

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Chief Executive

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NB - This agenda contains proposals, recommendations and options. These do not represent Council policy or decisions until they have received proper consideration through the full decision making process.

Contact: Committee Services
committee.services@tmbc.gov.uk

16 January 2019

To: MEMBERS OF THE LICENSING AND APPEALS COMMITTEE
(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the Licensing and Appeals Committee to be held in the Civic Suite, Gibson Building, Gibson Drive, Kings Hill, West Malling on Thursday, 24th January, 2019 commencing at 7.30 pm

Yours faithfully

JULIE BEILBY

Chief Executive

A G E N D A

PART 1 - PUBLIC

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MEMBERSHIP

Cllr Mrs J A Anderson (Chairman)
Cllr D Keers (Vice-Chairman)

Cllr O C Baldock
Cllr Mrs S M Barker
Cllr M C Base
Cllr Mrs P A Bates
Cllr Mrs B A Brown
Cllr M A Coffin
Cllr B T M Elks

Cllr Mrs F A Kemp
Cllr S M King
Cllr H S Rogers
Cllr R V Roud
Cllr M Taylor
Cllr F G Tombolis

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Apologies for absence

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Declarations of interest

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TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS COMMITTEE

Tuesday, 27th November, 2018

Present: Cllr Mrs J A Anderson (Chairman), Cllr D Keers (Vice-Chairman), Cllr O C Baldock, Cllr Mrs P A Bates, Cllr Mrs B A Brown, Cllr M A Coffin, Cllr Mrs F A Kemp, Cllr H S Rogers, Cllr R V Roud and Cllr M Taylor

Councillor N J Heslop was also present pursuant to Council Procedure Rule No 15.21.

Apologies for absence were received from Councillors Mrs S M Barker, M C Base, S M King and F G Tombolis

PART 1 - PUBLIC

LA 18/107 DECLARATIONS OF INTEREST

There were no declarations of interest in accordance with the Code of Conduct.

LA 18/108 MINUTES

RESOLVED: That the Minutes of the meeting of the Licensing and Appeals Committee held on 2 October 2018 be approved as a correct record and signed by the Chairman.

MATTERS FOR RECOMMENDATION TO THE COUNCIL

LA 18/109 REMOVAL OF PROBATIONARY LICENCES FROM HACKNEY CARRIAGE AND PRIVATE HIRE POLICY - CONSULTATION

Further to Minute LA 18/105, the report of the Director of Central Services and Monitoring Officer gave details of the outcome of the consultation on the Hackney Carriage and Private Hire Licensing Policy with all references to the probationary driver licence removed. This included four responses from the Licensing team reflecting the change in delegations from the recently amended Constitution and the need to have regard to new guidelines published by the Institute of Licensing. Consideration was given to the revised Policy containing the proposed changes.

RECOMMENDED: That the draft Hackney Carriage and Private Hire Licensing Policy set out at Annex 1 to the report be approved by the Council.

***Referred to Council**

**DECISIONS TAKEN UNDER DELEGATED POWERS IN
ACCORDANCE WITH PART 3 OF THE CONSTITUTION
(RESPONSIBILITY FOR COUNCIL FUNCTIONS)**

LA 18/110 REVIEW OF LICENSING FEES AND CHARGES 2019/20

The report of the Director of Central Services and Monitoring Officer presented proposed fees and charges for 2019/20 in respect of hackney carriage and private hire licences, pleasure boats and boatmen, scrap metal dealers, animal welfare licences, street trading consents, sex establishments and acupuncture/tattooing.

It was noted that the provisions of the European Union Services Directive had been taken into account in setting the fees, together with a recent judgment of the Supreme Court which clarified the type of costs that could properly be covered. Whilst taxi licensing was exempt from this ruling, Annex 2 to the report set out details of the fee model showing officer cost and time in validating, processing, issuing and enforcement cost where applicable.

It was noted that animal welfare licence applications were being monitored and an update would be presented to the next meeting.

RESOLVED: That the proposed scale of fees for licences, consents and registrations, as set out in Annex 1 to the report, be adopted with effect from 1 April 2019.

LA 18/111 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 7.50 pm

TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

24 January 2019

Report of the Director of Central Services and Monitoring Officer

Part 1- Public

Delegated

1 STATEMENT OF LICENSING POLICY 2019 - 2024 CONSULTATION

1.1 Introduction

- 1.1.1 Tonbridge and Malling Borough Council is the Licensing Authority under the Licensing Act 2003. The Licensing Authority is responsible for granting premises licences, club premises certificates, temporary events notices and personal licences within the Authority's area in respect of the sale and/or supply of alcohol, the provision of regulated entertainment and late night refreshment.
- 1.1.2 Section 5 of the Licensing Act 2003 requires the Licensing Authority to prepare and publish a Statement of Licensing Policy every five years from January 2014. This is the Licensing Authority's fourth statement of licensing policy. It will remain in force for a period of five years from 2019 - 2024. During the five year period, the policy must be kept under review and the Licensing Authority may make such revisions to it as it considers appropriate.
- 1.1.3 Tonbridge and Malling Borough Council currently has 386 premises made up of 356 premises licenses and 30 club premises certificates.
- 1.1.4 This Policy Statement seeks to formulate reasonable controls and appropriate guidance to encourage efforts that are being made by the Council and its partners working together with the licensed trade to help deal with issues that arise from licensable activities.
- 1.1.5 A copy of the Statement of Licensing Policy is shown at **Annex 1**
- 1.1.6 A copy of the feedback form for the Statement of Licensing Policy is shown at **Annex 2**
- 1.1.7 The following process steps enabled development of this policy

Draft consultation agreed at the Licensing Committee 24 January 2019

Public Consultation 25 January 2019
until 1 March 2019

Licensing Committee agrees the policy and recommends to Full Council for adoption	12 March 2019
Full Council adopt policy	9 April 2019
New Policy comes into force	15 April 2019

1.2 Legal Implications

- 1.2.1 The Statement of Licensing Policy has been prepared in accordance with Section 5 of the Licensing Act 2003 and having regard to the Guidance issued under Section 182 of the Act (as revised).

1.3 Financial and Value for Money Considerations

- 1.3.1 The Licensing Income budget for 2017 – 2018 is £320,400

1.4 Risk Assessment

- 1.4.1 Should parts of the Industry believe the authority's 'statement of licensing policy' is not sound it would be open to them to undertake judicial review proceedings.

1.5 Equality Impact Assessment

- 1.5.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.6 Recommendations

- 1.6.1 That the draft Statement of consultation, attached as **Annex 1**, be approved and sent out for consultation.

Background papers:

Contact: Anthony Garnett

Licensing Act 2003

Home Office web site

Guidance issued under section 182 of the Licensing Act 2003 (revised)

Current Statement of Licensing Policy

Adrian Stanfield

Director of Central Services and Monitoring Officer



Statement of Licensing Policy

2019 – 2024

All applications will be considered on their merits, as well as against the relevant policy and statutory framework

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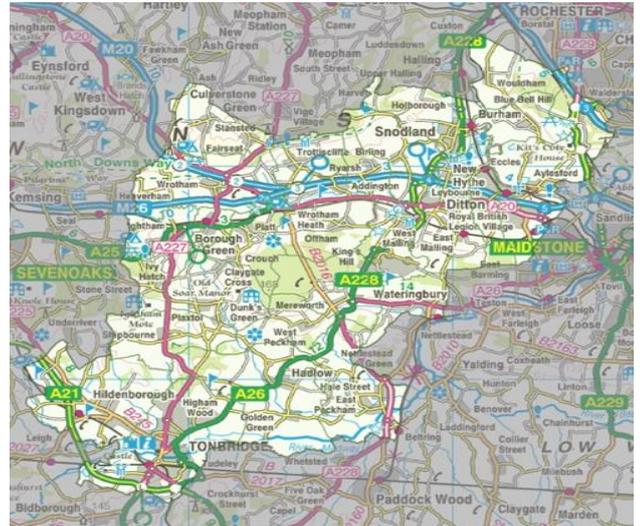
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INTRODUCTION

This is the Statement of Licensing Policy as determined by the Council in respect of its licensing functions, with regard to the Licensing Act 2003. This document sets out the position and view of the Licensing Authority in respect of matters in connection with the discharge of its licensing function.

This Statement of Licensing Policy commences on the 10 April 2019 and continues for a five year period. During the five year period the Policy will be kept under review and the Authority will make such revisions to it at such times as it considers appropriate. Further licensing statements will be published every five years thereafter or earlier as necessary.



All references to the 'Guidance' refer to the latest version of the Home Office Guidance to Licensing Authorities issued under section 182 of the Licensing Act 2003.

The 2003 Act requires the Licensing Authority to carry out its various licensing functions so as to promote the following four licensing objectives:

- **the prevention of crime and disorder;**
- **promotion of public safety;**
- **the prevention of public nuisance;**
- **the protection of children from harm.**

The aims of this Statement of Licensing Policy, in line with the four licensing objectives, are to:

- minimise nuisance and disturbance to the public through the licensing process;
- help build a fair and prosperous society that properly balances the rights of people and their communities;
- integrate its aims and objectives with other initiatives, policies plus strategies that will:

- reduce crime and disorder;
- encourage tourism;
- encourage an early evening and night time economy which is viable, sustainable and socially responsible;
- reduce alcohol misuse;

- encourage employment;
- encourage the self-sufficiency of local communities;
- reduce the burden of unnecessary regulation on business;
- encourage and promote live music, dancing and theatre for the wider cultural benefit of communities generally.

The Licencing Authority will endeavour to work with other Local Authorities to ensure that a consistent approach is taken in licensing matters, whilst respecting the differing needs of individual communities throughout the local authority area.

This policy covers a wide variety of premises and activities carried on within them. For this reason, this policy cannot detail all the factors that influence the achievement of the licensing objectives nor can this policy detail all the control measures that may be appropriate. However, there will be zero tolerance of dealing in or using controlled drugs (as defined by the Misuse of Drugs Act 1971) on licensed premises.

1 CONSULTATION

- 1.1 The Statement of Licensing Policy will be kept under review and where any significant amendments are considered necessary these will only be made after consultations have taken place in accordance with Section 5 of the Licensing Act 2003, and the subsequent amendments made to the Act by the Police & Social Responsibility Act 2011 section 122. Amendments required due to a change in legislation that do not impact on the aims and objectives of the Policy or the promotion of the Licencing Objectives will be made with the approval of the Licensing Manager in order for the policy to remain legislatively current.
- 1.2 Proper weight, in accordance with the Guidance, has been given to the views of all those consulted. Those consulted in the preparation of this Policy included:
- the Chief Officer of Police for Kent
 - the Kent Fire and Rescue Service
 - one or more persons who appear to the authority to represent the interests of persons carrying on licensed businesses in the council area
 - one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act
 - any other bodies the Local Authority deemed appropriate
 - members of the public who requested to be consulted and have responded previously.

1.3 In accordance with the guidance the following persons have also been consulted on this revised statement:

- all Council members
- all parish councils
- all bordering local authorities
- Kent Police Licensing Team
- all responsible authorities under the Licensing Act 2003
- British Beer & Pub Association

1.4 **The Statement of Licensing Policy**

1.4.1 The following process steps enabled development of this policy

Draft consultation agreed at the Licensing Committee	24 January 2019
Public Consultation	25 January 2019 until 1 March 2019
Licensing Committee agrees the policy and recommends to Full Council for adoption	12 March 2019
Full Council adopt policy	9 April 2019
New Policy comes into force	15 April 2019

THE POLICY

2 BACKGROUND

2.1 When administering licensing matters the Licensing Authority will promote the four Licensing Objectives set out in Part 2, section 4 of the Licensing Act 2003.

The four licensing objectives are:

- Prevention of Crime and Disorder
- Prevention of Public Nuisance
- Promotion of Public Safety
- Protection of Children from Harm

The Licensing Authority gives equal weight to each of these objectives.

2.2 The 2003 Act requires Licensing Authorities to publish a 'Statement of Licensing Policy' (the Policy) that sets out the approach the Licensing Authority will take when administering applications and other processes under the Licensing Act 2003 to ensure the promotion of the licensing objectives.

2.3 This Statement of Licensing Policy has been prepared in accordance with the provisions of the 2003 Act having regard to the amended guidance issued under section 182 of the Act the Police Reform and Social Responsibility Act 2012, the Live Music Act 2012 and the Deregulation Act 2015.

2.4 Tonbridge & Malling Borough Council is the Licensing Authority pursuant to the Licensing Act 2003 (the Act) and is responsible for considering a range of licence applications and variations to licences for a number of activities detailed below. The purpose of licensing is to regulate the licensable activities taking place on licensed premises, at qualifying clubs and under temporary event notices, (TENs). The activities as defined by the Act are:

- Sale by retail of alcohol
- supply of alcohol (club)
- The provision of regulated entertainment which includes:
 - the performance of a play
 - an exhibition of a film
 - an indoor sporting event
 - boxing or wrestling entertainment
 - a performance of live music
 - playing of recorded music
 - performance of dance
 - Provision of late night refreshment

2.5 It should be noted that following the introduction of the Live Music Act 2012, a licence is not required to stage a performance of live music, or the playing of recorded music if:

- it takes place between 8AM and 11PM; and
- it takes place at an alcohol on-licensed premises; and
- the audience is no more than 500 people

You also don't need a licence:

- to put on unamplified live music at any place between the same hours; or
- to put on amplified live music at a workplace between the same hours and provided the audience is no more than 500 people.

2.6 The types of premises likely to be included within the licensing regime include:

- Pubs and night clubs
- Off licences (includes supermarkets/shops selling alcohol)
- Restaurants serving alcohol
- Restaurants/Takeaways serving hot food and drink after 11pm
- Private members clubs/social clubs
- Hotels/guest houses selling alcohol
- Cinemas/theatres
- Community premises and village halls
- Providers of temporary events involving licensable activities

and any other premises at which licensable activities are to be provided.

2.7 The Policy will apply across a range of applications which include the following:

- New Premises Licences and Club Premises Certificates
- Variations to Premises Licences and Club Premises Certificates
- Provisional Statements for proposed premises yet to be built
- Transfer of Premises Licences
- Disapplication of mandatory condition in respect of alcohol sales at village halls and community premises
- Variations of licences to change the Designated Premises Supervisor
- Reviews of Premises Licences and Club Premises Certificates
- Personal Licences
- Temporary Events Notices

2.8 The Licensing Authority also regulates other activities at licensed premises which include sexual entertainment events and gambling.

3 LICENSING AUTHORITY GENERAL POLICY CONSIDERATIONS

- 3.1 The Licensing Authority encourages the development of premises which are not alcohol-led and which are aimed at different sectors of the population, including all ages and genders. Premises that promote the arts, offer food, or other cultural activities are particularly encouraged.
- 3.2 Where premises such as pubs are alcohol-based, they are encouraged to consider diversifying their provisions so as to encourage a mixed customer-base and wider attractions, including community uses, soft refreshments, snacks and live entertainment. Diversification is important in the promotion of the licensing objectives as well as ensuring a sustainable economic future for premises.
- 3.3 The Licensing Authority recognises the need to promote and encourage live and recorded music, dancing, theatre and other forms of entertainment for the wider cultural benefit of communities generally. The potential for limited disturbance in neighbourhoods will be carefully balanced with the wider benefits.
- 3.4 Pre application advice is available from licensing officers upon request and where appropriate. The Licensing Authority expects that applicants will have in advance researched and understood the relevant Law in relation to their application and their particular business plans as well as this Policy. It is not for licensing officers to determine the business needs and capabilities of an applicant but advice can be offered in relation to the licensing objectives. In addition guidance notes are available on the licensing pages of Council's website – <https://www.tmbc.gov.uk/landing/licensing>
- 3.5 Licensing officers will also provide advice to other parties on the licensing process where needed in relation to objecting to or supporting applications that may affect them. However, Tonbridge & Malling Borough Council cannot provide legal advice to applicants or other parties.
- 3.6 Supermarkets and other 'off' licensed premises selling alcohol: the Licensing Authority will generally consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises throughout their opening times. However where there are reasons for restricting or amending hours, for example, where premises become the focus of disorder and disturbance, such restrictions or amendments will be considered where relevant representations have been made.
- 3.7 All 'off' licensed premises must comply with the Licensing Act 2003 Mandatory Conditions Order in relation to age related sales. The Licensing Authority also expects such premises to consider any appropriate and proportionate additional measures to prevent and deter proxy sales on behalf of under 18's.
- 3.8 Premises licence holders should also carefully consider alcohol sales to customers who have or appear to have alcohol related health issues, and whether those customers already appear under the influence of alcohol when attempting to make purchases.

- 3.9 The Licensing Authority expects adequate checks to be made and all reasonable steps taken to ensure alcohol delivered by way of online shopping services (as provided by most large supermarket chains) is not delivered to minors to prevent a risk of underage consumption.
- 3.10 Where self-pay till points are made available in stores selling alcohol, provision must be considered for alcohol sales to be identified and approved prior to completion of the purchase.
- 3.11 The Licensing Authority expects the premises licence holder or DPS to provide training to staff in relation to alcohol sales. The DPS will authorise competent employees to sell alcohol on their behalf in writing.
- 3.12 The Licensing Authority expects that a DPS should usually have responsibility for only one licensed premises at a time to ensure good management of the premises and the licensable activities. Where the same person is a nominated DPS on more than one premises licence and representations are made, the Licensing Authority will wish to satisfy itself that the premises in question can properly be managed by that person whilst responsibly promoting the licensing objectives.
- 3.13 Film Exhibitions - The Licensing Authority expects premises licence holders or club premises certificate holders to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the licensing authority itself.
- 3.14 Live Music - It is acknowledged the implementation of the Live Music Act in 2012 has resulted in a light touch regulation of live music up to 11pm on alcohol licensed premises. This is seen as a positive approach for premises wishing to provide live music. However, the Licensing Authority does not see this as an opportunity for the premises licence holder to provide live music events that cause nuisance and disturbance to local residents or businesses.
- 3.15 The Licensing Authority expects that where unregulated live music is proposed at licensed premises, all due care and consideration is taken to prevent disturbance.
- 3.16 Deregulated Entertainment. Where the further deregulation of schedule 1 of the Licensing Act has reduced the regulatory controls on some regulated entertainment activities, the Licensing Authority will expect premises licence holders to ensure that no nuisance or disturbance is caused to local residents and businesses when providing the deregulated activities.
- 3.17 Late Night Levy (LNL). Whilst it is acknowledged that the provisions for implementing a late night levy arise from the Police Reform and Social Responsibility Act 2011, any levy will potentially have a direct impact on all licensed premises within the Borough. The Licensing Authority has considered the options around the imposition of a LNL and has no plans at the

time of drafting this policy to consider an imposition of the levy. Should evidence arise to support implementing a levy the statutory consultation process will be followed and the authority will use its discretion very carefully in relation to design and impact of a levy.

- 3.18 In advance of any decision to implement a LNL, this authority will enter into discussions with the Police with a view to agreeing the allocation of the Police share of the levy to support the policing of the night time economy within this Borough .
- 3.19 Early Morning Alcohol Restriction Order (EMARO). The Licensing Authority has considered the options around the imposition of an early morning alcohol restriction order and has no plans at the time of developing this policy to consider such an Order. There is currently evidence of low levels of alcohol related crime and disorder, nuisance and anti-social behaviour within the Borough which is decreasing. Should evidence arise to support implementing an EMARO, the statutory consultation process will be followed and the matter referred to the Full Council for determination.
- 3.20 **Licensing and planning permission. The use of a licensed premises or place may be subject to planning controls. This is a separate regulatory regime outside the scope of the Licensing Act 2003. The Licensing Authority recognises that there is no legal basis for refusing a licence application in the absence of any planning permission for the business to which the licence application relates. However, all applicants should be in possession of the necessary planning authorisation.**
- 3.21 Need for licensed premises and Cumulative Impact. 'Need' concerns the commercial demand for particular licensed premises such as a pub, club or hotel. This is a 'market forces' matter and is not of concern to the Licensing Authority. 'Cumulative Impact' means the potential impact on the promotion of the licensing objectives by a significant or excessive number of licensed premises concentrated in one locality. This is a matter for consideration by the Licensing Authority.
- 3.22 The Licensing Authority acknowledges that a concentration of some types of licensed premises in a locality can result in increased footfall, congregation of the public in the streets and potential for increased crime and disorder, litter and anti-social behaviour, as well as noise nuisance to local residents. This would be a result of the presence of the number of premises and not attributable to individual businesses. Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation
- 3.23 The Licensing Authority, having regard to the evidence available, considers that currently there is no particular part of the Borough where there is a negative cumulative impact of licensed premises on any of the licensing objectives. If residents or a Responsible Authority

(in particular the Police) provide relevant evidence through a representation in the future that supports the imposition of a Policy that restricts the number of new and/or later opening premises, this will be considered and consulted on.

- 3.24 The absence of an existing cumulative impact or saturation policy does not, however, prevent any responsible authority or other person making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. The Licensing Authority will also take into account the effect on resources, including police resources, to cope with any influx of visitors to an area, particularly late at night.

4 RESPONSIBLE AUTHORITIES AND OTHER PERSONS

- 4.1 Responsible authorities are public bodies that must be notified of applications by the applicant. Where an application is made online the responsibility will fall on the Licensing Authority to serve the application on the Responsible Authorities. The full list and contact details can be found at Appendix A and are contained on the Tonbridge & Malling Borough Council web-site <https://www.tmbc.gov.uk/landing/licensing>
- 4.2 When dealing with applications and variations for licences and reviews of premises licences, the Licensing Authority is obliged to consider representations from two categories of persons, referred to as 'Responsible Authorities' and 'Other Persons'. This allows for a broad range of people to comment both for and against applications for premises licences, club premises certificates and for reviews.
- 4.3 The Licensing Authority may only consider representations that are relevant to the promotion of the licensing objectives.
- 4.4 The Licensing Authority will take care to ensure that concerns raised by Responsible Authorities in relation to their own legislative functions are not taken into account if they are not relevant to the application for a premises licence under the Act, or the promotion of the licensing objectives. It would expect those authorities to use their powers and duties within their statutory roles to control such matters. Any representation made by a Responsible Authority that relates to the promotion of the licensing objectives will be accepted.
- 4.5 The Licensing Authority must give the appropriate amount of weight to representations made by the Police on crime and disorder matters. The Police are the Licensing Authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. The Licensing Authority will accept all reasonable and proportionate representations made by the Police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives.
- 4.6 Where an 'Other Person or Persons' request to be represented when seeking to make a representation, the Licensing Authority will require written evidence from the person/s being represented that they have authorised a third party to speak or write on their behalf.

- 4.7 The Licensing Authority will examine closely all representations to ensure that they are not frivolous, repetitive or vexatious. Matters that this authority will look at are likely to include:
- whether there is a history of making representations that are not relevant or which have been previously considered vexatious or frivolous and are intended to cause aggravation or annoyance
 - whether the representation raises a 'relevant' issue
 - whether the representation raises issues specifically to do with the premises and/or the licensable activities that are the subject of the application.
- 4.8 The above considerations are not exhaustive, and the Licensing Authority will have regard to anything a person making a representation, or persons representing them, say about his or her status to make representations. Nothing in this Policy should be taken to undermine the right of any person to make a representation on an application or to seek a review of a licence where provision to do so exists.
- 4.9 The Public Health Authority is now included on the list of Responsible Authorities. It is acknowledged that they may be useful in providing evidence of alcohol related crime and disorder or public nuisance etc. that are directly linked to premises or a cluster of premises. It may also be able to provide relevant information on alcohol related admissions that relate to specific licensed premises.
- 4.10 The Licensing Authority as a Responsible Authority. The Licensing Authority has carefully considered its role as a Responsible Authority under the Act. It will achieve a separation of responsibilities through procedures and approved delegations within the authority to ensure procedural fairness and eliminate conflicts of interest. A separation is achieved by allocating distinct functions (i.e. those of Licensing Authority and Responsible Authority) to different officers within the licensing team.
- 4.11 The Licensing Authority does not expect to act as a Responsible Authority on behalf of third parties but accepts that there may be rare circumstances where this approach may be required. An example may be where matters arise at premises of which the licensing authority is aware of the negative impact on the promotion of the licensing objectives and residents, and other third parties have failed to take action by either requesting a review or making representation.

5 EXCHANGE OF INFORMATION

- 5.1 The Licensing Authority will act in accordance with the provisions of the Licensing Act 2003, General Data Protection Regulation 2018, and the Data Protection Act 1998 in its exchange of information. Where a protocol is established to set out the mechanism for exchange of information with other regulatory bodies, any such protocol will be made publicly available.

6 HUMAN RIGHTS AND EQUAL OPPORTUNITIES

- 6.1 The Human Rights Act 1998 makes it unlawful for a local authority to act in a way which is incompatible with the European Convention on Human Rights. In making decisions and determining appropriate action the council will have due regard to the Convention. The Licensing Authority will interpret the Licensing Act 2003 in a manner consistent with the Human Rights Act 1998.
- 6.2 The Licensing Authority will consider the effect upon people's human rights and adopt a principle of proportionality and the need to balance the rights of the individual with the rights of the community as a whole. Action taken by the council which affects another's rights must be no more onerous than is necessary in a democratic society.
- 6.3 The Equality Act 2010 requires public bodies to consider all individuals when carrying out their day to day work – in shaping Policy, in delivering services and in relation to their own employees. It requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different people when carrying out their activities.
- 6.4 The Equality Duty supports good decision making – it encourages public bodies to understand how different people will be affected by their activities, so that their policies and services are appropriate and accessible to all and meet different people's needs. By understanding the effect of their activities on different people, and how inclusive public services can support and open up people's opportunities, public bodies can be more efficient and effective. The Equality Duty therefore helps public bodies to deliver the Government's overall objectives for public services.

7 COMPLIANCE AND ENFORCEMENT

- 7.1 There are a range of offences detailed under Part 7 of the Licensing Act 2003. The Licensing Authority will liaise with the Responsible Authorities to determine enforcement of specific offences on a case by case basis. Offences related to sales of alcohol to minors will be enforced by the Police or Trading Standards Authority unless they form part of a range of offences identified by the Licensing Authority.
- 7.2 The Licensing Authority has an approved Licensing Enforcement Policy which complies with the Regulators' Code and it has also adopted the Kent and Medway Enforcement Protocol.
- 7.3 A risk-based inspection programme is in place, which includes the targeting of high risk premises which require greater attention, whilst operating a lighter touch in respect of low risk and well managed premises. The risk-based approach is based on Home Office Guidance; the activities authorised and premises compliance history.
- 7.4 Annual fees and suspension of licences for non-payment. - The Licensing Authority is required under section 55A of the Licensing Act to suspend premises licenses where the annual fee has not been paid. The Licensing Authority will invoice each premises licence holder when the annual fee is due setting out the fee that is due and the consequences for non-payment. Where

the fee has not been paid or there has been no claim of administrative error by the end of 21 days of the due date, the Licensing Authority will serve the required 7 working day notice to suspend the licence.

- 7.5 Where a licence is suspended no licensable activities will be authorised to take place at the premises until the suspension is lifted on receipt of payment of the overdue fee. Officers will conduct enforcement visits to premises where a licence has been suspended and will take the appropriate action in accordance with the council's enforcement policy.
- 7.6 If an operator does not wish to carry on the activities that require the premises licence or certificate anymore it is important the licence or certificate is surrendered to prevent maintenance fees being accrued.

8 NEW PREMISES LICENCES

- 8.1 In making decisions about applications for licences the Licensing Authority will have regard to:
- the Licensing Act 2003
 - the Statutory Guidance issued under section 182 of the Licensing Act 2003
 - the Statement of Licensing Policy made under section 5 of the Licensing Act

any decision made that departs from guidance or policy will be set out in the decision notice stating the reasons why the Licensing Authority departed from the guidance or policy.

- 8.2 Where elements of applications are unclear or unspecific, particularly in relation to operating schedules and trading hours, the Licensing Authority will expect the applicants to provide additional information for clarity on a request.
- 8.3 Licensing officers will routinely check that the Public Notices at the premises and the Public Notices in newspapers are displayed in accordance with the regulations as part of the public notice process.
- 8.4 Licensing officers will also notify ward councillors to whose ward the application relates, and the parish council for the relevant parish of receipt of an application via the weekly premises tracker.
- 8.5 Where there are no relevant representations have been received, the licence will be automatically granted after 28 days or at the end of the public notice period. Licensing officers will interpret the detail of the operating schedule and convert it into consistent enforceable licence conditions.
- 8.6 Where relevant representations are received the application will be referred to the Licensing panel and appeals committee for determination at hearing, unless all parties agree that a hearing is not necessary. Where applications result in the need for a hearing the process at section 16 of this policy will apply.

9 VARIATIONS TO LICENCES

- 9.1 From time to time premises licence holders may wish to change the nature of the business, vary the trading hours or the licensable activities on offer. These can range from minor changes having little or no impact such as minor changes to the premises plan to more significant changes that will affect the promotion of the licensing objectives. These could include for example; the provision of additional activities and longer and later trading hours. However where a variation is so substantial that it significantly changes the nature of the business and layout of the premises it is likely that a new premises licence application will be required rather than a variation.
- 9.2 The relevant parts of this Policy to be applied to significant variation applications is the same as for new premises licence applications at section 8 above.
- 9.3 Where applications are made for minor variations, Licensing officers will consider whether there is any impact on the promotion of the Licensing Objectives. Where the variation proposed creates a significant impact on the promotion of the Licensing Objectives the application will be rejected and the applicant advised to seek a standard variation.
- 9.4 Where minor impact or no impact is considered Licensing officers will consult with the relevant (if any) responsible authorities.

10 VARIATIONS TO SPECIFY A NEW DESIGNATED PREMISES SUPERVISOR (DPS)

- 10.1 The Licensing Authority expects that usually the nominated DPS on a licence will be involved in and supervising the day to day operation of licensed premises that sell alcohol. Where the person nominated as DPS ceases to undertake that role the Licensing Authority would expect the premises licence holder to replace that person as soon as is reasonably practicable to maintain adequate control of the premises.
- 10.2 Where a DPS notifies the Licensing Authority that he or she has resigned, the licensing officers will enter into immediate discussion with the premises licence holder in relation to the mandatory conditions concerning the sale of alcohol, and provide appropriate advice to prevent unauthorised alcohol sales.
- 10.3 All applications to specify a new DPS must be made by the licence holder or by a person/body authorised in writing to act on the premises licence holder's behalf.
- 10.4 Where there are no representations the default position is to grant the variation.
- 10.5 The Licensing Authority will give appropriate weight to relevant representations received from the Police about a proposed DPS. Applications that receive relevant representations will be referred for a hearing at which point the Licensing panel and appeals committee may approve or reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so.

11 TRANSFERS OF PREMISES LICENCES

- 11.1 Before a licence transfer can be processed, the Licensing Authority usually expects consent to have been obtained from the previous premises licence holder. If this is not possible the applicant will be expected to demonstrate that he or she has taken all reasonable steps to secure consent to transfer the licence.
- 11.2 It is acknowledged that in some cases premises licence holders leave premises and do not provide any forwarding contact details, or there has been a death or incapacity of the licence holder. In such cases where a premises licence holder cannot reasonably be contacted to give approval, a licence will be transferred in accordance with the requirements of the Act.
- 11.3 Where a relevant Police objection to the transfer is received the application will be determined through the hearings process unless it is agreed by the applicant and Police as unnecessary.

12 PROVISIONAL STATEMENTS FOR PREMISES

- 12.1 A provisional statement may be applied for, by a person interested in a premises, where a proposed licensed premises has yet to be built or altered for the purpose of becoming a licensed premises. This option allows potential applicants advance notice of whether a premises licence is likely to be granted on completion of its construction or conversion.
- 12.2 The process for considering an application for a provisional statement is the same as that for a premises licence application, including a schedule of works. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and other parties may make representations and there are rights of appeal.
- 12.3 The holder of a provisional statement may apply for a premises licence once the premises are constructed, altered or acquired. The Licensing Authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, where the application is for a licence in the same form as the provisional statement and the work described in the schedule of works has been satisfactorily completed. Representations are excluded where:

Where the relevant person could have made the same or substantially the same representations about the provisional statement application but failed to do so without reasonable excuse and there has been no material change in circumstances of the premises or area in the vicinity of the premises since the provisional statement.

13 CLUB PREMISES CERTIFICATES

- 13.1 The Licensing Authority acknowledges the importance and history of members clubs and the privileged position held by clubs historically in relation to alcohol licensing.
- 13.2 Members clubs are able to obtain a club premises certificate to authorise licensable activities for their members and their guests. There is no requirement for any members to hold a personal licence under the Licensing Act 2003, and there is no requirement to specify a designated premises supervisor. It is acknowledged that alcohol is supplied by and for the members through their membership of the club.
- 13.3 In order to apply for a club premises certificate the Licensing Authority must be satisfied that the club is a qualifying club and satisfies the legal conditions set out in the Act. Applicants for a club premises certificate will be required to complete a club declaration form setting out how the club will meet the conditions and definitions stated in the Act. Licensing officers will have delegated authority to make additional enquiries where appropriate in order to satisfy that a proposed club meets the criteria laid out in the Act.
- 13.4 The fundamental principles for premises licence applications set out at section 15 of this Policy will apply to applications for club premises certificates subject to exemptions in respect of the DPS and the requirement for evidence of the club's status.
- 13.5 Any qualifying club wishing to offer licensable activities at events to which non-members will attend will be required to authorise such activities by way of a Temporary Event Notice or by ensuring compliance with the club rules to allow the public to enjoy the clubs facilities and activities without jeopardising the validity of the club premises certificate.
- 13.6 The Licensing Authority expects 'public' events on club premises to be authorised by a Temporary Event Notice. It is expected that club committee members will seek advice from the Licensing Authority prior to providing such activities for non-members to prevent any unauthorised activities.
- 13.7 Where the Licensing Authority identifies that a club no longer meets the conditions set out in section 62 of the Licensing Act 2003 or where the Licensing Authority obtains evidence to demonstrate that a club no longer acts in good faith as a qualifying club, it will give the club a notice withdrawing the club premises certificate.
- 13.8 Suspension of Club Premises Certificates may also occur under section 92A of the LA2003, failure to pay annual fee.

14 REVIEW OF A PREMISES LICENCE OR CLUB PREMISES CERTIFICATE

- 14.1 The Licensing Authority acknowledges that matters can arise at premises that raise concern as to the continued promotion of the licensing objectives at licensed premises.
- 14.2 The Act allows a licence to be reviewed where such matters arise. It is expected that most reviews will be applied for by Responsible Authorities.
- 14.3 Although this Licensing Authority is also a Responsible Authority and may bring about a review application, it is not expected that it will act as a Responsible Authority on behalf of other parties (for example, local residents, local councillors or community groups).
- 14.4 Such parties can make relevant representations to the Licensing Authority in their own right, and it is reasonable for the Licensing Authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and the Licensing Authority is aware of relevant grounds to make a representation, it may consider acting in its capacity as Responsible Authority.
- 14.5 The Licensing Authority will determine whether a review application is relevant and the validity of a review application will be determined by a licensing officer. This will be on the basis of whether the request for the review is relevant to the matters listed below:
- relevant to one or more of the licensing objectives
 - Not frivolous, vexatious or repetitious.
- 14.6 The Licensing Authority would expect grounds for a review to be evidence based but will consider each application on its merits.
- 14.7 Where a review application is accepted the Licensing Authority will encourage the parties to enter into mediation during the consultation period to help resolve or narrow issues arising. The Council would be happy to assist in these meetings being chaired by a member of their team but all parties may choose to have a different third party as a mediation chairperson.
- 14.8 All reviews, save where agreed by all parties as unnecessary, will lead to a hearing before the Licensing panel and appeals committee. This may be a full hearing or a condensed hearing to consider the outcome of mediation. However other parties who have made representation but not been involved in mediation will be permitted to voice their representations at the hearing in accordance with the Hearings Regulations. The Policy applied to hearings can be found in section 16.

15 APPLICATION TO VARY PREMISES LICENCE AT COMMUNITY PREMISES TO REMOVE THE MANDATORY REQUIREMENT FOR A DPS.

- 15.1 The Licensing Authority acknowledges the value that local community premises bring to their localities and that most are operated and managed by volunteers. The mandatory requirement for a nominated DPS to be in place at alcohol licensed community premises can be burdensome and difficult for an individual to manage at such premises.
- 15.2 The Act allows management committees at community premises to take over the responsibility of the alcohol sales by applying to the Licensing Authority to remove the requirement to have a nominated DPS at the premises to authorise sales of alcohol. The Licensing Authority will, subject to strong evidence that a community premises is well managed by an experienced committee, support applications to remove the mandatory condition requiring all alcohol sales to be authorised by a personal licence holder.
- 15.3 Before considering an application the Licensing Authority will satisfy itself that a premises meets the definition of a community premises. Enquiries will be made as to the regular use of the premises and whether it is in the main 'community' based. Where there is a regular 'commercial' or 'non-community based' use or a membership requirement to use the premises it is unlikely that such a premises would meet the definition of a community premises and permission to remove the requirement for a DPS is likely to be refused.
- 15.4 In general it is expected that premises that form part of a church hall or chapel hall or are a village, parish or community hall or other similar building would in most cases meet the definition of a community premises, although each will be considered on its individual merits and the evidence provided or obtained.
- 15.5 The Licensing officers will consider, on a case by case basis, all applications to remove the mandatory condition and will ask such questions or seek the necessary evidence to confirm the suitability of the management committee to collectively authorise the supply of alcohol the premises.
- 15.6 Committees that make an application will be expected to have members who are aware of the law relating to the sale of alcohol, contain steps within their operating schedule to prevent offences relating to alcohol sales and also to include appropriate rules in hiring agreements where the premises is hired out to the public for events that will involve the sale of alcohol.

16 HEARINGS

- 16.1 Any application that has resulted in the submission of relevant representation from any party will be referred to the Licensing Sub-Committee for a hearing and determination in accordance with the 2003 Act and the Licensing Act 2003 (Hearings) Regulations 2005.
- 16.2 A sub-committee will consist of 3 suitably trained members of the Licensing Committee. The sub-committee will be advised on the law by a member of the Council's Legal Services Team. That legal team member will not be involved in the application process to prevent a conflict of interest by ensuring a clear separation of roles.
- 16.3 This Policy will play a key role in achieving consistency in decision making.

- 16.4 Where representations are made only by Responsible Authorities, the Licensing Authority would expect applicants and Responsible Authorities to enter into negotiation or mediation prior to a hearing in an attempt to resolve or narrow issues before attending the licensing hearing and to achieve an outcome satisfactory to all parties.
- 16.5 Parties will be advised of the hearing date and procedure in advance and in accordance with the statutory process. At all hearings the Licensing and appeals committee sitting as a panel will have regard to the Guidance issued under section 182 of the Act. This authority may use its discretion where there are strong and defensible reasons for departing from the Guidance and where it considers it right to do so. In any such case this Licensing Authority will clearly express and explain its reasons for doing so.
- 16.6 The Licensing Authority must give appropriate weight to representations made by the Police on crime and disorder matters. It will give appropriate weight to all representations made by all parties based on the content and relevance to the promotion of all licensing objectives.
- 16.7 All decision notices will be in writing and will include all considerations taken when making the decisions.

17 LICENCE CONDITIONS

- 17.1 A key concept in the Licensing Act is that conditions that are attached to licences or certificates are tailored to suit the individual style and characteristics of the premises and its activities and the impact of those activities. Those conditions must be appropriate and proportionate in order to promote the licensing objectives at that premises.
- 17.2 All licences that authorise the sale of alcohol will be subject to the mandatory conditions set out in the Act and Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 and the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2014)
- 17.3 Applicants will be expected to include appropriate steps to promote the licensing objectives within their operating schedule which may be converted to conditions which are then placed on the premises licence or club premises certificate.
- 17.4 Where applications receive valid representations and are subject to a hearing, the Licensing and appeals committee sitting as a panel will consider the evidence provided within representations, the detail of the application, the nature of the premises and business and only where appropriate and proportionate will attach conditions to a licence to secure the promotion of the licensing objectives in light of the evidence provided.
- 17.5 Decisions on individual licence conditions will be made on a case by case basis, and where there are concerns over the effective promotion of the licensing objectives, the applicant will be given the opportunity to offer suggestions on how the objectives can be met. The Licensing Authority will work closely with all parties and the applicant in establishing workable, enforceable and reasonable conditions for new and variation applications.
- 17.6 In all cases the Licensing Authority will have regard to the Guidance when considering the implementation of licence conditions.

- 17.7 In all cases conditions will promote the licensing objectives, be unambiguous and enforceable, appropriate to the activities and the business, achievable and applicable to the premises and the areas around the premises which is within the premises licence holders control.
- 17.8 The Licensing Authority recognises the need to avoid, so far as possible, duplication with other regulatory systems including Health and Safety at Work, Fire Safety, Food Hygiene and Nuisance Control. However these regulations may not cover the unique circumstances of some activities and entertainment. In these circumstances, the council may therefore, where necessary, attach conditions to premises licenses for the promotion of the licensing objectives.

CONDITIONS TO PROMOTE THE PREVENTION OF CRIME AND DISORDER.

- 17.9 UNDER THE ACT THE LICENSING AUTHORITY HAS A DUTY TO PROMOTE THE LICENSING OBJECTIVES, AND, A FURTHER DUTY UNDER THE CRIME AND DISORDER ACT 1998 TO DO ALL IT REASONABLY CAN TO PREVENT CRIME AND DISORDER IN THE BOROUGH.
- 17.10 The applicant will be expected to detail in their operating schedule how they will prevent crime and disorder on and close to the premises. Such detail should reflect the licensable activities on offer, location and character of the area, the nature of the premises use and the range of customers likely to use the premises.

These may include, but are not limited to, the following:

- Prevention of disorderly conduct and anti-social behaviour
- Prevention of underage drinking
- Prevention of sales of alcohol to intoxicated customers
- Prevention of drunkenness both on and in the vicinity of the premises
- Prevention of drug use and drug dealing
- Restriction to responsible drinks promotions
- Use of safety glass
- Inclusion of a wind-down time following alcohol sales period
- Adequate seating to discourage “vertical drinking”
- The offer of food and snacks or other entertainment or occupation to discourage persistent drinking

- 17.11 In busier premises the Licensing Authority would usually expect to see a short (e.g.30 mins) ‘wind down’ or ‘drinking up’ period allowed for after the cessation time of entertainment and alcohol sales as this is effective in assisting in a reduction in noise and exuberance of customers before leaving the premises.
- 17.12 The Licensing Authority will give appropriate weight to requests by the Police for premises to be protected by SIA registered door staff subject to the provision of relevant evidence. Where the Licensing Authority determines after consultation with the police that a premises is one that warrants additional security and monitoring it would expect applicants to include the provision of SIA approved door staff at the premises at appropriate times. Relevant premises are usually

those used mainly for drinking alcohol, have later opening hours and are situated within the Town Centre night time economy area.

- 17.13 Where appropriate, applicants for licences in the Town Centre areas providing mainly alcohol, music and dancing would be expected to consider inclusion of a provision of safety glasses to prevent a risk of injury on the rare occasion that a glass may be used as a weapon.
- 17.14 The use of CCTV should be considered where appropriate or on the advice and recommendations of the Police and to a quality and standard approved by the Police for evidential purposes. Premises licence holders will be expected to fully comply with the requirements of the Information Commissioners Office, Data Protection Act 1998 and the General Data Protection Regulation 2018, in respect of any surveillance equipment installed at a premises.
- 17.15 Any application resulting in a hearing the Licensing and appeals committee sitting as a panel will consider each application on its individual merits and determine the imposition of conditions that are appropriate to promotion of the licensing objectives.

CONDITIONS TO PROMOTE PUBLIC SAFETY.

- 17.16 The applicant will be expected to show how the physical safety of persons attending the premises will be protected and to offer any appropriate steps in the operating schedule to promote this.
- 17.17 Such steps will not replace the statutory obligation on the applicant to comply with all relevant legislation under the Health and Safety at Work etc. Act 1973 or under the Regulatory Reform (Fire Safety) Order 2004.
- 17.18 Applicants will be expected to have carried out the necessary risk assessments to ensure safe occupancy levels for the premises.

CONDITIONS TO PROMOTE THE PREVENTION OF PUBLIC NUISANCE.

- 17.19 The applicant will be expected to detail any appropriate and proportionate steps to prevent nuisance and disturbance arising from the licensable activities at the premises and from the customers using the premises.
- 17.20 The applicant will be expected to demonstrate that they have considered the following and included steps to prevent public nuisance:
- Proximity of local residents to the premises
 - Licensable activities proposed and customer base
 - Hours and nature of operation

- Risk and Prevention of noise leakage from the premises from equipment, customers and machinery
- Prevention of noise from customers leaving the premises and customer pick up points outside premises and from the Car Park.
- Availability of public transport to and from the premises
- Delivery and collection times and locations.
- Impact of external security or general lighting on residents.
- History of management of and complaints about the premises.
- Applicant's previous success in preventing Public Nuisance.
- Outcomes of discussions with the relevant Responsible Authorities.
- Impact of location, noise and contamination from outside smoking areas on neighbours and other customers
- Collection of litter arising from the premises

17.21 Steps to prevent public nuisance may include a range of options including noise limiting devices, sound insulation, wind down periods, acoustic lobbies, management of smoking areas etc.

17.22 Steps will differ depending on the individual premises and activities and it is for the applicant to ensure that reasonable, effective and appropriate steps are included within the operating schedule.

CONDITIONS TO PROMOTE THE PROTECTION OF CHILDREN FROM HARM.

17.23 Applicants will be expected to detail any appropriate and proportionate steps to protect children at the premises from any harm. The Licensing Authority recognises the right of premises licence holders (serving alcohol) to allow accompanied children into their premises. The Licensing Authority would not seek to restrict access by children (above that specified in the Act) unless it is necessary for the prevention of physical, moral or psychological harm. 23

17.24 Steps to protect children from harm must be carefully considered for inclusion where:

- There is entertainment or services of an adult nature provided.
- There have been previous convictions for under age sales of alcohol.
- There has been a known association with drug taking or dealing.
- There is a significant element of gambling on the premises.
- There is a presumption that children under 18 should not be permitted entry such as to nightclubs (apart from when specific events are held for under 18's).
- Outcomes of discussions with relevant Responsible Authorities suggest such steps are applicable.

17.25 Nothing in the Licensing Act prevents the premises licence holders from excluding children from a licensed premises and no condition can be added to require the admission of children.

17.26 Where there are no matters that give rise to concern in respect of children at premises the Licensing Authority would expect to see the relevant box on an application form completed to specify NONE.

18 PERSONAL LICENCES

18.1 Any person who wishes to act as a DPS at licensed premises must be in possession of a personal licence issued under the Licensing Act 2003. Any other person may also apply for a personal licence subject to meeting the necessary criteria. The Licensing Authority acknowledges the default grant position for applicants who meet the statutory criteria under the Licensing Act 2003.

18.2 The Police will only be consulted where the applicant declares a previous conviction for a relevant offence. A relevant conviction is one that is listed in Schedule 4 of the Licensing Act 2003.

18.3 Where a representation is received from the Police the Licensing Authority must hold a hearing unless the Police and the authority agree that it is unnecessary. The application must be rejected if it is considered appropriate for the promotion of the crime prevention objective and granted in any other case.

18.4 The Police must give a notice of objection to the Licensing Authority within the statutory 14 day consultation period. The Licensing Authority accepts that there is no discretion to accept a late notification from the Police even if the objection provided evidence that to grant the licence would undermine the crime prevention objective.

18.5 The Licensing Authority requires all personal licence holders to advise if there is a change of their name or address in accordance with the Act. All licence holders are advised of this requirement when a licence is granted. Any changes will be updated and an amended licence will be issued within 20 working days of a notification of change.

18.6 The Licensing Authority anticipates that the Magistrates' and Crown Courts will take appropriate action in relation to a personal licence where licence holders are convicted of relevant offences in those courts after the grant of a personal licence and notify the Licensing Authority of any action taken in respect of a personal licence.

18.7 The Licensing Authority requires personal licence holders to undertake their duty to disclose any convictions for a relevant offence after a personal licence has been granted. The Licensing Authority and/or the Police will take appropriate formal action against the licence holder where subsequent relevant convictions are not declared under that duty.

19 TEMPORARY EVENT NOTICES

- 19.1 The Licensing Act 2003 makes provision for the authorisation of a person (known as a premises user) to provide licensable activities on a temporary basis at unlicensed premises, or to add activities and/or extend the hours of existing activities at a licensed premises. The activities are authorised by the serving of a Temporary Event Notice (TEN) on the Licensing Authority, subject to the notice meeting the proper criteria as detailed under the Act.
- 19.2 Comprehensive planning of events is essential and where there are likely to be impacts on neighbouring residents or businesses as a result of the activities to be authorised by a TEN, the Licensing Authority expects the premises user to have considered any potential impacts and how they may be mitigated.
- 19.3 The Licensing Authority welcomes requests for advice from applicants who wish to provide temporary events to ensure they understand the law relating to such events and to reduce the likelihood of objections being made.
- 19.4 There are two types of TEN, Standard and Late. Both are subject to a numerical limit on the number of each type of TEN that can be served by personal licence holders and non-personal licence holders in a calendar year. There are also numerical limitations on the number of TENS that may be served in respect of individual premises or place.
- 19.5 Standard TEN. A standard TEN must be served at least 10 working days (Monday to Friday excluding Bank Holidays) before the event commences. The 10 working days excludes the day of service and the day on which the event starts. Copies of the TEN must be served on the Licensing Authority, The Environmental Health (EH) Department, and the Police. If the TEN is submitted online it is the responsibility of the Licensing authority to serve this notice on the responsible authorities. The fee is payable only to the Licensing Authority.
- 19.6 Where numerical limits are exceeded the Licensing Authority will serve a counter notice and the proposed licensable activities will not be authorised.
- 19.7 Where objections are received from the Police and/or EH and not withdrawn, the notice will be referred for a hearing before the Licensing panel and appeals committee. The Licensing panel and appeals committee may approve the TEN as applied for, add appropriate conditions (if the TEN takes place on a premises with an existing premises licence) or reject a TEN by serving a counter notice. A refund of the fee will not be made.
- 19.8 A late TEN may be served between 9 and 5 working days before a proposed event commences. The same limitations apply to the day the notice was served and the day of the event. Where numerical limits are exceeded a counter notice will be served and the proposed licensable activities will not be authorised. A refund of the fee will not be made.
- 19.9 If the late TEN is served with fewer than 5 working days' notice it is deemed invalid and will be rejected. The proposed activities would not be authorised. The Licensing Authority has no discretion to accept TENS outside the permitted statutory deadlines.

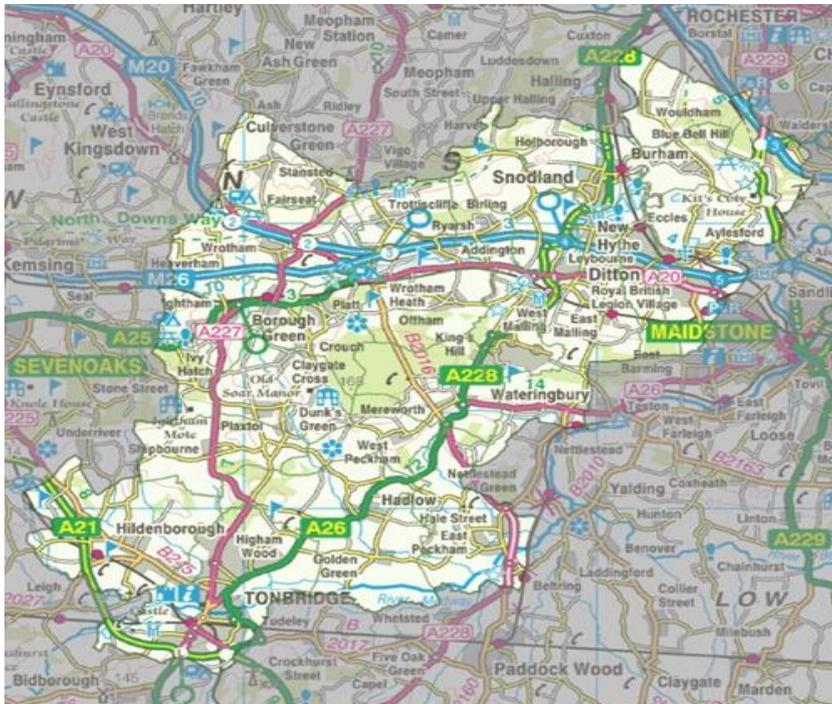
- 19.10 Where valid representations are received from the Police or EH in respect of a late TEN, the TEN will be rejected and proposed activities will be unauthorised. A refund of the fee will not be made.
- 19.11 The Licensing Authority will take the appropriate action where there is evidence that licensable activities have been provided without the authorisation of a TEN.
- 19.12 It should be noted that if a TEN has been processed and is no longer required the fee will not be refunded as the Licensing Authority has already carried out its obligations.

20 OTHER RELEVANT MATTERS

- 20.1 **Adult entertainment.** The Licensing Authority has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and premises offering regular entertainment of a sexual nature must be licensed as a sex establishment under those provisions.
- 20.2 The Licensing Authority acknowledges that exemptions under the above legislation do allow sexual entertainment to be provided at premises licensed under the Licensing Act 2003, as long as it is provided on no more than 11 occasions within 12 months and with at least 1 month between each occasion. Those infrequent events will be regulated by the licence granted under the Licensing Act 2003 where that licence authorises performances of dance and where the original application specified that such adult entertainment was proposed to be provided.
- 20.3 **Gaming machines in licensed premises - Automatic entitlement.** There is provision in the Gambling Act 2005 (GA2005) for premises licensed to sell alcohol for consumption on the premises to automatically have two gaming machines of category C and/or D. The premises licence holder merely needs to notify this Licensing Authority and pay the prescribed fee.
- 20.4 This authority can remove the automatic authorisation in respect of any particular premises if:
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives (under the GA2005);
 - gaming has taken place on the premises that breaches a condition of section 282 of the GA2005 (for example, the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines);
 - the premises are mainly used for gaming; or
 - an offence under the GA2005 has been committed on the premises.
- 20.5 **Gaming Machine Permit** – If a premises wishes to have more than 2 machines of categories C and/or D, then it needs to apply for a permit and this authority will consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission under section 25 of the Act, and such matters as officers consider relevant.

Appendix A

Tonbridge & Malling Borough Council.....



The Area

The borough of Tonbridge and Malling lies in the heart of Kent and is an area of variety and historical interest. The borough is largely rural with few large settlements; Tonbridge in the south being the largest, the remainder of the borough is dotted with villages and smaller towns. The latest population figures from the mid 2016 Mid-year population estimates show that there are 127,300 people living in the borough. This population size makes Tonbridge & Malling the 5th largest local authority district in the Kent County Council (KCC) area.

Industry and commerce are concentrated around Tonbridge, Aylesford, Ditton, Larkfield and Snodland. Mineral extraction has been carried out in the area for many years. Paper and packaging mills, distribution, general and

light industry and many small businesses make up the industrial scene. The borough is a popular area for office location and high tech development, particularly at the Kings Hill business and residential community.

Tonbridge & Malling has a younger age profile compared to the county average, with a greater proportion of 5 – 19 year olds than the average for the KCC area. Tonbridge & Malling also has a higher proportion of middle-aged residents, aged between 35 and 59 compared to the county average.

Over the past 10 years Tonbridge & Malling's population has grown by 12.1% (an additional 13,800 people). This is the 6th highest rate of growth of any Kent district. The population growth in Tonbridge & Malling is set to continue with current forecasts suggesting that between 2016 and 2036 the population of the borough will increase by a further 23.4%. This is the 6th highest rate of growth expected for any Kent district and a growth rate that is slightly higher than the county average (22.2%). This forecast is based on KCC's assessment of the district authority's future housing targets as at September 2017. Such targets will be subject to changes as district authorities develop their Local Development Framework.

95.9% of Tonbridge & Malling's population is of white ethnic origin with the remaining 4.1% being classified as of Black Minority Ethnic (BME) origin.

In 2015 Tonbridge & Malling was ranked as the 11th most deprived district in Kent (out of 12 districts, with the most deprived being ranked 1). Nationally Tonbridge & Malling is ranked at 274st out of 326 local authority districts in England. This rank places it within England's 25th least deprived authorities. The greatest levels of deprivation are found within the urban area of Tonbridge & Malling, particularly within Trench ward.

Tonbridge & Malling's unemployment rate is currently 0.9%. This is lower than both the county average of 1.7% and the national average of 1.9%. In September 2017 there were 740 unemployed people in Tonbridge & Malling which is 2.1% higher (15 more people) than August 2017 and 3.5% higher (25 more unemployed people) than September 2016.

Appendix B Contact details for Licensing

Licensing Team		
Anthony Garnett	Head of Service - Licensing, Community Safety & Customer Service,	01732 876368
Katie Shipman	Senior Licensing Officer	01732 876368
Leeann Leeds	Licensing Officer	
Catharine Hill	Licensing Administrator	01732 876368
Suzanne Lee	Licensing Administrator	01732 876368
Licensing Coordinator for Kent Police		01732 379255
Environmental Protection		01622 844522
Planning		01622 844522
West Kent Magistrates Admin		01622 671041
British Institute of Innkeeping (BII)		www.bii.org
Challenge 25		www.challenge25.co.uk
Government legislation		www.legislation.gov.uk

Appendix C - Responsible authorities for Tonbridge & Malling Borough Council

<p>Kent Police Licensing Coordinator Community Safety Unit Tonbridge & Malling Borough Council Gibson Drive Kings Hill West Malling Kent ME19 4LZ west.division.licensing@kent.pnn.police.uk</p> <p>Tel: 01732 379255</p>	<p>Kent Fire & Rescue Service Maidstone Fire Station Loose Road Maidstone Kent ME15 9QB TFS.midgroup@kent.fire-uk.org</p> <p>Tel: 01622 212430</p>
<p>Social Services Kent Safeguarding Children's Board Sessions House County Hall Maidstone Kent ME14 1XQ social.services@kent.gov.uk</p> <p>Tel: 03000 411111</p>	<p>Trading Standards Kent County Council Invicta House County Hall Maidstone Kent ME14 1XX trading.standards@Kent.gov.uk</p> <p>Tel: 03000 412000</p>
<p>Environmental Health Tonbridge & Malling Borough Council Gibson Building Gibson Drive Kings Hill West Malling Kent ME19 4LZ environmental.protection@tmbc.gov.uk foodandsafety@tmbc.gov.uk</p> <p>Tel: 01732 844522</p>	<p>Planning Tonbridge & Malling Borough Council Gibson Building Gibson Drive Kings Hill West Malling Kent ME19 4LZ planning.applications@tmbc.gov.uk</p> <p>Tel: 01732 844522</p>
<p>Alcohol Licensing team (Home Office) Lunar House 40 Wellesley Road Croydon CR9 2BY</p>	<p>Kent Public Health Department Room 3.45, Sessions House, County Hall, County Road Maidstone, Kent ME14 1XQ Tel: 0300 333 6379 Gillian.Montgomery@kent.gov.uk</p>

Appendix D - References to guides of best practice

Revised guidance issued under section 182 of Licensing Act 2003

www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003

Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics

www.ioa.org.uk

Good Practice Guide: Licensing published jointly by the Justices' Clerks' Society and the Magistrates' Association (April 1999)

www.magistrates-association.org.uk

The National Alcohol Harm Reduction Strategy Toolkit

www.alcoholconcern.org.uk

The Point of Sale Promotions published by BBPA

www.beerandpub.com

Public Places Charter

www.ash.org.uk

National Pubwatch

www.nationalpubwatch.org.uk

Appendix E - Contact details and useful addresses

<p>Disclosure and Barring Service (DBS) Customer services PO Box 165 Liverpool L69 3JD</p> <p>Information line: 0870 90 90 811</p> <p>Website: https://www.gov.uk/disclosure-barring-service</p>	<p>British Beer & Pub Association Ground Floor Brewers' Hall Aldermanbury Square London EC2V 7HR</p> <p>Tel: 020 7627 9191</p> <p>contact@beerandpub.com</p> <p>Press Office: 020 7627 9199</p>
<p>British Institute of Inn keeping (BII) Wessex House 80 Park Street Camberley Surrey. GU15 3PT</p> <p>Tel: 01276 684 449 www.bii.org</p> <p>Email: reception@bii.org</p>	<p>SIA PO Box 49768 London. WC1 V6WY</p> <p>Website: www.the-sia.org.uk</p> <p>Tel: 0844 892 1025</p>

Appendix F - Recommended delegation of functions as per S182 of the guidance

Matters to be dealt with	Full Committee	Sub Committee	Officers
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	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	If no objection made
Disapplication of the mandatory condition for a premises to have a DPS at a community premises			All cases
Application for transfer of premises licence		If a police objection	If no objection made
Applications for interim authorities		If a police objection	If no objection made
Application to review premises licence/ club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of an objection to a temporary event notice		All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition		If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination of minor variation application			All cases

Annex 2

Feedback Form – Statement of Licensing Policy 2019 - 2024 – consultation response

Respondent	Ref from Current Policy	Comment

Agenda Item 6

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

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Agenda Item 7

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

**ANY REPORTS APPEARING AFTER THIS PAGE CONTAIN EXEMPT
INFORMATION**

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Agenda Item 8

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

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