



**STATEMENT OF  
LICENSING POLICY  
LICENSING ACT 2003  
AUGUST 2010**

**For the period ending 6 January 2014  
Version 1.0**

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# **LICENSING ACT 2003: LICENSING POLICY, MAIDSTONE BOROUGH COUNCIL**

## **1. Introduction**

This is Maidstone Borough Council's second review of its statement of licensing policy. Section 5 of the Licensing Act 2003 (the Act) requires each licensing authority to publish a statement of its licensing policy every three years.

The policy as amended by this second review will come into force from January 7 2011. The licensing authority will review, update or modify it as necessary. This may be necessary following the ongoing review of the Licensing Act 2003 by Government.

Unless otherwise stated any reference in this document to "the Council" is to the Maidstone Borough Council as the licensing authority. The provision of the licensing service is done in Partnership with Sevenoaks District Council and Tunbridge Wells Borough Council.

Maidstone is the County Town of Kent situated in the heart of the "Garden of England". Maidstone Borough includes a variety of picturesque rural villages. Maidstone Town has a vibrant retail centre, historic attractions and is a popular visitor destination with a busy day, evening and night time economy, and many cultural and leisure activities.

There are 530 businesses associated with the Licensing Act provisions. This includes Leeds Castle which holds cultural events and evening concerts during the summer months, the Lockmeadow Leisure Complex providing multi-screen cinema, restaurants and night-clubs, the Hazlitt Theatre and Exchange Complex, the County Agricultural Showground at Detling and many premises such as restaurants, hotels, public houses, village halls and community centres in the rural area.

Tourism along with economic development works to deliver the Council's key priority of prosperity, by attracting visitor expenditure to the local economy, by the promotion of Maidstone as an attractive location for inward investment and through support for existing and start-up tourism businesses. This works in partnership with the Council's priority of Quality Living by engendering community pride in Maidstone and improving the quality of life.

Maidstone has a population of 138,948 people (2001 census) comprised of the following:

<b>Maidstone</b>	no	%
Under 16	27234	19.6
16 to 19	6615	4.8
20 to 29	15976	11.5
30 to 59	60358	43.4
60 to 74	18586	13.4
75 and over	10179	7.3

Crime statistics for the year 2008/2009 show a violent crime rate of 14.8 of crimes per 1,000 people compared to 16.6 per 1000 nationally. For community safety it is important to state that its aim is to create safer communities in the Borough by reducing crime and disorder in a cost effective way, through involving the community and partnership working. In December 2006 the Council made Designation Orders under the provisions of the Criminal Justice and Police Act 2001 (as amended by the Licensing Act 2003) in relation to alcohol consumption in public places.

## **2. Executive Summary**

Maidstone Borough Council is a Licensing Authority under the Licensing Act 2003 and is responsible for granting Premises Licences, Club Premises Certificates, Temporary Event Notices and Personal Licences in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshments. All applications for New Premises Licences or variations need to be supported by an operating schedule. The schedule must specify, amongst other things, the steps which the applicant proposes to promote each of the licensing objectives.

If no responsible Authority or interested party lodges an objection (relevant representation) to the application, the Council must grant the application as set out in the operating schedule, subject only to mandatory conditions under the Act. The steps proposed by the applicant will become conditions of the licence. The Council will have no discretion to refuse the application or to alter or add to the conditions arising from the operating schedule.

Where there are relevant representations, then a hearing of the opposed application before the Licensing sub committee will normally follow. After the hearing the sub committee must take such steps as it considers necessary to promote the licensing objectives. These may

include refusing the application, or adding to or modifying the conditions proposed in the operating schedule.

In exercising its discretion the Licensing sub committee will have regard to representations from the Police or other responsible authorities/interested parties, the licensing objectives, central Government guidance issued under Section 182 of the Licensing Act 2003 (as revised), the Licensing Act 2003, this licensing policy, any supporting regulations and proper integration with the Council's strategies

This policy emphasises that consideration will be given to the individual merits of an application but the presumption would be to grant the hours requested unless there are specific objections to those hours raised by responsible Authorities or interested parties on the basis of the licensing objectives.

It is recognised that, in some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that concentration of customers leaving premises simultaneously are avoided.

With regard to shops, stores and supermarkets the normal scenario for such premises is to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless representations raise very good reasons, based on the licensing objectives, for restricting those hours.

### **3. The Licensing Objectives**

The Act requires the licensing authority to carry out its functions under the Act so as to promote the four licensing objectives. These are:

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

Each of the licensing objectives is considered to be of equal importance for the purposes of this policy.

### **4. Policy Objectives**

The aims of the policy are to pursue the four licensing objectives by:

- 4.1 Helping to build and maintain a prosperous society that properly balances the rights of individuals with the needs of business.
- 4.2 Integrating the policy aims and objectives with other initiatives, policies and strategies including culture, planning, transport, employment and crime and disorder reduction
- 4.3 Working to:-
- protect the well being of local residents
  - encourage young people to enjoy and take part in cultural activities
  - maintain a safe and family friendly environment in the Licensing Authority's administrative area
  - reduce crime and disorder
  - encourage tourism
  - encourage an early evening and night time economy which is viable and sustainable
  - reduce alcohol misuse
  - encourage employment
  - encourage the self sufficiency of local communities
  - reduce the burden of unnecessary regulation on business.
- 4.4 The Policy will seek to reflect local requirements and recognise the need to encourage and promote live music, dancing, theatre and other forms of entertainment for the wider cultural benefit of the Borough of Maidstone in general. Through consultation the Licensing Authority will monitor the impact of licensing on the provision of regulated entertainment, and particularly on live music and dancing.

## 5. **Licensing Act Guidance**

The Secretary of State for Culture, Media and Sport has produced guidance on the operation of the 2003 Act, the most recent being effective from March 2010. The Act does not compel the licensing authority to follow the guidance explicitly. The licensing authority may depart from the guidance and this policy if it needs to do so to promote the licensing objectives in a particular case. It will always give clear reasons for any such departure.

## 6. **Equality, Diversity and Race Relations**

In carrying out its licensing functions, including writing this policy, the licensing authority has regard to the Human Rights Act 1998, the requirement to promote racial equality, under the Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000 and to Section 17 of the Crime and Disorder Act 1998 and so far as may be possible the Local Crime Prevention Strategies formulated by the Crime and Disorder Reduction Partnership in the Council's area.

## **7. Relationship to the Planning Process**

The use of any licensed premises or places may be subject to planning controls. There are several key differences between licensing and planning control, although the regimes overlap. Licensing is concerned with detailed issues concerning the operation and management of the premises that are not addressed by the planning process, which relates to the use of premises, and their location.

The Licensing Authority expects that any planning issues will generally be resolved before the licensing application is made.

Licensing applications will not be a rerun of the planning application and licensing decisions will not cut across decisions taken by the Planning Committee or permission granted on appeal. It should be noted that there is no legal basis for the Licensing Authority to refuse a licence application because it does not have planning permission.

Where appropriate, regular reports will be made to the Planning Committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder.

## **8. Development of this Policy**

The Licensing Authority will give proper consideration to the views of all those who respond to consultation.

In reviewing this Policy Statement, the Council has consulted widely with the Chief Officer of Police for the area, the Fire & Rescue Authority for the area, persons/bodies representative of local holders of premises licences, persons/bodies representative of local holders of Club Premises Certificates, persons/bodies representative of local holders of Personal Licences and persons/bodies representative of businesses and residents in its area, along with the responsible authorities.

## **9. Ongoing Consultation**

The Licensing Authority will continue to work with the Kent Police, the Kent and Medway Fire and Rescue Authority and other responsible Authorities, current licence holders and bodies representing them who have a stake in the leisure industry, bodies representing businesses and residents in the area and other local authorities in Kent to ensure that the licensing objectives are addressed as consistently as possible throughout the county. It will also strive to meet the needs of communities in its area in promoting

the four licensing objectives.

The Licensing Authority attends the Night Time Economy Business Forum to which all responsible authorities, licensees, trade members, and members of trade associations are invited on a regular basis.

Both the Head of Democratic Services and the Chief Officer of the Police responsible for the Borough, will make an annual joint report to the Council and the Licensing Committee on the operation of the Policy.

## **10. Partnership Working**

As part of its overall Policy the Licensing Authority expects every holder of a licence, certificate or Temporary Event Notice to be responsible for minimizing any negative impact of their licensable activities and any anti-social behaviour by their patrons within the immediate vicinity of their premises.

Section 17 of the Crime and Disorder Act 1998 requires the Council to work in partnership with the Kent Police, and others, to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003 reinforces this duty. Holders of authorities under the Licensing Act 2003 should be aware that they may be responsible for the actions of their patrons if these are on their premises, directly outside or sufficiently close to the premises to have a direct causal link.

However, the licensing function is not the primary mechanism for controlling the anti-social behaviour of patrons once they have left the vicinity of a licensed premise and are beyond the direct control of the licensee. In these circumstances other mechanisms will be used, where appropriate, to tackle unruly or unlawful behaviour of patrons.

These may include:

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

The Council were satisfied that nuisance or annoyance had been caused to the public or disorder caused, associated with the consumption of alcohol. The Orders provide the Police with the power to require consumption to cease and confiscate containers. The areas covered by the Orders included:-

Area 1 – Town Centre Maidstone  
Area 2 – Snowdon Parade, Vinters Park  
Area 3 – Mote Park, Maidstone  
Area 4 – Northumberland Court, Maidstone  
Area 5 – Cumberland Green, Maidstone  
Area 6 – Barming Recreation Ground (also known as Barming Heath)  
Area 7 – Parkwood Green, Maidstone

- Partnership working with businesses, transport operators and other parts of the Council to create a safe and clean environment.
- Working in partnership with landowners, licensees and other interested parties, to seek to maximise CCTV coverage and effective street lighting, incorporating any late night transport drop off points, and along transport routes.
- Development of strategic routes, including strategically positioned catering facilities and mobile sanitary accommodation where there are a number of premises grouped in an area and where the sum total of patrons generates a need.
- Partnership working with the police, landowners, premises owners, Designated Premises Supervisors and others to ensure that patrons and the public in both urban and rural areas are safe when moving by foot to, from and about licensed premises.

#### 11. **Cumulative impact of a concentration of licensed premises**

The Licensing Authority will not take 'need' into account when considering an application, as this is a matter for the market and for development control. However, the cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the local authority to consider in its Policy. The cumulative impact of the number, type and density of premises, may lead to saturation of an area with premises of a certain type making them a focal point for large groups of people together leading to severe or chronic problems of public nuisance and anti social behaviour.

The licensing authority may consider the adoption of a **special saturation policy** of refusing new premises licences or club premises certificates and variations to them within a defined area or areas, unless there are exceptional circumstances where it has received a relevant representation about the impact of the application, if it is satisfied that it is appropriate and necessary to include such a policy in its Licensing Policy Statement. It will take

the decision only after it is satisfied that there is evidence to support such a decision.

Although the Licensing Authority does not consider that there is currently sufficient evidence to justify the adoption of a cumulative impact policy, they, and responsible authorities collect information and statistical data on an ongoing basis and the authority will consider reviewing this policy should evidence indicate this to be necessary.

The Licensing Authority will take the following steps in considering whether to adopt a special policy:

- Identify concern about crime and disorder or public nuisance;
- Consider whether there is good evidence that crime and disorder or nuisance are happening and are caused by the customers of licensed premises, or that the risk of cumulative impact is imminent;
- Identify the boundaries of the area where problems are occurring;
- Consult with those specified by section 5(3) of the 2003 Act, and subject to the outcome of the consultation;
- Subject to the consultation include and publish details of special policy in licensing policy statement.

The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or variations that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

Applicants would need to address the special saturation policy issues in their Operating Schedules in order to rebut such a presumption. Any special saturation policy will stress that the presumption does not relieve responsible authorities or interested parties of the need to make a relevant representation before the local authority may lawfully consider giving effect to its special policy.

The Licensing Authority recognises that many different kinds and styles of premises sell alcohol, serve food and provide entertainment. It recognises that some applications in special saturation areas will be unlikely to add significantly to the problems arising from saturation. Where it can lawfully make decisions on applications in special saturation areas, it will have full regard to the impact different premises may have on the local community.

The Licensing Authority must grant any application in a special saturation policy area in accordance with the operating schedule submitted by the applicant if it receives no relevant representation.

The Licensing Authority will review special saturation policies regularly to assess whether they are needed any longer or need expanding.

The absence of a special saturation policy does not prevent any responsible authority or interested party making evidence based relevant representations on a new application or variation for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

## 12. **Advice and Guidance**

The Licensing Authority, the Environmental Protection section of the Council, the Kent Police and Kent & Medway Fire and Rescue Service will offer as much advice and guidance to applicants as resources permit. Nevertheless applicants are advised to consult with them before submitting an application. If the Licensing Authority receives a representation from a responsible authority which is not satisfied with the steps set out in an operating schedule then the licensing authority may impose extra conditions at any hearing held to determine the application.

The Licensing Authority will also seek to liaise with applicants or mediate between applicants and those who make representations, to achieve a satisfactory outcome for all involved wherever possible and where resources permit. Where an applicant considers that representations may be likely or probable, it is recommended that the applicant discuss the proposal with the Licensing Authority and those from whom they think representations are likely prior to submitting their application. Once an application has been lodged, there are statutory timescales imposed upon the application and determination process, which restrict the opportunity for such discussions, liaison and mediation.

## 13. **Licences**

As the Licensing Authority, Maidstone Borough Council administers premises licences, personal licences, club premises certificates and temporary events notices relating to the sale of alcohol, regulated entertainment and late night refreshments. Regulated entertainment includes the following activities which a licensee provides to entertain an audience, a section of the public, or exclusively for the members of a qualifying club or their guests. The entertainment will be provided for payment or with a view of making a profit.

- a) A performance of a play
- b) An exhibition of a film (including recordings of sports matches and computer game graphics)
- c) An indoor sporting event
- d) Boxing or wrestling
- e) Provision of facilities for making music or dancing.
- f) A performance of dance.
- g) A performance of live music
- h) Playing of recorded music
- i) Entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance

Late night refreshment means supplying hot food or drink to members of the public between 2300 and 0500 hours. The food may be eaten on or off the premises. Mobile units also need licences.

The licensing authority accepts the right of any person to apply for a variety of permissions under the Act and to have the application processed in accordance with the Act.

Where the licensing authority has the ability to do so under the Act, following the receipt of a relevant representation, each application will be considered on its individual merits as well as against the relevant policy and statutory framework. The Policy accepts the right of any interested person to make representations objecting to or in support of any application or seek a review of a licence or certificate where they are permitted to do so under the Act.

The Policy concerns the regulation of licensable activities on licensed premises, including qualifying clubs, and at temporary events within the terms of the Act.

#### 14. **Temporary Event Notices**

Certain temporary events involving up to 499 people are licensed by notifying the Licensing Authority and Police using the Temporary Event Notice procedure. Only the police can object to a Temporary Event Notice on the grounds of crime and disorder. However,

depending on the nature and location of such events, these can have serious implications on the Licensing Objectives. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable to enable the police and the Licensing Authority to work with them to identify and reduce the risk of crime and disorder.

The Act requires that a minimum of 10 working days notice is given, but as guidance, the Licensing Authority considers and recommends that a reasonable period of notice for the service of a Temporary Event Notice is at least 28 days but not more than three months, prior to an event taking place. Some council departments have expertise in advising the organisers of temporary events in respect of issues such as crowd control and complex entertainment. Organisers may ask for this advice at the earliest possible opportunity by contacting the Licensing office.

A copy of the Temporary Event Notice must be submitted to the Police at Maidstone Police station, Palace Avenue, Maidstone, as well as notifying the Licensing Authority.

## 15. **Licensing Applications and the Application Process**

The Licensing Authority will welcome pre-application discussions which may help the decision making process

### 15.1 **The Application Process**

Every application received, whether for the issue of a personal or premises licence, variation or review will be treated in accordance with this Policy, the Act and the Guidance. If no relevant representations are received then the licence will be issued automatically with, in the case of a premises licence or club premises certificate, such conditions attached as are mandatory under the Act or are consistent with the operating schedule accompanying the application.

An application or notification for licensing purposes will be accepted as being valid only where it contains **all** of the detail specified by the Act or regulations and is accompanied where appropriate by the correct fee.

### 15.2 **Personal Licences**

All applicants for the grant of a personal licence will be required to undertake a criminal record check. Where a criminal record check discloses an unspent relevant conviction (see schedule 4 of the Act) and the Police object to the application on crime prevention grounds the Licensing Sub Committee will normally refuse such an application unless there are exceptional and compelling circumstances to justify

the granting of a licence.

### 15.3 Premises Licences

All applications for new premises licence or variations need to be supported by an operating schedule. The application form sets out the information which must be given in each application:

- a) Full details of the licensable activities to be carried on at and the intended use of the premises;
- b) The times during which the licensable activities will take place;
- c) Any other times when the premises are to be open to the public;
- d) Where the licence is only required for a limited period, that period;
- e) Where the licensable activities include the supply of alcohol the name and address of the individual to be specified as a designated premises supervisor;
- f) Whether alcohol will be supplied for consumption on or off the premises or both;
- g) Steps which the applicant proposes to promote the licensing objectives. The steps, which each applicant should consider carefully in completing the schedule, are set out in the headings for each licensing objective below (paragraph 18.2 onwards).

#### **Amusement with prizes machines**

- 15.4 The Gambling Act 2005 gives an automatic entitlement to two gaming machines for category C or D to the holders of a premises that are licensed for the sale of alcohol for consumption on the premises at a bar. The automatic entitlement may be rescinded under certain circumstances. Notification must be given to the Licensing Authority together with the appropriate fee. This notification will fail when the premises is transferred to another person or ceases to have effect. Under these circumstances a new notification must be given to the Licensing Authority and a fee paid.
- 15.5 Where the intention is to make more than 2 machines available for use, application must be made to the Licensing Authority. The Licensing Authority may restrict the number of machines on a premises if it appears that the licensing objectives under the Licensing Act 2003 or Gambling Act 2005 are not being promoted. An application fee and annual fee will need to be paid. However, this permit may be transferred with the premises licence.

Members' Clubs and Miners' Welfare Institutes may apply for Club Gaming and Club Gaming Machine permits. Commercial Clubs e.g. snooker clubs and night clubs cannot avail themselves of their permits.

### **Minor Variations**

- 15.6 In July 2009 further Regulations were passed to allow holders of Premises Licences and Club Premises Certificates to make variations to licences and certificates.

A minor variation may be appropriate to:

- **Make minor changes to the structure or layout of a premises;**
- **Make small adjustments to the licensing hours;**
- **Remove out of date, irrelevant or unenforceable conditions or the addition of volunteered conditions;**
- **Add certain licensable activities; and**
- **Reduce the licensing hours for the sale/supply of alcohol or to move (without increasing) the licensed hours between 07:00 and 23:00 hours.**

The impact of the minor variation application must not impact adversely on the licensing objectives.

Minor variations are not permitted if the hours for the sale or supply of alcohol are increased or if the effect of the variation is to move the hours for the sale or supply of alcohol between the hours of 23:00 and 07:00 on any day (notwithstanding that there is no increase in hours).

The Licensing Authority may consult with such responsible authorities as it thinks appropriate and must consider any representation made by an interested party.

When determining any application for a minor variation the Licensing Authority may receive valid representations if made within 10 days of the application. The Authority must make its determination within 15 days of the application. Should the Authority fail to determine the application within this time it is deemed to have failed. The decision as to whether to allow a minor variation rests with the Licensing Authority and may only be challenged by way of judicial review.

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

- 15.7 In July 2009 further Regulations were passed to allow the removal of the requirement for a Designated Premises Supervisor in a

Community Premises. The Management Committee of a Community Premises such as a church hall, chapel hall, village hall, parish hall, community hall or other similar building can now 'opt out' of the requirement to have a Designated Premises Supervisor when they either apply for a new Premises Licence or for the variation of an existing Premises Licence to include the sale/supply of alcohol. Also a Management Committee of a Community Premises with an existing Premises Licence that already includes the sale/supply of alcohol can apply to vary the Premises Licence to remove the requirement for a Designated Premises Supervisor without altering anything else.

- 15.8 There is the need to complete an additional form as well as the application form for a new or variation of a Premises Licence, requesting that instead of a Designated Premises Supervisor 'the alternative licence condition' is granted. There is no fee for this.
- 15.9 Where a Community Premises already has a Premises Licence that includes the supply/sale of alcohol and the Management Committee only wants to remove the requirement for a Designated Premises Supervisor and no other changes, only the new form needs to be completed to vary the Licence to have 'the alternative licence condition' granted. The appropriate fee must accompany the form.

### **Mandatory Conditions**

- 15.10 Alcohol-related violent crime, nuisance and disorder remain a serious problem in many areas in England and Wales. Those who retail or supply alcohol also have a responsibility to protect their customers, members, the public and communities.

The Policing and Crime Act 2009 allowed the Government to impose mandatory conditions with regard to the responsible retailing of alcohol. These conditions must be intended to support and actively promote the licensing objectives. The aim of the mandatory conditions is to ensure that those businesses, both small and large, who are selling alcohol irresponsibly, act more responsibly to help tackle alcohol-related crime and disorder.

The mandatory licensing conditions apply to all existing or future relevant premises where the licence authorises the sale/supply of alcohol.

The conditions *do not* apply where the licence or certificate authorises the sale by retail or supply of alcohol only from consumption *off the premises*.

Many of the proposed conditions involve restrictions on irresponsible practices or promotions and hence will not have any impact on those businesses that do not currently operate these types of practices or promotions. There are also some conditions which require premises

to adhere to particular good practice and these will also have an impact on some small businesses. The supply of alcohol by members clubs and miners welfare institutes is also included in the conditions.

15.11 For the purposes of this policy a responsible person will be considered to be:

- Premises licence holder
- Designated premises supervisor
- A person aged 18 or over who is authorised to allow the sale or supply of alcohol by an under 18
- A member or officer of a club present on the club premises who can oversee the supply of alcohol

15.12 A responsible person should be able to prove that they have taken reasonable steps to be compliant with the mandatory conditions.

Conditions 1 – 3 came into force on 6, April 2010

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

Irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children -

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -
  - (i) Drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
  - (ii) Drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

- (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on -
  - (i) the outcome of a race, competition or other event or process, or
  - (ii) the likelihood of anything occurring or not occurring;
- (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

Condition 2 states that the responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

Condition 3 states that the responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available. Whilst any prosecution will be assessed on its individual merit and in light of the Statutory Code of Practice for Regulators breaches of the mandatory conditions will always be viewed as serious and likely to be subject to enforcement action.

Two further mandatory conditions are due to come into force in October 2010 but may be removed following current consultation by Government these are:

Condition 4: The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

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

and Condition 5: The responsible person shall ensure that-

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

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

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

## **Adult Entertainment**

- 15.14 Where amendments to the Local Government (Miscellaneous Provisions) Act 1982 are adopted by the authority (consultation to take place soon) Premises that wish to provide adult entertainment by way of lap dancing, pole dancing or other types of activities involving nudity (relevant entertainment) are required to be licensed under the Local Government (Miscellaneous Provisions) Act 1982 unless they provide such entertainment less than 11 times in any rolling year and there is at least one calendar month between performances. Where this exemption applies the holders of authorities under the Licensing Act 2003 (premises licences, club premises certificates or temporary events notices) will be expected to implement measures to actively promote the four licensing objectives. In particular the Licensing Authority encourages measures that will protect children from moral, physical or mental harm.
- 15.15 Such measures may include the following however this list should not be seen as being exhaustive or exclusive:
- Measures to ensure that any adult entertainment cannot be viewed from the public highway or from any part of the premises not being used for adult entertainment. Such measures may include the screening of doors and windows or the screening of the stage area to reduce the field of vision in respect of the performance
  - A proof of age scheme where persons under the age of 18 years are required to provide photographic means of identification
  - The provision of door supervisors registered by the Security Industry Authority for the purposes of ensuring good behaviour during any performance and to ensure that age restrictions are complied with.
  - Measures to ensure that members of the audience are not permitted to be in physical contact with the performer. This may include a barrier or enforced sterile area immediately in front of the stage at a distance that will prevent contact.
- 15.16 Where premises licences or club premises certificates have conditions attached in respect of regulated entertainment in the form of adult entertainment such conditions will remain in force unless the premises are licensed for relevant entertainment under the Local Government (Miscellaneous Provisions) Act 1982. This is because it is anticipated that the conditions in respect of premises with relevant entertainment are likely to be stricter than those with regulated entertainment.

### **15.17 Hearings**

Where relevant representations are made a hearing will be held before the Council's Licensing Sub-Committee. The Licensing sub-committee will determine the application having regard to this Policy, the Licensing Act 2003, (in particular the licensing objectives), and any guidance and supporting regulations issued from time to time under the Act, any relevant representations and the applicant's submissions. The decision will usually be given to the applicant at the end of the hearing. The decision will be confirmed in writing as soon as reasonably practicable.

### **15.18 Conditions**

The Licensing Authority will take care to ensure that only necessary, proportionate and reasonable licensing conditions are on any licence or certificate. Either arising out of the operating schedule or when relevant representations are made. Any such conditions will primarily focus on the direct impact of the activities taking place at licensed premises, on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the vicinity. Conditions that might be relevant in the town centres may not be appropriate in rural areas – but each application will be considered on its merits. The conditions will cover only those matters that are reasonably within the control of individual licensees.

Most conditions will be drawn or adapted from the relevant Model Pools of Conditions set out in Annex D of the Guidance issued under s182 of the Licensing Act 2003. It may be necessary to impose Conditions not in the Model Pool when appropriate.

Where it can the Licensing Authority will avoid duplication with other regulatory regimes and legislation in attaching conditions to premises licences and club registration certificates.

Where legislation does not cover the particular circumstances of regulated entertainment at specific premises, then specific conditions may be imposed to address the licensing objectives.

### **15.19 Provisional Statement**

Someone with an interest in premises, which is or is about to be constructed for use for one or more licensable activities, or which is or is about to be extended or altered for that purpose, may apply for a provisional statement. Applications for provisional statements will be considered, subject to the provisions of the Act. The applicant for a provisional statement should seek advice from its legal advisor or the council's Licensing Officer.

## 15.20 Appeal

Applicants and those making representations in respect of applications and reviews to the Licensing Authority have a right of appeal to the Magistrates' Court against the Authority's decisions.

## 15.21 Further Information

If you need more details about the licensing process or making an application please contact the Licensing Officer on 01622 602028.

The Department of Culture, Media and Sport at:

[www.culture.gov.uk/alcohol](http://www.culture.gov.uk/alcohol).

Local Government Regulation at: [www.lacors.gov.uk](http://www.lacors.gov.uk)

The Licensing Authority's website is: [www.digitalmaidstone.co.uk](http://www.digitalmaidstone.co.uk).

see annex 5 for a list of useful contacts

## 16. Irrelevant, Frivolous, Vexatious and Repetitious Representations

The Licensing Authority will not consider representations which are irrelevant, made out of time or which are, in the Council's opinion, repetitious, frivolous or vexatious. Representations must be relevant before the Licensing Authority can consider them. This means that they must be:-

- made by a responsible authority or an interested party
- have some evidential link to the premises in question
- address one or more of the licensing objectives.

Representations can be made supporting the application, not just objecting.

**A responsible authority** means the police, the fire authority, the local planning authority, the Health and Safety Authority, the local authority responsible for minimising or preventing the pollution of the environment or of harm to human health, any body interested in protecting children from harm and any other Licensing Authority in whose area the premises are situated.

**An interested party** means a person living in the vicinity of the premises or a body representing people who live in that vicinity. It also means a person involved in a business in the vicinity of the premises or a body representing people who are involved in such a business.

The Policing and Crime Act 2009 introduced a number of measures which are relevant, or made changes, to the 2003 Act, including that elected members of licensing authorities to be included as interested parties and can now make representations or seek a review in their own right.

NB: Elected councillors are not required to live in the vicinity or in the same ward as the licensed premises they are making a representation about, and are not required to have been requested to act by any other person or body.

The term "member of the licensing authority" refers only to elected councillors, and not officers or other employees of the authority.

Officers will examine each representation on its merits to see whether it is relevant or whether any ordinary or reasonable person would consider it to be frivolous or vexatious. Full reasons for the refusal to consider the representation will be given to any one whose representation is disallowed.

A representation is repetitious if made in the same 12 month period as an earlier one and is identical or substantially similar to:-

- A ground for review specified in an earlier application for review in respect of the same premises licence.
- Representations considered by the Licensing Authority when the licence was first granted.
- Representations which would have been made when the application for the premises licence was first made but which were excluded at that time because of the issue of a provisional statement.

These repetitious representations will not be considered save in compelling circumstances or where a review occurs following a closure order.

## 17. **Reviews**

The Licensing Authority may review a licence on the application of any responsible authority or interested party who makes a relevant representation which relates to the Licensing Objectives. The Licensing Authority's role will be to administer the process and determine its outcome at a hearing where an evidential basis for the allegations made will need to be submitted.

The outcome of a review may be no action, warnings regarding future conduct, the modification, suspension for up to three months or revocation of the licence, the exclusion of a licensable activity from the scope of the licence, the removal of the designated premises' supervisor or a combination of these.

The Licensing Authority, Kent Police and Kent & Medway Fire & Rescue Service will give early warning to licence holders of any

concerns identified at premises and of the need for improvement where possible.

Responsible authorities and/or interested parties can apply for a review of a premises licence and evidence to justify such consideration would need to be presented to the Licensing Authority. Interested parties are therefore advised to keep records of incidents in relation to licensed premises in order to support the application for review.

## 18. **Enforcement**

The Local Authority delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can trade fairly. The administration and enforcement of the licensing regime is one of these services. The Licensing Authority follows and fully supports the principles of the Government's Statutory Code of Practice for Regulators designed to ensure effective and efficient public protection services. Specifically, the Licensing Authority is committed to accord with the principles of good enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner.

The Statutory Code of Practice for Regulators is based on the principles that businesses should:-

- Receive clear explanations from an enforcement authority of the steps they need to take and the period for compliance.
- Have opportunities to resolve matters before enforcement action is taken – unless immediate action is needed.
- Receive an explanation of their rights of appeal

The Licensing Authority will work closely with partners to assist licence holders to comply with the law and the four licensing objectives it seeks to promote. Proportionate but firm action will be taken against those who breach the conditions of their licence or persistently break the law.

The Licensing Authority has set clear standards of service and performance that the public and businesses can expect. The Licensing Enforcement Policy explains how the Licensing Authority will undertake its enforcement role effectively and fairly.

The Licensing Enforcement Policy and the Licensing Authority's corporate complaints procedures are available from the Council or the Licensing Authority's website: [www.digitalmaidstone.co.uk](http://www.digitalmaidstone.co.uk).

The Licensing Authority has an established protocol with Kent Police, Kent and Medway Fire and Rescue Service and Kent County Council Trading Standards on enforcement issues. This protocol provides for the targeting of resources for inspection and enforcement towards high risk premises and activities that require greater attention using a scoring scheme based on risk factors, whilst providing a lighter touch in respect of low risk premises.

The Licensing Authority will also carry out regular monitoring visits in and around licensed premises.

## 19. **Licensing Objectives**

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

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

Each section lists the concerns that might influence the achievement of promoting that objective with possible steps that may be of assistance in meeting those concerns. The lists of concerns and steps are not exhaustive because of the wide variety of premises and activities to which this Policy applies. Applicants should have regard to each of the four licensing objectives when writing their operating schedules.

Applicants know their premises best and will be expected to address the concerns that relate to the individual style and characteristics of their premises and activities as set out in their operating schedule.

Where applicants decide to incorporate an additional step to address the licensing objectives within their operating schedule they need mention it only once.

The Licensing Authority expects the selection of additional steps set out above to be based upon the applicant's thorough risk assessment of the premises, events, activities and the types and numbers of customers expected to attend.

Whilst the Licensing Authority cannot require such risk assessments to be documented (other than where required by other legislation) it does consider such documentation to be good practice and a useful tool, for instance in the instruction and training of staff.

A risk assessment can also be a sound basis for review by the licence holder, in the event of an application for variation or a response to changing circumstances/conditions at the premises. It may also be a

factor in the licence holder's favour following an application for review. In order to minimise potential problems and misunderstandings which can lead to hearings, applicants are advised to consult with the Licensing Authority when preparing their operating schedules. Applicants should note that, the environmental protection team of the Borough Council, the Kent Police, the Kent and Medway Fire and Rescue Authority and the Kent County Council (the responsible authorities) will examine all applications in order to assess whether they need to make representations on them.

#### 19.1 Addressing all four objectives

1. Applicants may consider taking additional steps when they plan a special event or promotion which is likely to attract larger audiences than usual.
2. The Licensing Authority considers the effective and responsible management of the premises, the instruction, training and supervision of staff and the adoption of best practice important for the achievement of all the Licensing Objectives. For this reason, the Licensing Authority will expect these elements to be considered by an applicant when completing an Operating Schedule.
3. The Licensing Authority will normally expect the premises licence holder to give the Designated Premises Supervisor (DPS) named in the operating schedule the day-to-day responsibility for running the premises. In addition to the DPS holding a personal licence, the Licensing Authority will normally expect the DPS to have additional training and experience commensurate with the nature and style of the operation of the premises.
4. Applicants for new or variations to late night licences will need to consider the orderly safe and swift dispersal of customers and possible impact on crime and disorder issues. The Licensing Authority will seek to encourage the controlled dispersal of customers, plans for which the Licensing Authority will expect to be considered in the Operating Schedules for licences.
5. Licensees are key partners in working towards the promotion of the Licensing objectives. In completing their Operating Schedules applicants will be expected to consider whether to put suitable and sufficient measures in place to promote those objectives. Those measures would be relevant to the individual style and characteristics of their premises, activities and events. It is only when well founded relevant representations are received, that the Licensing Authority may consider an application for a Premises licence. It will pay particular

attention at any hearing whether to impose extra conditions in addition to any which may already be included in the operating schedule, with a view to promoting the objectives.

## 20 Prevention of Crime and Disorder

### **Concerns**

The applicant should consider factors arising from the premises or the activities of their customers within the vicinity of the premises that may impact on the prevention of crime and disorder. These may include:

- Underage drinking
- Drunkenness on premises
- Public drunkenness
- Drugs
- Violent behaviour
- Anti-social behaviour

### **Additional Steps**

The following examples of additional steps are given as examples for applicants to consider in addressing the above concerns in the preparation of their Operating Schedule, having regard to their particular type of premises or activities:-

- Effective and responsible management of premises.
- Training and supervision of staff including the maintenance of training records.
- Adoption of current best practice guidance (some examples are Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit, and other voluntary codes of practice, including those relating to drinks promotions e.g. The Point of Sale Promotions published by BBPA).
- Acceptance of accredited 'proof of age' pass cards or 'new type' driving licences with photographs, passports or an official identity card issued by H M Forces and the implementation of the 'Challenge 21' or 'Challenge 25' scheme;
- Provision of effective CCTV in and around premises.
- Employment of Security Industry Authority licensed door staff. (If two or more are employed there must be at least one male and one female).
- Provision of toughened or polycarbonate glasses.
- Provision of secure deposit boxes for confiscated items ('sin bins').
- Provision of litterbins, security measures, e.g. lighting, outside premises.
- Membership of a Pub Watch scheme.
- The current 'Chill Out Hour' operating at the late night venues in the Borough of Maidstone which is the agreement whereby late

night venues cease to sell alcohol yet continue to provide music and dancing for a further hour (at a reduced volume and with the heavy bass beat removed) has proved to be a success in reducing late night crime and disorder.

- Membership of Maidsafe (Nite Net).

Within the application for premises from which alcohol will be sold, a Designated Premises Supervisor (DPS) must be identified and named. Examples of best practice would be for the operating schedule to cover:

- the DPS to be regularly on the premises;
- the DPS to have been given the day-to-day responsibility for running the premises by the premises licence holder. In addition to the DPS holding a personal licence;
- the DPS to have additional training and experience commensurate with the nature and style of the operation of the premises.

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

Certain temporary events are not required to be licensed but must be notified to the Licensing Authority and Police using the Temporary Event Notice procedure. However, depending on the nature and location of such events, these can have serious crime and disorder implications. Organisers of these events must submit their notification at least 10 working days before the event to enable the police and the Licensing Authority to work with them to identify and reduce the risk of crime and disorder.

## **21 The Promotion of Public Safety**

The Licensing Authority wishes to ensure the safety of everyone on licensed premises.

### **Concerns**

#### **Capacity**

Where existing legislation does not provide adequately for the safety of the public, club members or guests, the occupancy capacity for premises and events (to include performers and staff) may be an important factor in promoting public safety. Subject to the requirements of the following paragraph the Licensing Authority will expect the issue of occupancy capacity and adequate controls of the numbers of persons on premises or attending an event to be considered by an applicant when completing an Operating Schedule.

Where a relevant representation is received in respect of capacity the Licensing Authority will consider setting capacity limits in consultation with the Kent and Medway Fire and Rescue Authority for the following premises:

- Nightclubs
- Cinemas
- Theatres
- Other premises where regulated entertainment within the meaning of the Act is being provided.

The Regulatory Reform (Fire Safety) Order 2006 places a responsibility on the licence holder to carry out a risk assessment and appoint a competent person. This risk assessment should include a maximum capacity limit taking into account the activities undertaken on those premises and any extenuating circumstances such as special effects, clientele or restricted access

The Applicant might also consider the following concerns when assessing the appropriate capacity for premises or events in the Maidstone area. These could include:-

- The age, design and layout of the premises including means of escape in the event of a fire.
- The nature of the premises or event.
- The nature of the licensable activities being provided.
- The provision or removal of temporary structures, such as a stage or furniture.
- The number of staff available to supervise customers both ordinarily and in the event of an emergency.
- The customer profile (e.g. age, disability).
- The attendance by customers whose first language is not English.
- Availability of suitable and sufficient sanitary accommodation.
- The nature and provision of facilities for ventilation.
- The use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.

Where capacity is likely to be reached (such as on known busy evenings) and particularly where a special event or promotion is planned, the applicant will be expected to consider the arrangements that will be put in place to ensure that the capacity of the premises is not exceeded.

### **Additional Steps**

The following examples of additional steps are given for applicants to consider in the preparation of their Operating Schedule, having regard to their particular type of premises or activities:-

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

## 22 **Prevention of Public Nuisance**

Licensed premises can cause adverse impacts on communities through public nuisance. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from any nuisance caused by the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

The Licensing Authority will interpret 'public nuisance' in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

### **Concerns**

When addressing the issue of prevention of public nuisance, the applicant should consider those factors arising from the premises or the activities of their customers within the vicinity of the premises that may impact on the likelihood of public nuisance. These may include:-

- The location of the premises and their proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship.
- The hours of operation, particularly if between 23.00 and 07.00.
- The nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises.
- The design and layout of premises and in particular the presence of noise limiting features.
- The occupancy capacity of the premises.
- Last admission time.
- The steps the applicant has taken or proposes to take to ensure that staff leave the premises quietly.

- The steps the applicant has taken or proposes to take to prevent disturbance by patrons arriving or leaving the premises.
- Whether routes to and from the premises, on foot or by car or service or delivery vehicles, pass residential premises within the vicinity of the Premises.
- Whether other measures have been taken or are proposed such as the use of CCTV or the employment of registered door supervisors.
- The arrangements made or proposed for parking by patrons, and the effect of this parking on local residents.
- The likelihood of any violence, disorder or policing problems arising if a licence were granted.
- Whether taxis and private hire vehicles serving the premises are likely to disturb local residents.
- The siting of external lighting, including security lighting that is installed inappropriately.
- Whether the operation of the premises would result in increased refuse storage or disposal problems or additional litter in the vicinity of the premises and any measures or proposed measures to deal with this.
- The history of previous nuisance complaints proved against the premises, particularly where statutory notices have been served on the present licensees.

### **Additional Steps**

The following examples of additional steps are given as examples for applicants to consider in the preparation of their Operating Schedule, having regard to their particular type of premises or activities:-

- Effective and responsible management of premises.
- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance.
- Control of operating hours for all or parts (e.g. garden areas) of premises, including such matters as deliveries.
- Adoption of best practice guidance (e.g. Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics).
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices.
- Management of people, including staff, and traffic (and resulting queues) arriving and leaving premises.
- The incorporation of measures for ensuring the safe and swift dispersal of patrons away from premises and events without causing nuisance or public safety concerns to local residents.
- Effective ventilation systems to prevent nuisance from odour.
- Workplace smoking ban.

N.B. Where relevant representations are received which the Licensing Sub Committee consider material particular consideration

will be given to the impact on residential amenity of proposals for the provision of late night refreshment where these are either located in, or encourage people to move through, residential areas.

## 23 **Protection of Children from Harm**

The relaxation in the Licensing Act giving accompanied children greater access to licensed premises is seen as a positive step, which may bring about a social change in family friendly leisure but the risk of harm to children remains the paramount consideration. Clearly, this relaxation places additional responsibilities upon licence holders as well as upon parents and others accompanying children.

The protection of children from harm includes the protection of children from moral, psychological and physical harm and, in relation to the exhibition of films, the transmission of programmes by video or DVD. This includes the protection of children from exposure to strong language, sexual imagery and sexual expletives.

In certain circumstances children are more vulnerable and their needs will require special consideration. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, the unpredictability of their age and the lack of understanding of danger.

The Licensing Authority recognises Kent County Council Social Services, Mid Kent Area, District Office, Bishop's Terrace, Bishop's Way, Maidstone, Kent, ME14 1AF. as a body representing those responsible for, or interested in, matters relating to the protection of children from harm and competent to advise it on such matters. It is, therefore, a responsible authority for the purposes of Section 13(4) and Section 69(4) of the Act.

### **Concerns**

The applicant should consider those factors arising from the premises or the activities of their customers within the vicinity of the premises that may impact on the prevention of children from harm. These may include the potential for children to:-

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

## **Additional Steps**

The following examples of additional steps are given to assist applicants. The Licensing Authority considers them to be important matters that applicants should take account of in the preparation of their Operating Schedule, having regard to their particular type of premises and/or activities:-

- Effective and responsible management of premises.
- Provision of a sufficient number of people employed or engaged to secure the protection of children from harm.
- Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm.
- Adoption of best practice guidance (Public Places Charter).
- Limitations on the hours when children may be present, in all or parts of the premises.
- Limitations or exclusions by age when certain activities are taking place.
- Imposition of requirements for children to be accompanied by an adult.
- Acceptance of accredited 'proof of age' cards, 'new type' driving licences with photographs, passport, an official identity card issued by HM Forces or by an EU country bearing the photograph and date of birth of bearer.

N.B. In exceptional circumstances, where necessary, and only where the licensing authority has received relevant representations, it may impose conditions restricting access or excluding children from premises or part of licensed premises:-

- a) at certain times of the day, or
- b) when certain licensable activities are taking place, or
- c) to which children aged under 16 years should have access only when supervised by an adult, or
- d) to which unsupervised children under 16 will be permitted access.

Examples of premises where these conditions may be considered include those where:-

- a) There have been convictions for serving alcohol to minors or where there is some evidence of under-age drinking.
- b) There is a known association with drug taking or dealing.
- c) There is a strong element of gambling on the premises.
- d) Entertainment of an adult or sexual nature is commonly provided.
- e) There is a presumption that children under 18 should not be allowed (e.g. to nightclubs, except where under 18 discos are being held)

- f) Licensable activities are taking place during times when children under 16 may be expected to be attending compulsory full-time education.

In the case of film exhibitions, the Licensing Authority will expect licensees to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification (BBFC) or the Council.

In the case of a film exhibition that has not been classified, the Licensing Authority will expect the licensee to certify to the Council that an assessment of the suitability of the film for exhibition to children in accordance with the BBFC Guidelines has been carried out and that the Council prior to public viewing has confirmed this.

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

**1. Key Local Issues**

**1.1 The area in general**

**1.1.1 Transport**

Measures for ensuring the safe and swift dispersal of patrons away from premises and events is an important consideration for licensees and the responsible authorities in promoting all four licensing objectives.

The problems with local transport systems include:-

- Late night bus and train services into and within the Borough are virtually non-existent. This leaves taxis/private hire as the main method of 'public' transport, apart from private vehicles.
- The lack of transport creates a situation where there is increased footfall, particularly within the central core area of Maidstone, with the potential for ensuing disturbance to local residents.
- There may be conflict between the rights and needs of residents and the customers of licensed premises who walk home or to find food through residential streets late at night.

The lack of transport acts as a barrier to people who live in the rural areas from enjoying the entertainment facilities in the urban areas, and to non-residents from coming into the Borough at all.

During the life of this Policy the Council may impose conditions to meet requirements for street lighting and CCTV coverage for individual premises where relevant representations are received and these conditions are relevant and proportional.

The Council will also investigate ways of working in partnership to attempt to resolve transport issues (see partnership paragraph 10).

**1.1.2 Nightclubs and Late Night Venues**

A number of nightclubs operate within the town centre. They provide music and dancing with the sale of alcohol and occasional sales of food. Whilst catering for a number of patrons in comparison with all the other licensed establishments in the Borough, they could have a disproportionate impact on the four licensing objectives. There is some potential for further expansion of such late night entertainment across the Borough with the related risk of an increasingly negative impact on meeting the licensing objectives.

The following list shows examples of initiatives that the Council, the responsible authorities and the licensed trade have introduced through partnership working in order to reduce the impact of late night premises and establish good practice in the operation of such premises.

**a. Chill out Hour:**

Late night licensed premises are permitted by their licence to remain open beyond their finishing time for the sale of alcohol. The expectation is that premises will reduce the level of music especially bass beat to reduce temporary deafness to customers. All drinks and drinking vessels to be cleared away and then the bar to reopen for the sale of reasonably priced soft drinks tea, coffee and for food. This allows the slow and controlled dispersal of patrons.

**b. Late Night Forum:**

Meetings regularly arranged for licensees of late night premises and the enforcement agencies to address issues of mutual concern

**c. Spike Campaign:**

Promoting awareness in premises and with customers of the risk of date rape drugs in drinks administered by criminals on unsuspecting male or female patrons.

**d. Maidsafe:**

A Borough-wide scheme initiated by the police and Council to enable licensed premises to share and collate information re customers' behaviour.

**e. Drugs awareness:**

On going campaign with police with the co-operation of late night premises, including the use of Ion Track and passive dogs, to reduce the prevalence of illegal drugs and to create a safer atmosphere for patrons.

**f. Multi-agency enforcement and advice visits:**

An essential component of the Council's Regulatory strategy. Visits are carried out with the Police, Fire safety and rescue, Trading Standards and Officers of the Council. A high level visible presence gives assurance to the public, residents, patrons and staff of late night premises.

**g. Safer Socialising:**

Two elements in the reassurance strategy for both residents and patrons of licensed premises.

### 1.1.3 **Public Spaces and Outdoor Places**

The Council has licensed several public open spaces within the Borough in its own name and permits organised events on these as appropriate for entertainment. Alcohol is not included. This furthers the Council policy of actively seeking to encourage and promote live music, dance, circus and street arts. Where a public space has a premises licence event organisers will not need a temporary events notice or to hold a premises licence themselves. They will still need the permission of the Council to hold their event and the Council will seek to make sure that any such event itself promotes the licensing objectives.

The Council has standard guidance for event organisers. This can be obtained from Parks and Leisure. Please contact Parks and Leisure on 01622 602753 or by e-mail to [parksandleisure@maidstone.gov.uk](mailto:parksandleisure@maidstone.gov.uk)

The Council also encourages the placing of café style tables and chairs in the highway (in accordance with an appropriate licence from the Highways Authority).

**1. Licensing Enforcement Policy**

**1.1 Aim**

This Policy is intended to fairly and firmly enforce the law in a consistent and transparent way, and in accordance with the four licensing objectives: -

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm.

The Council will assist and advise wherever appropriate, but proportionate action will be taken against those who breach the provisions of the legislation.

The Council follows the provisions of the Government's Statutory Code of Practice for Regulators which can be found at <http://www.berr.gov.uk/files/file45019.pdf> and The Kent & Medway Licensing Enforcement Protocol (reviewed Mar 2006) which can be supplied on contacting 01622 602028 .

**1.2 Liaison with Regulatory Agencies**

The Council will work actively with the Police and other bodies (Fire and Rescue Service, Customs and Excise, Trading Standards, Child Protection, Health and Safety Executive, Security Industry Authority, Crown Prosecution Service, etc), in enforcing the licensing legislation. This will necessitate the sharing of information in relation to those persons involved in licensing and relevant premises based on the requirements of the Licensing Act 2003, Criminal Justice and Police Act 2001, Anti-Social Behaviour Act 2003, Criminal Justice and Public Order Act 1994, Crime and Disorder Act 1998 and other relevant legislation.

There are various statutory provisions that enable the Council to exchange relevant information with other bodies. These provisions will be used as appropriate.

This Enforcement Policy in no way restricts other regulatory bodies from carrying out enforcement under their own regulatory powers.

**1.3 Licensing Visits**

Council Officers will make licensing visits to premises, and may on occasion be accompanied primarily by the Police and or other regulatory agencies.

Both the Council and the other relevant agencies firmly believe that working with business is the primary method to achieve the licensing objectives, but will take appropriate enforcement action if necessary.

The visiting regime for premises is not decided solely on a risk assessment basis. The Council will, as part of its proactive stance, make regular visits to and in the vicinity of licensed premises in order to assess the impact of their operation on residents and other businesses in the area.

The Council will monitor patron movement to, from and between premises and the provision and accessibility of transport to assist dispersal of persons away from licensed premises. The information gained from these monitoring exercises will inform the development of the Councils' Licensing Policy statement.

#### **1.4 Consistency**

The Council and its officers will act in a fair and consistent manner. Council Officers whilst exercising their professional judgment in individual cases will do so within a framework based on consistency and fairness in action.

There will be specific circumstances when the Council will share an enforcement role with the Police or other agencies. When this occurs the same degree of consistency and fairness will be applied.

#### **1.5 Proportionality**

The Council, Police and other enforcement agencies will, as far as the law allows and where co-operation is given, work with business/ licensees to enable them to meet their legal obligations without undue cost.

The Council will take into account the cost of compliance by ensuring that any enforcement or remedial action required is proportionate to the risks. However clear breaches of the legislation may attract prosecution and /or recommendation for review of the licence where it is deemed to be in the public interest.

#### **1.6 Enforcement Action/Options**

1. The initial contact between Council and Business/Licensees will normally be informal, with the provision of advice, guidance and support.

2. Enforcement action can include the following progressive approach to achieve compliance:-

- Verbal advice- which may be documented
- Written advice
- Verbal warning-which will be documented
- Written warning
- Statutory Notice
- Formal Caution
- Prosecution

The individual circumstances of the breach of the legislation will determine the level of enforcement.

In the case of a premises licence a responsible authority may ask for a review. All actions will be considered in accordance with the requirements of the Human Rights Act 1998 and considered on its individual merits.

On conviction of a relevant offence Magistrates may endorse, suspend or revoke a Personal Licence.

Council Officers, Police or Crown Prosecutors may, relating to such a conviction, remind the Magistrates of their powers to endorse, suspend or revoke a Personal Licence

3. When prosecution is being considered, the relevant enforcement bodies will decide on a case-by-case basis, which is the lead authority to prosecute the offence.

Regard will be taken of the Code of Practice made under Section 10 Prosecution of Offences Act 1985 and issued by the Crown Prosecution Service. Due consideration will be given to any guidance and/or advice issued by Government, Local Authority Association and other professional and technical bodies. Statements will be provided as regard to evidence from one agency to another as necessary.

Before deciding whether to prosecute the following factors will be considered:-

- The seriousness of the alleged offence
- The history of the business/person concerned
- The willingness of the business/individual to prevent a reoccurrence of the problem and the level of co-operation with Council Officers, Police and/or other agencies.
- Whether it is in the public interest to prosecute.
- The realistic prospect of conviction.

- Whether any other action (including a formal caution) would be appropriate.
- The views of any complainant and other parties with an interest in a prosecution.

The Council takes a proactive stance towards the proper regulation, and enforcement of the provisions of this legislation. The Council will normally take the lead on issues including: -

- Noise
- Production and display of relevant licences and documents.
- Unauthorised licensable activities in relation to the provision of regulated entertainment.
- Breaches of conditions of premises licences.
- Breaches of requirements under Temporary Events Notices.
- Exposing and keeping of alcohol on premises for unauthorised sale.

Other breaches of the Act will be dealt with either directly or jointly as indicated above. The Council will give full cooperation to any other agency in carrying out their investigations.

**1. Exercise and Delegation of Functions**

All decisions on licensing matters under the 2003 Act, with the exception of the approval and review of the statement of licensing policy will be taken in accordance with the following scheme of delegation aimed at underlining the principles of timely efficient and effective decision making.

**Delegation of Functions**

<b>Matter to be dealt with</b>	<b>Licensing Committee</b>	<b>Licensing Sub-Committee</b>	<b>Head of Democratic Services</b>
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application 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.		Non Straightforward cases which the Commercial Health Manager or the Head of Legal and Democratic Services consider should be referred to the Sub Committee	To decide on Straightforward cases in consultation with Head of Legal and Democratic Services
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	
Application for a minor variation			All cases

This form of delegation is without prejudice to officers referring an application to a sub committee, or a sub committee to a full committee, if considered appropriate by the Licensing Manager or Sub Committee in the circumstances of the particular case and where permitted by legislation.

Where officers have used delegated powers they will provide summary reports to the Licensing Committee each year.

## **Consultees**

- a) Kent Police and the British Transport Police
- b) Kent and Medway Fire and Rescue Authority
- c) Persons/bodies representative of persons who are local holders of premises licences
- d) Persons/bodies representative of persons who are local holders of club premises certificates
- e) Representative of persons who are local holders of personal licences
- f) Persons/bodies representative of business and residents in the area
- g) All Borough Councillors
- h) All Parish Councils

The views of these persons/bodies listed will be given appropriate weight when the policy is determined.

## Useful Contacts (organisations)

### **Association of Convenience Stores (ACS)**

<http://www.thelocalshop.com/tls/index.asp>

Federation House,  
17 Farnborough Street,  
Farnborough,  
Hampshire,  
GU14 8AG.

**Email:** [acs@acs.org.uk](mailto:acs@acs.org.uk)

### **Association of Licensed Multiple Retailers (ALMR)**

<http://www.almr.org.uk/>

9B Walpole Court,  
Ealing Studios,  
London  
W5 5ED  
Tel: 020 8579 2080  
Email: [info@almr.org.uk](mailto:info@almr.org.uk)

### **Association of Town Centre Managers (ACTM and Purple Flag)**

<http://www.atcm.org/>

ATCM,  
1 Queen Anne's Gate,  
Westminster,  
London  
SW1H 9BT  
[office@atcm.org](mailto:office@atcm.org)

### **British Beer and Pub Association (BBPA)**

<http://www.beerandpub.com/>

British Beer & Pub Association  
Market Towers  
1 Nine Elms Lane  
London  
SW8 5NQ  
Tel: 020 7627 9191  
[web@beerandpub.com](mailto:web@beerandpub.com)

### **British Board of Film Classification (BBFC)**

[www.bbfc.co.uk](http://www.bbfc.co.uk)

3 Soho Square,  
London

W1D 3HD  
contact the [bbfc@bbfc.co.uk](mailto:bbfc@bbfc.co.uk)

**British Institute of Inn Keeping (BII)**

<http://www.bii.org/>  
Wessex House,  
80 Park St., Camberley,  
Surrey,  
GU15 3PT,  
**Tel:** 01276 684449

**British Retail Consortium (BRC)**

<http://www.brc.org.uk/default.asp>  
21 Dartmouth Street,  
London  
SW1H 9BP  
Tel: 0207 85 8900

**Circus Arts Forum**

[www.circusarts.org.uk](http://www.circusarts.org.uk)  
[info@circusarts.org.uk](mailto:info@circusarts.org.uk)

**Cinema Exhibitors' Association (CEA)**

<http://www.cinemauk.org.uk/>  
22 Golden Square  
London  
W1F 9JW  
Tel: 0207 734 9551

**Department for Culture, Media and Sport** (see links to the Licensing Act 2003, Explanatory Notes, Guidance and Regulations)

[www.culture.gov.uk](http://www.culture.gov.uk)  
[enquiries@culture.gov.uk](mailto:enquiries@culture.gov.uk)  
2-4 Cockspur Street  
London  
SW1Y 5DH

**Equity**

<http://www.equity.org.uk/>  
Head Office  
Guild House  
Upper St Martins Lane  
London  
WC2H 9EG

Telephone: 020 7379 6000  
Email: [info@equity.org.uk](mailto:info@equity.org.uk)

**Independent Street Arts Network**

[www.streetartsnetwork.org.uk](http://www.streetartsnetwork.org.uk)

54 Chalton Street,  
London  
NW1 1HS.

**Institute of Licensing (IOL)**

<http://www.instituteoflicensing.org/>

**Institute of Licensing**

45 Larcombe Road  
St Austell  
Cornwall  
PL25 3EY

**Justices Clerks' Society**

[www.jc-society.co.uk](http://www.jc-society.co.uk)

**E-mail:** [secretariat@jc-society.co.uk](mailto:secretariat@jc-society.co.uk)

**Tel:** 0151 255 0790

**LACORS**

<http://www.lacors.gov.uk/>

[info@lacors.gov.uk](mailto:info@lacors.gov.uk)

**Licensed Victuallers Associations (LVAs)**

<http://www.flva.co.uk/>

Federation of Licensed Victuallers Associations,  
126 Bradford Road,  
Brighouse,  
West Yorkshire  
HD6 4AU

**National Association of Local Government Arts Officers**

<http://www.nalgao.org/>

**nalgao**

Oakvilla,  
Off Amman Road,  
Brynamman,  
Ammanford,  
Neath  
SA18 1SN

**Phone & Fax:** 01269 824728

**NOCTIS** (Formerly Bar, Entertainment and Dance Association (BEDA))

<http://www.noctisuk.org/>

5 Waterloo Road  
Stockport  
Cheshire, UK  
SK1 3BD

**The Portman Group**

[www.portman.org.uk](http://www.portman.org.uk)

[info@portmangroup.org.uk](mailto:info@portmangroup.org.uk)

0207 290 1460

The Portman Group,  
4th Floor,  
20 Conduit Street,  
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