safeguarding and Child Sexual Exploitation and Appendix 8 – Sexual harassment).
- 5.77 Outdoor sites are classed as ‘premises’ under the Act, when licensable activities take place, and there are several outdoor venues which are used for significant musical and other events. Many of these events are subject to the Safety Advisory Group (SAG) process, and the Authority expects an event organiser to draw up an event plan as part of the SAG process, which would then inform any proposed operating schedule.

### Expectations of the Authority

- 5.78 The Authority expects a detailed risk assessment and operating schedule, as outlined in **Policy 1**, to address the considerations outlined in **Policies 2–6** (including Appendix 9 - Suggested conditions and Good practice guide)
- 5.79 If the application for the hours of licensable activity and operation are generally beyond:
- 0900 - 2300 hours Sunday to Thursday.
  - 0900 - midnight on Friday and Saturday.

The Authority will expect the risk assessment and operating schedule to propose specific measures to promote the four licensing objectives and reference **Policy 7**. If they are not, it is likely extended hours will be refused or imposed.

### What the Authority will do

- 5.80 The Authority will take into account **Policies 2–6** (including Appendix 9 - Suggested conditions and Good practice guide) when making a determination and set any appropriate conditions in compliance with **Policy 20** in Chapter 7.
- 5.81 Where there are relevant representations and the operating schedule departs from **Policy 15** the licensing sub-committee will normally expect there to be a good reason if it is being asked to make an exception. However the Authority will not apply this policy rigidly, and will always take into account the merits of any application and promote the licensing objectives.

- 5.82 Several of these events attract large crowds and, as they are outside, noise is not enclosed and can cause a disturbance to residents. The Authority, when its discretion is engaged, will take into account the following considerations above those outlined above for music led premises:
- 5.82.1 The extent and frequency of any application for this type of event.
- 5.82.2 It's location, particularly if it is in, or close to, a residential area.
- 5.83 If the application is for the hours of licensable activity and operation is generally beyond that outlined above, and its discretion is engaged, the Authority will expect the operating schedule to include proposed specific measures to address **Policy 7**. If they are not it is likely the extended hours will be refused.
- 5.84 When subsequent applications are made for the same venue to be licensed for additional activities or events the Authority will take into account the cumulative impact over time of multiple events which have already taken place, or are planned, in the open space.

#### Hotels where the sale of alcohol is to non-residents

##### POLICY 16

*It is the policy of the Authority, when its discretion is engaged, to determine applications and reviews for premises used as hotels, where alcohol and regulated entertainment is provided for the benefit of non-residents having regard to Policies 2, 3, 4, 5 and 6 (including Appendix 9 - Suggested conditions and Good practice guide) and Policy 7.*

*The Authority, when its discretion is engaged, will determine applications for those premises in a Cumulative Impact Policy Area by reference to the Cumulative Impact Policy*

*Subject to the promotion of the licensing objectives outlined elsewhere in this policy, the Authority will generally determine applications for premises licences for hotels situated outside of the CIP areas (where relevant), so that:*

- Alcohol is permitted to be sold at any time to people staying in the hotel rooms for consumption on the premises;
- The hours of serving alcohol to the general public may be subject to limitations, dependent on any representations made;
- The hours for regulated entertainment for events may be subject to limitations, dependent on any representations made.

#### Reason for the policy

- 5.85 The Authority wishes to encourage good quality hotels which will enhance and complement our heritage and cultural offer in order to encourage tourist and business travellers.

#### Expectation of the Authority

- 5.86 The Authority expects a detailed risk assessment and operating schedule, as outlined in **Policy 1**, to address the considerations outlined in **Policies 2–6** (including Appendix 9 – Suggested conditions and Good practice guide and relevant parts of Appendix 6 – Alcohol, health and licensing Appendix 7 – Child safeguarding and Child



Sexual Exploitation and Appendix 8 – Sexual harassment).

- 5.87 Hotels usually ask for later hours to hold events for non-residents. Generally the hours of licensable activity and operation will be expected to be:
- 0900 - 2300 hours Sunday to Thursday.
  - 0900 - 0200 on Friday and Saturday.

And the Authority will expect the risk assessment and operating schedule to include proposed specific measures to promote the four licensing objectives and reference **Policy 7**. If they are not, it is likely extended hours will be refused or imposed.

- 5.88 The sale of alcohol for consumption off the premises and activity outside the premises will also be of concern.

#### What the Authority will do

- 5.89 The Authority will take into account **Policies 2–6** (including Appendix 9 - Suggested conditions and Good practice guide) when making a determination and set any appropriate conditions in compliance with **Policy 18** in Chapter 7.
- 5.90 Where there are relevant representations and the operating schedule departs from **Policy 16** the licensing sub-committee will normally expect there to be a good reason if it is being asked to make an exception. However the Authority will not apply this policy rigidly, and will always take into account the merits of any application and promote the licensing objectives.
- 5.91 If the application is for the hours of licensable activity and operation is generally beyond that outlined above, and its discretion is engaged, the Authority will expect the operating schedule to include proposed specific measures to address **Policy 7**. If they are not it is likely the extended hours will be refused.

#### Delivery/Distribution Centres for Internet only sales of alcohol

##### POLICY 17

*It is the policy of the Authority, when its discretion is engaged, to determine applications and reviews for premises used as distribution/delivery centres for internet sales of alcohol where orders are taken on-line and deliveries made by mail order having regard to Policies 2, 3, 4, 5 and 6 (including Appendix 9 - Suggested conditions and Good practice guide) and Policy 7.*

*Subject to the promotion of the licensing objectives outlined elsewhere in this policy, the Authority will have regard to the Cumulative Impact Policy when determining these applications.*

*This applies to non-commercial premises predominantly in a residential area that intend to temporarily store alcohol for mail order/courier delivery to a customer's home, workplace or other workplace location.*

#### Reason for the policy

Internet based sales has seen a large increase due to the COVID pandemic and entrepreneurs have found new ways of working during the lockdown. This has resulted in an increase in the number of premises licence applications for internet businesses that sell alcohol through global internet platforms where entrepreneurs

act as intermediaries between a wholesaler and the end user/customers.

### Expectation of the Authority

The Authority expects a detailed risk assessment and operating schedule, as outlined in Policy 1, to address the considerations outlined in Policies 2–6 (including measures to prevent underage sales from taking place on the internet).

These businesses generally:

- store minimum quantities of alcohol for a temporary period;
- operate generally during standard workday hours and not on bank holidays or Sundays;
- Will not have members of the public attending the premises;
- Will only have deliveries made during weekdays or Saturdays;
- Premises will be located in a residential area.

### What the Authority will do

- 5.92 The Authority will take into account Policies 2–6 (including Appendix 9 - Suggested conditions and Good practice guide) when making a determination and set any appropriate conditions in compliance with Policy 18 in Chapter 7.
- 5.93 Where there are relevant representations and the operating schedule departs from **Policy 17** the licensing sub-committee will normally expect there to be a good reason if it is being asked to make an exception. However the Authority will not apply this policy rigidly, and will always take into account the merits of any application and promote the licensing objectives.
- 5.94 If the application is for the hours of licensable activity and operation is generally beyond that outlined above, and its discretion is engaged, the Authority will expect the operating schedule to include proposed specific measures to address Policy 7. If they are not it is likely the extended hours will be refused.

## 6. Cumulative Impact and Stress Area Policies

- 6.1 The cumulative impact of licences in a particular area may lead to the area becoming saturated with premises of a certain type, making it a focal point for large groups of people, and thereby creating exceptional problems of crime, disorder and nuisance over and above the impact from the individual premises themselves.
- 6.2 The Council may adopt a special policy regarding cumulative impact where it considers that a significant concentration of licensed premises will or is having an impact on the licensing objectives and granting of further licences in that area would add to this impact. When adopting such a special policy reference shall be made to the steps outlined in the section 182 Statutory Guidance.
- 6.3 The effect of a special policy is to create a rebuttable presumption that applications for new licences or material variations to existing licences will normally be refused unless it can be shown that the premises concerned will not add to the cumulative impact on the licensing objectives already being experienced.
- 6.4 The Authority recognises that any special policy regarding cumulative impact is not absolute and where licences will not add to the cumulative impact, or where no

relevant representations have been received, the licence will be granted in accordance with the normal procedure.

- 6.5 A special policy regarding cumulative impact will not be used to attempt to revoke an existing licence or certificate. When representations are made about the way a premises is being operated they would then be considered and determined in respect of the four licensing objectives. However, the special policy may be a justification to refuse an application to vary a licence or certificate.
- 6.6 The Authority recognises the difference between cumulative impact and the commercial needs of premises in an area. Need and market forces are not matters for the Council to consider as part of its licensing function.
- 6.7 This Authority has adopted a [cumulative impact policy](#).

## 7. Conditions

### POLICY 18

*The Authority will not impose any conditions, other than those consistent with the operating schedule and any mandatory conditions, unless its discretion has been engaged following a relevant representation, and it is satisfied that it is proportionate and appropriate to do so to promote one or more of the licensing objectives.*

#### Reason for the policy

- 7.1 The Authority will ensure that conditions will be focussed on matters which are within the control of premises licence holders.
- 7.2 When considering and applying conditions, they should be clear, proportionate, appropriate and enforceable. Conditions will be focussed on matters that are within the control of the individual licence holder. Suggested example conditions have been produced to assist applicants, responsible authorities and other persons when proposing and determining conditions. Please see Appendix 9.

#### Expectation of the Authority

- 7.3 Everyone using the list of suggested conditions should ensure that the conditions apply specifically to the premises and meet the criteria of clarity, proportionality, appropriateness and enforceability.
- 7.4 Suggested example conditions are neither exclusive nor exhaustive. They do not restrict applicants, responsible authorities or other persons in proposing additional or alternative conditions.

#### What the Authority will do

- 7.5 The suggested conditions linked to in Appendix 9 does not restrict the Authority, when determining contested applications, from imposing any reasonable condition on a licence that it considers appropriate for the promotion of the licensing objectives under the Act.
- 7.6 A premises licence or club premises certificate that contains conditions imposed by the Authority, or agreed by the applicant, shall also be subject to the statutory mandatory licensing conditions. See Appendix 9 for a link to the full list of mandatory conditions.

- 7.7 The Authority will avoid imposing conditions, as far as is possible, which duplicate other regulatory regimes.

## 8. Temporary Event Notices

### Reason for the policy

- 8.1 The Act provides for licensable activities to take place by way of a temporary event notice (TEN), for events of less than 500 people at a time, with each event lasting for no more than 168 hours, following the notification of such events to the Authority. Only the police and environmental health are able to object to a TEN if they are of the opinion the event is likely to undermine the licensing objectives.
- 8.2 Where the TEN is in order, the relevant fee paid, the event falls within the prescribed limits and there has been no objection from the police or environmental health on the basis of any of the four licensing objectives, the Authority will record the notice in its register and send an acknowledgement to the premises user (which may be sent electronically).

### POLICY 19

*The Authority encourages applicants to submit notifications at least four weeks prior to the date for the event.*

- 8.3 The Authority recommends that adequate notice is allowed for proper consultation for the proposed event in order to ensure that issues are resolved rather than see events cancelled because there is insufficient time to address representations.

### POLICY 20

When considering representations to temporary event notices from the police or environmental health, the Authority will take the following factors into account:

1. Circumstances of the objection;
2. Location of premises i.e. within a cumulative impact policy area or stress area;
3. The applicant's willingness to comply with the conditions attached to the premises licence, if applicable;
4. History of complaints;
5. The track record of the applicant;
6. Any proposed control measures intended to mitigate the objection.

### Expectation of the Authority

- 8.4 All persons completing a TEN for an event at premises where a premises licence is already in force are strongly advised to undertake a risk assessment in order to ensure that the four licensing objectives are considered and addressed prior to the notice being served. Applicants will find **Policies 2–6** (including Appendix 9 - Good practice guide) and **Policy 7** applicable. This is of particular relevance for the following premises:
1. A nightclub or public house with the provision of entertainment.
  2. Where the event is to run any time between the hours of 23:00 and 08:00.
  3. Where the event is to be promoted or advertised to the public any time before the event.
  4. Where the event predominantly features DJs or MCs performing to a backing track.

This is also particularly relevant in areas within a cumulative impact policy area where there are concerns of alcohol related crime, disorder and public nuisance associated with licensed premises. Details of these areas and supporting evidence can be found in the Cumulative Impact Policy.

#### What the Authority will do

- 8.5 If the Authority receives an objection notice from the police or environmental health that is not withdrawn, it must, in the case of a standard TEN, hold a hearing to consider the objection (unless all parties agree that this unnecessary). The licensing sub-committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing sub-committee may also impose one or more of the existing licence conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is appropriate for the promotion of the licensing objectives. If the committee decides to impose conditions, it must give notice to the premises user that includes a statement of conditions and provide a copy to each relevant party. Alternatively, it can decide that the event would undermine the licensing objectives and should not take place. In this case, the Authority must give a counter notice.
- 8.6 Where there are relevant objections and the policy has not been adhered to the Authority will normally expect there to be a good reason, if it is being asked to make an exception. However the Authority will not apply this policy rigidly, and will always take into account the merits of any notice and promote the licensing objectives.
- 8.7 If the Authority receives an objection notice in relation to a late TEN from the police or environmental health, that is not withdrawn, the Authority will issue a counter notice, which prevents the event from taking place.
- 8.8 Appendix 3 gives further information concerning temporary event notices.

### 9. Compliance and enforcement

- 9.1 The Authority has ensured the administration and enforcement of the licensing regime are two separate and independent services, as required the Human Rights Act 1998 and in particular, Schedule 1, Article 6, 'a right to a fair and public hearing'.
- 9.2 The Authority believes the promotion of the licensing objectives relies on a partnership between licence holders, responsible authorities, other persons and the Authority.
- 9.3 The Council has, in its [corporate compliance and enforcement policy](#), set clear standards of service and performance that the public and businesses can expect.
- 9.4 In particular, compliance and enforcement action will have regard to:
1. Risk assessment – i.e. focussing on activities that give rise to the most serious risks or where hazards are least well controlled.
  2. Consistency – i.e. similar approaches in similar circumstances to achieve similar ends.
  3. Transparency – i.e. helping licensees to understand what is expected and distinguishing between statutory requirements and guidance.
  4. Proportionality – i.e. action taken should be proportional to the risk presented.

- 9.5 The Authority has also signed up to the Kent & Medway Licensing Enforcement Protocol. The aim of this protocol is to establish a model working in partnership with:
1. Responsible authorities.
  2. Other enforcement agencies as appropriate (e.g. HM Revenue and Customs, UK Visas and Immigration).

## 10. Review

### POLICY 21

The Authority will apply the full range of powers available on receipt of an application for a review of a premises licence and when it determines it is appropriate to promote the four licensing objectives. The powers include:

- Restricting hours of operation;
- Removing a licensable activity, or activities, from the premises licence;
- Modifying existing conditions or imposing additional conditions;
- Requiring the removal of a designated premises supervisor;
- Suspending the licence for a period not exceeding 3 months;
- Revoking the licence.

### Reason for the policy

- 10.1 The review process is integral to the operation of the Act. If problems arise in connection with a premises licence or club premises certificate, it is for responsible authorities and other persons to apply to the Authority for a review. In appropriate circumstances, the Authority itself may review a licence. Proceedings for reviewing a premises licence under the Act are provided as a key protection for the community, where problems associated with the four licensing objectives are occurring.
- 10.2 The Authority believes the promotion of the licensing objectives can be best achieved by partnership working between all parties to the licensing regime. The Authority therefore believes that reviews should be primarily used where evidenced engagement and advice with the licensed premises has gone unheeded and problems continue.

### Expectations of the Authority

- 10.3 In order to achieve this partnership the Authority recommends and encourages responsible authorities to give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement. The Authority generally expects evidence of engagement to be presented as part of the review process where this is appropriate.
- 10.4 Responsible authorities, councillors, businesses or members of the public can trigger a review of a premises licence or club premises certificate but any review must relate to one or more of the licensing objectives, and an evidentiary basis for a review is required to be presented to the Authority.

### What the Authority will do

- 10.5 The 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.

- 10.6 Where responsible authorities like the police or environmental health have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to concerns, the Authority will not merely repeat that approach.

## POLICY 22

*Where reviews arise and the Authority determines the premises are being used to further crimes, revocation, even in the first instance, will be considered.*

### Reason for the policy

- 10.7 The circumstances under which revocation in the case of crime will be considered, even in the first instance, is detailed in the Guidance and can include the following circumstances:
- Use of licensed premises for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crimes.
  - Use of licensed premises for the sale and distribution of illegal firearms.
  - Evasion of copyright in respect of pirated films and music.
  - Underage purchase and consumption of alcohol.
  - Use of licensed premises for prostitution or the sale of unlawful pornography.
  - Use of licensed premises for unlawful gaming.
  - Use of licensed premises as a base for organised criminal activity.
  - Use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks.
  - Use of licensed premises for the sale of smuggled tobacco or goods.
  - 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.

### What the Authority will do

- 10.8 Where reviews arise and the Authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, revocation of the licence – even in the first instance – will be seriously considered. Revocation also remains an option if other licensing objectives are being undermined.
- 10.9 Offences under the Act include the serving of alcohol to persons under the age of 18, with a further offence of persistent sales of alcohol to persons under the age of 18 (see **Policy 6**). The consumption of alcohol by minors impacts on the health, educational attainment, employment prospects and propensity for crime of young people. The admitting or serving of persons who are intoxicated is also an offence under the Act. The Authority will treat representations that these offences have occurred seriously when they arise in connection with a review.

## 11. Removal of requirement for a designated premises supervisor in a community premises

- 11.1 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. They may 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. The process is fully explained in the Guidance.

- 11.2 Community premises are defined as premises that are or form part of a church hall, chapel hall or other similar building; or a village hall, parish hall or community hall or other similar building.
- 11.3 Where it is not clear whether premises are “community premises”, the Authority will approach the matter on a case-by-case basis and take into account the following considerations:
1. How the premises are predominately used.
  2. If they are genuinely made available for community benefit most of the time.
  3. If they are accessible by a broad range of persons and sectors of the local community for purposes which include purposes beneficial to the community as a whole.
- 11.4 Many community premises such as school and private halls are available for private hire by the general public. This is insufficient for such halls to qualify as “community premises”. The statutory test is directed at the nature of the premises themselves, as reflected in their predominant use, and not only at the usefulness of the premises for members of the community for private purposes.

## 12. Suspension for non-payment

### POLICY 23

*It is the policy of the Authority to suspend a premises licence if, following the procedure outlined below, the annual fee remains unpaid.*

#### Reason for the policy

- 12.1 The Act requires an Authority to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due. However, this does not apply immediately if the payment was not made before or at the time of the due date because of an administrative error, or because the holder disputes liability for the fee before or at the time of the due date. In either case, there is a grace period of 21 days. This period is intended to allow the licensing authority and the licence or certificate holder an opportunity to resolve the dispute or error. If the dispute or error is not resolved during this 21-day period, the licence or certificate will be suspended.
- 12.2 A premises licence or certificate that has been suspended does not have effect to authorise licensable activities. However, it can, for example, be subject to a hearing or, in the case of a premises licence, an application for transfer.

#### Expectations of the Authority

- 12.3 The holder who held the licence at the time it was suspended owes the debt. However, it may be more likely in practice that the new holder will actually make the payment.



- 12.4 In the case of a licence or certificate where more than one payment year has been missed, payment of the outstanding fee in relation to each year will be required to reinstate the licence.

#### What the Authority will do

- 12.5 The licence will only be reinstated when the outstanding fee has been paid.
- 12.6 Invoices are issued by the Finance Department and payment is due within 14 days of the invoice date. Should payment not be received the Council will call the licence holder or make a visit to the premises to advise the licence holder of failing to pay the annual fee and will serve a Notice of Intention to Suspend the Premises Licence/Club Premises Certificate. At this point, should payment not be received within 21 days, the licence or certificate will be suspended.
- 12.7 The fees are set with the aim of recovering the Authority's cost of administering, inspecting and ensuring compliance with this legislation and the associated guidance.
- 12.8 Fees are currently set by Government, but should this change, the Authority will follow any legislative requirements for setting them locally.

### 13. Personal licences

#### POLICY 24

*When its discretion is engaged on receipt of relevant representations from the police, the Authority will determine applications for personal licences by reference to the following considerations.*

#### Reason for the policy

- 13.1 The Authority recognises it has no discretion regarding the granting of personal licences where an applicant has a qualification determined by the Home Office does not have a relevant criminal conviction and is entitled to work in the UK. In these circumstances the application must be granted unless the applicant is already in possession of a personal Licence. This policy does not affect this position.

#### What the Authority will do

- 13.2 If an applicant has a relevant conviction the police can make relevant representations on the grounds of preventing crime and disorder, which engages the Authority's discretion. In these circumstances the Authority will consider carefully whether the grant of the licence will fail to promote the crime prevention objective. It will take the following into consideration:
1. The seriousness and relevance of the conviction(s).
  2. Whether the conviction is classed as spent under the Rehabilitation of Offenders Act 1974 (as amended).
  3. The period that has elapsed since the offence(s) were committed.
  4. Any mitigating circumstances.
- 13.3 For applications made on or after 6 April 2017, where an applicant's immigration permission to live and work in the UK is time-limited, a personal licence may be issued but will become invalid when the immigration permission expires. In the event that the Home Office cuts short or ends a person's immigration permission (referred to as

curtailment or revocation), any licence issued in respect of an application made on or after 6 April 2017 will automatically lapse.

- 13.4 Under certain circumstances the Authority has a discretionary power to revoke or suspend a personal licence. Where the Authority has granted a personal licence and becomes aware the licence holder has been convicted of a relevant offence or foreign offence, or been required to pay an immigration penalty, the Authority may revoke the licence, or suspend it for a period of up to six months. This only applies to convictions received and civil immigration penalties which a person has received after 6<sup>th</sup> April 2017.
- 13.5 The Authority has noted the steps required to invoke and proceed with this power and will comply fully with the requirements outlined in the Act and Guidance.
- 13.6 In accordance with the Deregulation Act 2015, any Personal Licence due for renewal on or after 1st April 2015 is not now required to be renewed. Personal Licences will now remain in force indefinitely, unless surrendered, forfeited by the Court, suspended or revoked by the Licensing Authority.

#### 14. Early Morning Restriction Order (EMRO)

- 14.1 This Authority does not currently have in place an early morning restriction order.
- 14.2 Early morning restriction orders (EMRO) are designed to address recurring problems such as high levels of alcohol related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol related anti-social behaviour which is not directly attributable to specific premises.
- 14.3 The Authority will need to be satisfied that the request for an EMRO is appropriate for the promotion of the licensing objectives and for a specified period between 12 midnight and 0600 hours and in relation a particular area, which may be the whole or part of the local authority area.
- 14.4 The Authority will consider evidence from partners, including responsible authorities and Community Safety Partnerships, alongside its own evidence, to determine whether an EMRO would be appropriate for the promotion of the licensing objectives.
- 14.5 When establishing its evidence base, a licensing authority may wish to consider:
  - 1. Local crime and disorder statistics, including statistics on specific types of crime and hotspots;
  - 2. Local anti-social behaviour statistics;
  - 3. Health related statistics such as alcohol related emergency attendances and hospital admissions;
  - 4. Environmental health complaints, particularly in relation to litter and noise;
  - 5. Complaints recorded by the local authority, which may include complaints raised by local residents or residents associations;
  - 6. Residents questionnaires;
  - 7. Evidence from local councillors;
  - 8. Evidence obtained through local consultation.
- 14.6 This is not considered an exhaustive list of the types of evidence. Where information is insufficient or not readily available the Authority may consider

conducting or commissioning a specific study to assess the position. This may involve conducting observations of the night-time economy to assess the extent of incidents relating to the promotion of the licensing objectives, such as the rate of occurrence of criminal activity, anti-social behaviour, examples of public nuisance and underage drinking at key times and locations. Where observations determine that such incidents are relating to specific premises the issues will be dealt with under the Review of a Premises Licence/Club Premises Certificate procedure rather than the use of an EMRO.

14.7 In addition to its own evidence of the impact licensable activities have within its area, the Authority may take into account the times at which licensable activities take place. Further information which the Authority may consider includes:

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

## 15. Late Night Levy

15.1 This Authority does not currently have a late-night levy in place.

## 16. Sex establishments

16.1 Not all establishments where there are displays of a sexual nature will fall under the definition of 'sexual entertainment venue', but where they do the Authority has a separate policy for applications for this type of venue in this Council administrative area and applicants should refer to the [policy for guidance](#).

16.2 Applicants for premises licences or club premises certificates under the Act must state in the application whether entertainment of an adult nature will be provided, as this may have an impact on the protection of children from harm. If there is such entertainment the Authority expects the applicant to give particular consideration to the promotion of the licensing objectives, particularly the protection of children from harm objective.

## 17. Planning

### POLICY 25

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

### Reason for the policy

17.1 The Authority acknowledges that planning permission, building control approval and the licensing regimes are separate and different, albeit they may deal with related matters. The Authority is not bound by decisions made by a planning committee, and vice versa.

### Expectations of the Authority

- 17.2 The Authority recommends that any premises for which a licence is required should normally have an authorised use under planning legislation.

### What the Authority will do

- 17.3 As stated by Guidance, where businesses have indicated, when applying for a licence under the Act, that they have also applied for planning permission or that they intend to do so, the Authority will consider discussion with the planning department prior to determination with the aim of agreeing mutually acceptable operating hours.
- 17.4 Where a terminal hour has been set for the use of premises for commercial purposes under planning legislation, the Authority, when its discretion is engaged on receipt of representations, will consider imposing the same terminal hour under licensing legislation, unless there are exceptional circumstances, in order to ensure a proper integration between the two regimes.

## 18. Discharge of functions

- 18.1 A list of the scheme of delegations approved by members is attached as Appendix 4 (this may be amended from time to time in line with the Council Constitution and/or changes in any relevant legislation).

# Appendix 1. Licensable activities

1. The Licensing Act relates to the sale of alcohol, the provision of certain entertainment and late-night refreshment.
2. Activities that require a licence under the Licensing Act and covered by this Policy Statement include:
  - a. Retail sale of alcohol;
  - b. Supply of hot food or drink from premises from 23.00 to 05.00 hours;
  - c. Supply of alcohol to club members;
  - d. Provision of regulated entertainment listed below. Please see exemptions listed at Appendix 2:
    - i. film exhibitions;
    - ii. performance of a play;
    - iii. indoor sporting events;
    - iv. boxing or wrestling entertainment;
    - v. some live music performances;
    - vi. playing of recorded music;
    - vii. dance performances;
    - viii. provision of facilities for making music;
    - ix. provision of dancing facilities.
3. The Licensing Act prescribes:
  - a. Personal licences which cover the licensing of individuals for the retail sale of alcohol;
  - b. Premises licences which cover the retail sale of alcohol, the provision of regulated entertainment and the provision of late-night refreshment;
  - c. Club premises certificates which are required to allow the supply of alcohol or the provision of regulated entertainment to certain clubs;
  - d. Temporary event notices which are required for certain licensable activities on a temporary basis.

## Appendix 2. Deregulation of Schedule 1 – regulated entertainment

1. The government has sought to promote the holding of events and live music by the deregulation of Schedule 1, Licensing Act 2003 (Regulated Entertainment) through the Live Music Act in 2012 and further deregulation in 2015.
2. Below is a guide designed to indicate when entertainment may be exempt for the need for authorisation. Please note that the information provided is not legal advice. Legislation and procedures may change over time and the advice given is based on the information available at the current time. It is not necessarily comprehensive and will be subject to revision in the event of further government guidance and regulations. This advice is not intended to be a definitive guide to or substitute for the relevant law.
3. The Council is happy to provide information but cannot give advice on individual applications. Please seek legal and professional advice.

<b>Type of entertainment</b>	<b>Premise type</b>	<b>Time</b>	<b>Audience numbers</b>	<b>Other Conditions</b>
Live Music (Amplified)	a licensed premises or workplace; and/or an unlicensed community premises; and/or non-residential premises	between 0800 and 2300 hours	no more than 500 people	When in unlicensed community premises; and/or non-residential premises of a local authority, a school or a hospital, consent must be obtained from the person responsible for the premises
Live Music (Unamplified)	anywhere	between 0800 and 2300 hours		
Recorded Music	a licensed premises; and/or an unlicensed community premises; and/or non-residential premises of a local authority, a school or a hospital	between 0800 and 2300 hours	no more than 500 people	When in unlicensed community premises; and/or non-residential premises of a local authority, a school or a hospital, consent must be obtained from the person responsible for the premises
Dance	anywhere	between 0800 and 2300 hours	no more than 500 people	

<b>Type of entertainment</b>	<b>Premise type</b>	<b>Time</b>	<b>Audience numbers</b>	<b>Other Conditions</b>
Plays / Theatrical Performances	anywhere	between 0800 and 2300 hours	no more than 500 people	
Films	Community Premises	between 0800 and 2300 hours	audiences of 500 or less	<ul style="list-style-type: none"> <li>• is 'not-for-profit';</li> <li>• Obtains consent to the screening from the person responsible for the premises; and</li> <li>• is held in accordance with any age classification recommendations set by the BBFC, or where different, any age rating set by the Licensing Authority in whose area that exhibition takes place.</li> </ul>
Indoor Sporting Events		between 0800 and 2300 hours	no more than 1000 people	
Boxing / Wrestling (includes Mixed Martial Arts and Cage Fighting)			no more than 1000 people	only if Olympic style Greco-Roman and Freestyle wrestling
All Regulated Entertainments	Cross-activity exemptions hosted by local authorities, hospitals, nurseries and schools on own premises	between 0800 and 2300 hours	no audience limitations	
Live and Recorded Music	Activities held on local authority, hospital, nursery and school premises by others with their permission	between 0800 and 2300 hours		
Live and Recorded Music	Community premises (e.g.: church and village halls, community halls, etc.)	between 0800 and 2300 hours		
Live and Recorded Music,	Circuses	between 0800 and	no audience limitations	



<b>Type of entertainment</b>	<b>Premise type</b>	<b>Time</b>	<b>Audience numbers</b>	<b>Other Conditions</b>
Plays, Dance and Indoor Sports		2300 hours		

Overview of circumstances in which entertainment activities are not licensable:

- a. Activities which involve participation as acts of worship in a religious context or which take place in places of public religious worship;
- b. Education, teaching students to perform music or to dance;
- c. The demonstration of a product such as a guitar in a music shop;
- d. The rehearsal of a play or performance of music for a private audience where no charge is made with a view to making a profit;
- e. Morris dancing (or similar);
- f. Incidental music, the performance of live music or the playing of recorded music if it is incidental to some other activity;
- g. Incidental film, an exhibition of moving pictures if it is incidental to some other activity;
- h. A spontaneous performance of music, singing or dancing;
- i. Garden fetes or similar if not being promoted or held for purposes of private gain;
- j. Films for the purposes of advertisement, information or education or in museums or art galleries;
- k. Television or radio broadcasts, as long as the programme is live and simultaneous;
- l. Vehicles in motion, at a time when the vehicle is not permanently or temporarily parked;
- m. Games played in pubs and youth clubs such as pool, darts, table tennis and billiards;
- n. Stand-up comedy;
- o. Provision of entertainment facilities such as dance floors.

# Appendix 3. Temporary Event Notices (TENs)

## Limitations for Temporary Event Notices

1. A temporary event notice (TEN) may only be given by an individual and not, for example, by an organisation or club or business. The individual giving the notice is the proposed 'premises user'. Within businesses, clubs or organisations one individual will therefore need to be identified as the proposed premises user.
2. For the purposes of determining the overall limits of 50 temporary event notices per licence holder (in a calendar year) and of five for a non-personal licence holder (in a calendar year), temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count towards those totals. The limits applying to late temporary event notices are included within the overall limits applying to the total number of temporary event notices.

An 'associate' of the proposed premises user is:

- a. the spouse of that person;
  - b. a child, parent, grandchild, grandparent, brother or sister of that person;
  - c. an agent or employee of that person; or
  - d. the spouse of a person within (2) or (3).
3. For these purposes, a person living with another as that person's husband or wife is to be treated as that person's spouse.
  4. The limitations apply to:
    - a. the number of times a person (the 'premises user') may give a temporary event notice (TEN):
      - o Personal Licence Holder: 50 standard Temporary Event Notices, or 10 late temporary event notices;
      - o Non Personal Licence Holder: 5 standard Temporary Event Notices, or 2 late temporary event notices;
    - b. the number of times a TEN may be given in respect of any particular premises: (20 times in a calendar year);
    - c. the length of time a TEN may last for these purposes (168 hours);
    - d. the maximum aggregate duration of the periods covered by TENs at any individual premises: (26 days per calendar year);
    - e. the scale of the event in terms of the maximum number of people attending at any one time: (a maximum of 499).
  5. If a notice has been given and the limitations have been exceeded, then a counter notice will be issued and the event cannot proceed as planned.
  6. Notices should be submitted online using the [Temporary Event Notice form](#), for convenience so that electronic copies can automatically be sent to Environmental Health and the Chief of Police.

### Standard Temporary Event Notice (STEN)

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

### Late Temporary Event Notice (LTEN)

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

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

The current limits reflect the increase in limits specified in the Alcohol Licensing (Coronavirus) (Regulatory Easements) (Amendments) Regulations 2021 and remain in force until 31 December 2023. These limits will be subject to amendment following any further legislative changes.

## Appendix 4. Delegated 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 5. Responsible Authorities

Responsible authorities are public bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority in relation to the application for the grant, variation or review of a premises licence. These representations must still be considered 'relevant' by the licensing authority and relate to one or more of the licensing objectives. For all premises, responsible authorities include:

- The relevant licensing authority and any other licensing authority in whose area part of the premises is situated;
- the chief officer of police;
- the local fire and rescue authority;
- the relevant enforcing authority under the Health and Safety at Work etc Act 1974;
- the local authority with responsibility for environmental health;
- the local planning authority;
- a body that represents those who are responsible for, or interested in, matters;
- relating to the protection of children from harm;
- each local authority's Director of Public Health (DPH) in England<sup>4</sup>
- and Local Health;
- Boards (in Wales);
- the local weights and measures authority (trading standards); and
- Home Office Immigration Enforcement (on behalf of the Secretary of State)

See the [list of Responsible Authorities](#).

# Appendix 6. Alcohol, health, and licensing

## Introduction

1. The Office for Health Improvement & Disparities (formally Public Health England) and the Local Government Association recognise the Statement of Licensing Policy provides an important opportunity to incorporate relevant local public health concerns within the wider policy context of licensing. This approach is also supported by the World Health Organisation's 'Health in all Policies', which advocates the integration of health into all relevant policy contexts. The Authority accepts that the Licensing Act is not the primary means by which alcohol related health harms can be addressed, however the Council fully supports the 'health in all policies' approach and the Authority will seek to promote health where it is appropriate to do so within the constraints of the licensing regime.
2. The Director of Public Health (DPH) is a responsible authority under the Act and the Authority can consider representations from the DPH. Public Health can provide information that is relevant to the promotion of the licensing objectives, such as alcohol related ambulance call outs and A&E hospital admissions for alcohol related assaults. This is an important source of data to support licensing decisions.

## Aims

3. The aim of this Appendix is to give context to the impact alcohol has on health in Medway and then provide guidance to those who work in, and control, licensed premises, so they can support and promote the health of their customers, staff, and the communities in which they operate.

## Alcohol and health

4. Alcohol plays an important role in our communities. It can have a positive role in family and social life and is part of Medway's cultural and economic landscape. Businesses which sell alcohol are an important part of our economy, whether they are pubs, nightclubs, shops, or other types of business. However, these benefits should not disguise the fact that alcohol is a toxic substance, which can have a profound impact on our communities, whether these are visible harms such as alcohol fuelled crime and disorder and street drinking or more hidden harms, such as alcohol dependence, domestic abuse, and child safeguarding issues. Alcohol misuse is associated with 60 medical conditions, from liver disease, heart disease and strokes to types of cancer, hypertension, and mental health issues. Alcohol can have a detrimental effect on physical and mental health and wellbeing.
5. There are no guaranteed safe levels of drinking but drinking below the recommended limits means the risks to health are low. The NHS provide [current alcohol unit recommended limits](#)

## Alcohol and health

6. Alcohol is a prominent commodity in our communities, with an increase in the number of premises licensed to sell alcohol, particularly shops, since 2005. For many it is associated with positive activities. However, 10 million or more people drink at levels

which increase their risk of health harms, and alcohol consumption is a leading factor for ill-health. Among those aged 15 to 49 in England it is the leading cause for ill-health, early mortality, and disability.

7. Increased affordability of alcohol, a shift to higher strength products and an increase in consumption by women has led to an increase in sales in England and Wales. Most alcohol is now bought from shops and drunk at home.
8. Many indicators of alcohol-related harm have seen an upward trend over recent years. Alcohol related hospital admissions and mortality are increasing. This is particularly apparent in the most deprived third of the population. More working years of life are lost in England as a result of alcohol-related deaths than from cancer of the lung, bronchus, trachea, colon, rectum, brain, pancreas, skin, ovary, kidney, stomach, bladder, and prostate, combined.
9. The annual economic burden of alcohol is estimated as being between 1.3% and 2.7% of annual GDP <sup>[1]</sup>. There is a considerable body of international literature showing that policy addressing alcohol issues is both effective and cost-effective.

#### Changes to alcohol purchasing and consumption due to Covid 19

10. Nationally the total volume of alcohol for 2020 to 2021 was 1.2% less than the year before the pandemic, despite the closure of the on-trade, i.e. pubs, restaurants and nightclubs, during national lockdowns.
11. However, research shows that off-trade sales of alcohol between 2019 and 2020 (before and during the pandemic) increased by a quarter. This increase was steady over most of 2020, with an increase in all types of alcoholic products. The largest increases were in beer, spirits, wine, and cider.
12. The same research showed that people who were the heavier drinkers before the pandemic increased their drinking during the pandemic.
13. In 2020, there was a 20.0% increase nationally in the total alcohol specific deaths compared to 2019, with significantly higher rates from May 2020 onwards, where a third of deaths occurred to those suffering from most deprivation. Deaths from mental and behavioural disorders due to alcohol increased by 10.8% during the same time period, and deaths from alcohol poisoning increased by 15.4%. The research showed an upward trend in total alcohol specific deaths which was attributed to an increase in deaths due to alcoholic liver disease. Alcoholic liver deaths accounted for 80.3% of total alcohol deaths in 2020 which was an increase of 20.8% from 2019 to 2020. From July 2020 onwards, rates of alcoholic liver disease deaths were significantly and consistently higher than the national baseline.

#### Alcohol harms in Medway

14. Medway's Joint Strategic Needs Assessment (JSNA) identifies several areas of concern within the population of Medway regarding alcohol harms. Medway has high levels of hospital admissions for alcohol related and alcohol specific conditions, alcohol related mortality and alcohol specific mortality.

Alcohol is the most common cause of liver disease in England. Alcohol-related liver disease accounts for over a third of liver disease deaths. The overall trend for alcohol related liver disease admission episodes in Medway is increasing and is high compared to the Southeast region.



15. Alcohol related mortality has showed no significant change between 2016 and 2020, this being largely in line with the national rate.
16. Admissions to hospital for alcohol related conditions for females under 40's is higher than the England average and rose sharply between 2019/2020 to 2020/2021. For men over 65 there has also been an increase to more than the England average in the same time frame.
17. The rate of alcohol related mortality for both males and females has not improved in recent years and is over the England average.
18. Hospital admissions for women for episodes for intentional self-poisoning by and exposure to alcohol is higher than the England average.
19. The proportion of drinkers in Medway who can be categorised as engaging in increasing risk and higher risk drinking or possible dependence is 26.6%. 16.3% of drinkers consume alcohol on more than 4 or more days a week. 15.5% of drinkers binge drink.

#### [Link between alcohol outlet density and alcohol harms.](#)

20. The link between alcohol outlet density in an area and alcohol harms is accepted by the Government, The National Institute for Health and Care Excellence (NICE), Public Health England, the World Health Organisation and the Local Government Association (LGA) and informs their policy and strategy documents.
21. There is substantial academic evidence which links the density of alcohol outlets in an area with the rate of alcohol harms, such as domestic abuse and alcohol harms in young people, in the same area. Controlling the accessibility and availability of alcohol has been identified as an element in improving health, reducing harm, and improving community safety through reduced crime, disorder, and antisocial behaviour.
22. There are 271 (Medway Council, 2021) off licensed premises in Medway, which is the single largest type of premises. This type of premises licence has also seen the highest increase, and is more than double the next type, which are public houses and bars. Most off licences are small convenience/newsagents/corner shops, which are clustered in and around our most deprived areas. Medway has nearly three times the number of premises licensed to sell alcohol per square kilometre than the England average. Evidence indicates that increasing numbers of outlets or extended hours of sale potentially increases the competitive pressures on existing outlets, which may result in price reductions that tend to lead to increased levels of consumption.

#### [Minimisation of harm](#)

23. Effective management of licensed premises is integral to the alcohol harm reduction agenda, and it is recognised many establishments are keen to support this agenda. Examples of best practice which Public Health recommend are considered by premises licence or certificate holders are:
  - a. Provide good quality, ongoing training to staff, which is regularly reviewed and updated.
  - b. Offer low alcohol or alcohol free alternatives. The range of low alcohol and alcohol free beers, ciders, wines, and spirits has increased over the last few years and these products offer a real alternative to common alcoholic products.

- c. Ensure that non-alcoholic drinks are priced competitively with alcoholic drinks and actively promoted.
- d. Actively promote designated driver schemes where a driver is offered discounted or free non-alcoholic drinks.
- e. Consider starting the sale of alcohol later in the day rather than aligning it purely with opening hours, particularly in the case of off licenced premises.
- f. Retail premises should ensure that alcohol is not prominently advertised in or around the premises. In areas close to schools or other places where young people gather promotions should not be visible from the street.
- g. In retail premises consider where alcohol is displayed – consider storing it behind the counter or tills and particularly away from the door or on the floor, thus reducing the chance of theft.
- h. Ensure a 'Challenge 25' policy is in place, and staff are fully conversant with the policy.
- i. Consider limiting sales of single bottles or cans below 1 litre of beer/lager/cider/spirit mixers, particularly with an ABV of 5.5% or above, to reduce the availability to children and street drinkers.
- j. Consider removing high ABV beers/lagers, cider and spirit mixers (e.g. above 5.5% ABV) as there is evidence these products are used by street and dependent drinkers.
- k. Restrict 'special offers' like cheap shots, 'Happy Hours', 'Buy One Get One Free' or buy 2 glasses of wine get whole bottle. This slows down consumption, the rate at which blood alcohol concentrations increase and the peak levels reached by drinkers. Rapidly ascending and high blood alcohol concentrations are shown to be associated with violence and uninhibited behaviour.

## References

1. Public Health England. (2016). [The public health burden of alcohol evidence review.](#)
2. Home Office. (2016). [Alcohol and late night refreshment licensing England and Wales 31 March 2016.](#)
3. Raistrick D, Heather N, Godfrey C. (2006). [Review of the effectiveness of treatment for alcohol problems.](#)
4. Public Health England (2021) [Monitoring alcohol consumption and harm during the COVID 19 pandemic.](#)
5. Medway Council (2022) [Medway's Joint Strategic Needs Assessment.](#)
6. Office for Health Improvement and Disparities (2022) [Local Alcohol Profiles for England.](#)
7. Public Health England (2019) [Local Alcohol Consumption Survey National Report.](#)
8. NICE (2014) [Public Health Guidance 24 – Evidence.](#)

# Appendix 7. Child safeguarding and Child Sexual Exploitation

1. Local authorities have overarching responsibility for safeguarding and promoting the welfare of all children and young people in their area. Whilst local authorities play a lead role, safeguarding children and protecting them from harm is everyone's responsibility. Everyone who comes into contact with children and families has a role to play.
2. To support organisations that come into contact with the public, or employ under 18s, the Medway Safeguarding Children Partnership (MSCP) and Medway Council suggests staff have access to safeguarding training and are briefed on local safeguarding initiatives.
3. Those who are licence/certificate holders and operators of licensed premises should ensure they are aware of the signs of child abuse and child sexual exploitation and how to raise concerns about perpetrators in victims in their areas.
4. The MSCP offers online training covering a number of areas. These include an introduction to safeguarding children and a basic awareness of child and adult sexual exploitation.
5. Child sexual exploitation is a form of child sexual abuse. It occurs where an individual or group takes advantage of an imbalance of power to coerce, manipulate or deceive a child or young person under the age of 18 into sexual activity, (a) in exchange for something the victim needs or wants, and/or (b) for the financial advantage or increased status of the perpetrator or facilitator. The victim may have been sexually exploited even if the sexual activity appears consensual. Child sexual exploitation does not always involve physical contact; it can also occur through the use of technology.
6. Alcohol and drugs are often used to coerce children into sexual exploitation; the national picture of sexual exploitation draws attention to the use of licensed premises. This includes hotels where abuse may take place.
7. Further advice regarding safeguarding and promoting the welfare of children can be found on the [MSCP website](#).

## Reference

[Working together to safeguard children 2018](#): A guide to interagency working to safeguard and promote the welfare of children.

# Appendix 8. Sexual Harassment

## Introduction

1. Sexual harassment is unwanted behaviour of a sexual nature which:
  - a. Violates a person's dignity.
  - b. Makes people feel intimidated, degraded or humiliated.
  - c. Creates a hostile or offensive environment.
2. Sexual harassment can take many forms, examples of which are:
  - a. Unwelcome sexual gestures or innuendos.
  - b. Groping, pinching, or smacking someone's body.
  - c. Exposing yourself to someone.
  - d. Entering the toilet that does not best accommodate your gender.
  - e. Derogatory comments based on age, gender, race, orientation, or ability.
3. Drinkaware has produced an overview of sexual harassment in licensed premises and has found:
  - a. Nearly three quarters of young adults who use pubs and clubs have witnessed inappropriate sexual comments and touching in these types of premises. Women are more likely to see these types of behaviours than men, although just over two thirds of men have also witnessed inappropriate behaviour.
  - b. Nearly four-fifths of women aged 18-24 believe harassment will happen to either themselves or their female friends while in a pub or club. Over half of men also believe their female friends will experience harassment as well.
  - c. Nearly two-thirds of women have experienced sexual harassment in pubs and clubs. A quarter of men have also experienced this type of behaviour.
  - d. The harasser was typically reported as being male.
  - e. Victims can be both male and female.
4. Sexual harassment can happen to anyone of any gender and the Authority believes that harassment of anyone should not be tolerated.

## The Authority expectations

5. Medway has a lively and vibrant night-time economy, with many pubs, bars and clubs attracting customers from a large geographical area, as well as local residents and students from the universities located in Medway. It is an important part of the Medway economy and an important source of employment. The Authority wants to create a vibrant, safe and welcoming early evening and night-time economy and sees addressing issues of harassment and discrimination as an important part of supporting and promoting Medway leisure businesses.
6. The Authority expects premises licence holders and designated premises supervisors to ensure that they and their staff are aware of the signs of sexual harassment and discrimination and have a policy in place making it plain there is a zero tolerance approach to any incidents.

[Drinkaware](#) cover the subject of sexual harassment and The Health and Safety Executive have useful guidance on [managing violence in licensed and retail premises](#).

# Appendix 9. Website Links

## Good Practice Guide

The aim of this document is to provide applicants and licensees with [guidance on good practice](#) for the promotion of the four licensing objectives.

## Suggested Conditions

The Council has prepared a [pool of example conditions](#) in line with the Licensing Act 2003. This document is designed to provide a guide to the wording of possible conditions.

## Mandatory Conditions

It is the responsibility of the premises licence holder, club premises certificate holder and/or the responsible person to make sure they are fully conversant with all relevant legislation and policy.

One such area is ensuring they comply with the [mandatory conditions](#). The government have provided [Guidance on mandatory conditions](#)

# Appendix 10. Useful Website links

- [Local facts and figures](#)
- [Crime statistics](#)
- [Safer Medway Business Partnership](#)
- [Community Safety Partnership](#)
- [Trading Standards](#)
- [Public Spaces Protection Orders \(previously Alcohol Control Zones\)](#)
- [Medway planning](#)
- [British Institute of Innkeeping](#)
- [Wine and Spirit Trade Association](#)
- [British Beer and Pub Association](#)
- [The Portman Group](#)
- [Community Alcohol Partnerships](#)
- [Challenge 25 – for posters and advice](#)
- [Drinkaware – for posters and advice](#)