

Is the final decision on the recommendations in this report to be made at this meeting?

No**Licensing Compliance and Enforcement Policy**

Final Decision-Maker	Licensing Committee
Head of Service	John Littlemore
Lead Officer/Report Author	Lorraine Neale
Classification	Non-exempt
Wards affected	All

This report makes the following recommendations to the final decision-maker:

1. To recommend to Communities, Housing and Environment Committee the adoption of the Licensing Compliance and Enforcement Policy attached as Appendix A.
2. To delegate to the Head of Service to make any typographical or similar minor amendments to appendix A prior to publication.

This report relates to the following corporate priorities:

- Great People
- Great Place
Great Opportunity

Timetable (* please delete those not applicable)

Meeting	Date
Licensing Committee	29 September 2016
Communities, Housing and Environment Committee	13 December 2016

Licensing Compliance and Enforcement Policy

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report updates Members on the proposed Compliance and Enforcement policy to be introduced across the Licensing Partnership. A service specific policy will help to ensure that consistency can be applied across the Licensing Partnership through the harmonisation of policies.
 - 1.2 It is best practice that the Council reviews the policies on Compliance and Enforcement processes from time to time to ensure the most current information and guidance is made available to applicants, and that the policy takes into consideration the most recent legislation and resources available to the Licensing Partnership.
 - 1.3 If agreed by Members, the revised policy will be referred for adoption by the Communities, Housing & Environment Committee on 13 December 2016.
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2. INTRODUCTION AND BACKGROUND

- 2.1 Maidstone Borough Council as the Licensing Authority has responsibility for licensing and registering a range of functions in the interests of public safety and protection. As such, we have a moral and legal duty to continue upholding the requirements of various legislation by which we are governed.
- 2.2 It is best practice to be transparent and concise in how we, as the Licensing Authority achieve compliance and enforcement. It is important to review our policy, including our approach to compliance and enforcement matters to reflect change over time, changes in resources and to reflect changes in legislation in order to maintain public confidence and continue to achieve public safety and prevent offences being committed under the various Acts.
- 2.3 A Compliance and Enforcement Policy enables clarity on the position of licence holders, what is expected of them, steps the Licensing Authority would expect them to take to rectify an issue and steps we may take to resolve an issue in relation to non-compliance and offences under various Acts.
- 2.4 The draft Policy at appendix A if adopted will also act as new guidance to Members of the Licensing Committee/Sub-Committee when making decisions on the status of a licence. The guidance will outline actions that are reasonable and proportionate to ensure decisions are fair, in the public interest and proportionate and that any decision taken is defensible.
- 2.5 Compliance and enforcement is important to maintain integrity and confidence in the various licensing regimes to prevent anyone obtaining an unfair advantage through unlicensed activities and to ensure the security and safety of the public.
- 2.6 Some functions in which we have a duty to ensure requirements, regulations and various licensing objectives are upheld include:
 - (a) hackney carriage and private hire drivers and vehicles and private hire operators;
 - (b) alcohol, entertainment and late night refreshment;
 - (c) charity collections;
 - (d) sex establishments;
 - (e) gambling premises, permits and lottery registrations;
 - (f) scrap metal dealers and collectors.
 - (g) street trading

This Licensing Compliance and Enforcement Protocol seeks to cover all relevant licensing functions and all related topics.

- 2.7 The proposed revised Policy closely follows that of Kent and Medway Licensing Compliance and Enforcement Protocol (Appendix B) which has been used as a guide for Maidstone, the Licensing Partnership, partnership authorities and agencies. The revised policy will provide a service specific protocol and harmonise the way in which the Councils' officers regulate licensing functions and ensure consistency and fairness across the Partnership.
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3. AVAILABLE OPTIONS

- 3.1 Adopt a specific Compliance and Enforcement Policy to reflect the current legislation and the resources available in relation to the Licensing Partnership. This encompasses a wider range of enforcement requirements relating to licensable activities in order to achieve public safety and enable a consistent approach across the Partnership (Option 1).
- 3.2 To retain the existing umbrella policy in isolation, however this would not fulfil the needs of the Licensing Partnership to enable greater harmonisation of policies and consistency of approach or be service specific (Option 2).
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Option 1: To introduce a Service specific up-to-date Enforcement and Compliance Policy to encourage consistency across the Partnership and working towards the service objectives of harmonisation of policies where feasible.
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5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 No consultation is required by the statutory framework, as this matter relates to the operational implementation.
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6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 If Members consider and approve the proposed recommendation, the policy will come into effect once it has been adopted by the Communities, Housing & Environment Committee. The Policy will then be published on the Council's website.
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7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	No issues identified	[Head of Service or Manager]
Risk Management	No issues identified	[Head of Service or Manager]
Financial	Where it is possible and considered appropriate, compliance costs are passed to the user, in line with the "user pays" principle adopted by the	[Section 151 Officer & Finance Team]

	<p>council. Costs that cannot be passed to the user are already in the base revenue budgets of the council and this updated policy is not anticipated to affect these budgets.</p> <p>There is always financial risk associated with enforcement, but having clear policy guidance is one of the tools available to mitigate the risks.</p>	
Staffing	No issues identified	[Head of Service]
Legal	<p>Decisions in relation to a licence holder are likely to amount, amongst other things to consideration of civil rights and obligations under the human rights act 1998. This policy assists in ensuring that these rights are fully considered.</p> <p>A reasonable and proportionate, policy will ensure that officers consider and take action against infringements of legislation in a robust, consistent and transparent manner which will assist in reducing the risk of legal challenge.</p>	[Legal Team]
Equality Impact Needs Assessment	Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups. The decisions recommended through this paper fall in line with the legislation and do not pose a risk to issues surrounding equality and existing policies	[Policy & Information Manager]
Environmental/Sustainable Development	No issues identified.	[Head of Service or Manager]
Community Safety	No issues identified	[Head of Service or Manager]
Human Rights Act	No issues identified	[Head of Service or Manager]

Procurement	No issues identified	[Head of Service & Section 151 Officer]
Asset Management	No issues identified	[Head of Service & Manager]

3 **REPORT APPENDICES**

The following documents are to be published with this report and form part of the report:

- Appendix A - Draft Licensing Compliance and Enforcement Policy
 - Appendix B - Kent Licensing Compliance and Enforcement Protocol 2014
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4 **BACKGROUND PAPERS**

None