



Date: 5 June 2023  
Our ref: Licensing Board Agenda  
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## LICENSING BOARD

13 JUNE 2023

A meeting of the Licensing Board will be held at **10.00 am on Tuesday, 13 June 2023** in the Council Chamber, Council Offices, Cecil Street, Margate, Kent.

### Membership:

Councillor Currie (Chair); Councillors: Huxley (Vice-Chair), Ara, Bambridge, Dennis, Driver, Makinson, Manners, Pat Moore, Owen-Hughes, Rogers, Scobie, Towning, Wing and Wright

## A G E N D A

Item  
No

Subject

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST** (Pages 3 - 4)  
To receive any declarations of interest. Members are advised to consider the advice contained within the Declaration of Interest advice attached to this Agenda. If a Member declares an interest, they should complete the [Declaration of Interest Form](#)
3. **MINUTES OF PREVIOUS MEETING** (Pages 5 - 8)  
To approve the Minutes of the Licensing Board meeting held on 18<sup>th</sup> April 2023, copy attached.
4. **CHANGES AND UPDATES TO LICENSING OFFICERS ENFORCEMENT POLICY**  
(Pages 9 - 26)
5. **DRIVER KNOWLEDGE TEST** (Pages 27 - 44)
6. **LICENSING AND GAMBLING STATEMENT REPORT** (Pages 45 - 104)
7. **EXCLUSION OF PUBLIC AND PRESS** (Pages 105 - 108)
8. **LICENCE TO OPERATE AS A PRIVATE HIRE OPERATOR** (Pages 109 - 234)

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### **Do I have a Disclosable Pecuniary Interest and if so what action should I take?**

Your Disclosable Pecuniary Interests (DPI) are those interests that are, or should be, listed on your Register of Interest Form.

If you are at a meeting and the subject relating to one of your DPIs is to be discussed, in so far as you are aware of the DPI, you **must** declare the existence **and** explain the nature of the DPI during the declarations of interest agenda item, at the commencement of the item under discussion, or when the interest has become apparent

Once you have declared that you have a DPI (unless you have been granted a dispensation by the Standards Committee or the Monitoring Officer, for which you will have applied to the Monitoring Officer prior to the meeting) you **must**:-

1. Not speak or vote on the matter;
2. Withdraw from the meeting room during the consideration of the matter;
3. Not seek to improperly influence the decision on the matter.

### **Do I have a significant interest and if so what action should I take?**

A significant interest is an interest (other than a DPI or an interest in an Authority Function) which:

1. Affects the financial position of yourself and/or an associated person; or  
Relates to the determination of your application for any approval, consent, licence, permission or registration made by, or on your behalf of, you and/or an associated person;
2. And which, in either case, a member of the public with knowledge of the relevant facts would reasonably regard as being so significant that it is likely to prejudice your judgment of the public interest.

An associated person is defined as:

- A family member or any other person with whom you have a close association, including your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you are civil partners; or
- Any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
- Any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000;
- Any body of which you are in a position of general control or management and to which you are appointed or nominated by the Authority; or
- any body in respect of which you are in a position of general control or management and which:
  - exercises functions of a public nature; or
  - is directed to charitable purposes; or
  - has as its principal purpose or one of its principal purposes the influence of public opinion or policy (including any political party or trade union)

An Authority Function is defined as: -

- Housing - where you are a tenant of the Council provided that those functions do not relate particularly to your tenancy or lease; or
- Any allowance, payment or indemnity given to members of the Council;
- Any ceremonial honour given to members of the Council
- Setting the Council Tax or a precept under the Local Government Finance Act 1992



If you are at a meeting and you think that you have a significant interest then you **must** declare the existence **and** nature of the significant interest at the commencement of the matter, or when the interest has become apparent, or the declarations of interest agenda item.

Once you have declared that you have a significant interest (unless you have been granted a dispensation by the Standards Committee or the Monitoring Officer, for which you will have applied to the Monitoring Officer prior to the meeting) you **must:-**

1. Not speak or vote (unless the public have speaking rights, or you are present to make representations, answer questions or to give evidence relating to the business being discussed in which case you can speak only)
2. Withdraw from the meeting during consideration of the matter or immediately after speaking.
3. Not seek to improperly influence the decision.

### **Gifts, Benefits and Hospitality**

Councillors must declare at meetings any gift, benefit or hospitality with an estimated value (or cumulative value if a series of gifts etc.) of £25 or more. You **must**, at the commencement of the meeting or when the interest becomes apparent, disclose the existence and nature of the gift, benefit or hospitality, the identity of the donor and how the business under consideration relates to that person or body. However you can stay in the meeting unless it constitutes a significant interest, in which case it should be declared as outlined above.

### **What if I am unsure?**

If you are in any doubt, Members are strongly advised to seek advice from the Monitoring Officer or the Committee Services Manager well in advance of the meeting.

If you need to declare an interest then please complete the declaration of [interest form](#).

## LICENSING BOARD

Minutes of the meeting held on 18 April 2023 at 10.00 am in Council Chamber, Council Offices, Cecil Street, Margate, Kent.

**Present:** Councillor Sam Bambridge (Chair); Councillors Rogers, Currie, Dexter, Huxley, M Saunders and Shrubbs

**In Attendance:**

1. **APOLOGIES FOR ABSENCE**

Apologies were received from Councillors Dennis and Wing.

2. **DECLARATIONS OF INTEREST**

There were no declarations of interest.

3. **MINUTES OF PREVIOUS MEETING (22/11/2022)**

Councillor Saunders proposed, Councillor Huxley seconded and members agreed that the minutes of the Licensing Board held on 22 November 2022 be signed as a correct record.

4. **MINUTES OF PREVIOUS MEETING (14/02/2023)**

Councillor Rogers proposed, Councillor Dexter seconded and members agreed that the minutes of the Licensing Board held on 14 February 2023 be signed as a correct record.

5. **MINUTES OF PREVIOUS MEETING (21/03/2023)**

Councillor Shrubbs proposed, Councillor Dexter seconded and members agreed that the minutes of the Licensing Board held on 21 March 2023 be signed as a correct record.

6. **LICENSING SUB-COMMITTEE MINUTES**

Councillor Shrubbs proposed, Councillor Currie seconded and members agreed that the minutes of the Licensing Sub-Committee held on 22 March 2023 be signed as a correct record.

7. **EXCLUSION OF PUBLIC AND PRESS**

That the public and press be excluded from the meeting on agenda items 8 and 9 as they contain exempt information as defined in Paragraph 2 of Schedule 12A of the Local Government Act 1972.

8. **LICENSE TO DRIVE PRIVATE HIRE VEHICLES (1)**

Ms French, Licensing Officer, introduced the applicant.

The applicant had no questions for Ms French.

Members of the Board had no questions for Ms French.

The applicant addressed the Board in regards to the previous legal issues they had in the past.

Ms French asked the applicant follow up questions regarding the legal issues.

Members of the Board also asked questions regarding the legal issues that the applicant had.

Following the discussion, the applicant and Licensing Officers were asked to leave the room whilst the Board deliberated.

Once the Board came to a decision, the applicant and Licensing Officers were invited back into the meeting room and Mr Kitenge, Senior Litigation Lawyer addressed the meeting and read out the Board decision which was as detailed below:

“Upon considering whether to grant or refuse the licence to drive Private Hire Vehicles for the applicant and having considered the documentation and representations made by:

1. The Licensing Officer;
2. The Applicant;

It is the decision of the Licensing Board to;

Grant a licence to drive Private Hire Vehicles for one year.”

**9. LICENSE TO DRIVE PRIVATE HIRE VEHICLES (2)**

Ms French, Licensing Officer, introduced the applicant.

The applicant had no questions for Ms French.

Members of the Board had no questions for Ms French.

The applicant addressed the Board in regards to the previous legal issues they had in the past.

Ms French asked the applicant follow up questions regarding the legal issues.

Members of the Board also asked questions regarding the legal issues that the applicant had.

Following the discussion, the applicant and Licensing Officers were asked to leave the room whilst the Board deliberated.

Once the Board came to a decision, the applicant and Licensing Officers were invited back into the meeting room and Mr Kitenge, Senior Litigation Lawyer addressed the meeting and read out the Board decision which was as detailed below:

“Upon considering whether to grant or refuse the licence to drive Private Hire Vehicles for the applicant and having considered the documentation and representations made by:

1. The Licensing Officer;
2. The Applicant;

It is the decision of the Licensing Board to;

Grant a licence to drive Hackney Carriage Vehicles for one year with the recommendation that CCTV is installed and operational at all times.”

Meeting concluded : 10.33 am

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## Changes and Updates to Licensing Officers Enforcement Policy

<b>Meeting</b>	13th April 2023
<b>Report Author</b>	Alison Stocker - Senior Licensing Officer
<b>Portfolio Holder</b>	<b>Cllr Heather KEEN</b>
<b>Status</b>	For Decision
<b>Classification:</b>	<b>Unrestricted</b>
<b>Key Decision</b>	N/A
<b>Reasons for Key (if appropriate)</b>	N/A
<b>Previously Considered by</b>	N/A
<b>Ward:</b>	N/A

### Executive Summary:

The Licensing Officer's Enforcement Policy provides a framework to assist the Licensing Team in deciding what form of enforcement action is the most appropriate. The report asks Board to consider the update to the Licensing Officer's Enforcement Policy, in line with new legislation and guidance.

### Recommendation(s):

The instructions of the Board are requested.

### Corporate Implications

#### Financial and Value for Money

Costs associated with processing application are taken from licensing fee income. The applicant or any other person (objector) may appeal the Committee's decision to Magistrates' Court within 21 days. Should this decision be appealed the Council will incur costs defending the appeal. Should the appeal be successful it could result in costs being awarded against the Council. Therefore all decisions should ensure that they are in line with the Local Government (Miscellaneous Provisions) Act 1976

There are no direct financial implications arising from the update Licensing Officers Enforcement Policy.

### Legal

# Agenda Item 4

*The Licensing Board must pay proper attention to the applicant's rights under the provisions of the Human Rights Act 1998, which gives further effect in the United Kingdom to the fundamental rights and freedoms contained in the European Convention on Human Rights. The Licensing Board must have proper regard to the rights of the individual applicant when making decisions that affect them. However, it also has to have regard to the safety and protection of the public and therefore to ensure that the right balance is found and think hard about how it can cause the least possible harm to individuals, bearing in mind its duty to ensure the protection of the public.*

*Section 17 of the Crime and Disorder Act 1998 states: "Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that is reasonably can to prevent crime and disorder in its area"*

*In considering this application the Licensing Board will balance the competing Human Rights of the various parties including the right to respect for private and family life, the protection of property and the right to a fair hearing.*

*There is a right of appeal to a Magistrates' Court within 21 days of the date of the decision of the Licensing Board with regard to the grant/refusal of a licence or any of the conditions attached to it. The risk of appeal/challenge is increased if any decision made is not evidence based and proportionate.*

*Whilst there is no statutory guidance with regards to the definition of a fit and proper person, in 2018 The Institute of Licensing produced guidance on determining the suitability of applicants and licensees in the Hackney Carriage and Private Hire Trades in order to bring clarity and conformity to the definition of a 'fit and proper person'.*

The Licensing Officer's Enforcement Policy is in line with The Enforcement Concordat and Regulator's Code requirements.

The policy ensures that all enforcement decisions will take into account the provisions of:

The Human Rights Act 1998

The Crime and Disorder Act 1998

Police and Criminal Evidence Act 1984

Criminal Procedure and Investigations Act 1996

Regulation of Investigatory Powers Act 2000

- [The Human Rights Act 1998](#)
- [The Crime and Disorder Act 1998](#)
- [Police and Criminal Evidence Act 1984](#)
- [Criminal Procedure and Investigations Act 1996](#)
- [Regulation of Investigatory Powers Act 2000](#)
- Equal rights and anti-discrimination legislation and any advice issued by the Government, the [Chartered Institute of Environmental Health](#) and other relevant bodies.
- Code of Practice for Crown Prosecutors

## **Risk Management**

The options set out below allow discretion to Licensing Board members in reaching fair and proportionate decisions.

There is a risk in not bringing this report to the Licensing Board, as this report updates the legislation in the enforcement policy and ensures clarity and transparency in enforcement remit of Licensing Officers. There exists a risk in not updating the policy that enforcement actions do not mirror current legislation, guidance and best practice and officers will therefore be unable to employ the full range of options available.

## **Corporate**

The Council's Core Business Objectives set out the direction of travel for the Council until 2023 laying the strong foundations that will benefit, shape and grow the district. By taking this approach, the Council's resources will be focused on what matters most, service delivery will be strengthened and both staff and partners will be working towards a common goal - ensuring prosperity and improved quality of life for our residents and the community. These Core Business Objectives are:

## **Growth**

We will continue to ensure we work to consider new ways to generate income and invest our current resources. Delivering a Council that is financially strong to discharge its services and invest in the growth of the District.

## **Environment**

Having a clean and well-maintained environment remains important to us. We will be clear with our residents on what we do and what our asks of residents are - cultivating a shared responsibility approach. Delivering a clean and accessible living environment, maintaining an emphasis on prevention but where necessary we will use an enforcement approach.

## **Communities**

Through effective partnership working with both the public sector agencies and the community, we will provide leadership and direction across the district and the region to ensure everyone is working to the same goal. Delivering high-quality housing, safer communities and enhancing the health and wellbeing of our residents.

## **Equality Act 2010 & Public Sector Equality Duty**

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

There are no Equality Act 2010 or Public Sector Equality Duty implications from this policy. It reflects national legislation and guidance and applies equally to all businesses and individuals.

All Licensing Officers involved in licensing enforcement will be made aware of their responsibilities under the [Public Sector Equality Duty](#) and [TDC's Equality Policy](#). They will be expected to treat people equally at all times and have regard to the needs of vulnerable people and protected groups where appropriate.

## Corporate Priorities

This report relates to the following corporate priorities: -

- Growth
- Communities
- Environment

## 1.0 Introduction and Background

- 1.1 The existing enforcement policy used by the Licensing Officers requires reviewing due to the length of time it has been in operation. Legislation has changed and the policy needs to be updated to reflect those changes.
- 1.2 The existing policy does not reflect some new ways of working, legislation and powers available to Licensing Officers.
- 1.3 The policy has now been updated to reflect current legislation, guidance and enforcement remit. In particular, this policy covers provisions and enforcement protocols under the Animal Welfare Act.

## 2.0 Current Situation

- 2.1 Thanet District Council has signed up to The Enforcement Concordat, confirming its commitment to the principles of good enforcement. This policy encompasses the principles of this concordat.
- 2.2 This enforcement policy not only lays out how enforcement action is decided upon, but also provides those complaining about Licensing Enforcement issues or causing them to understand what action is available to the local authority to resolve matters.
- 2.3 The policy lays out how we investigate complaints; and is a general policy which outlines the basic principles of enforcement. Guidance is provided on what is considered when making a decision on enforcement action. The policy then goes on to lay out the various types of enforcement action available to the local authority.
- 2.4 The policy includes details on complaints and appeals available to those who are affected by enforcement decisions made by the local authority.

## **3.0 Options**

Members are requested to review the updated Policy, which now includes reference to the Animal Welfare Act 2006.

3.1 To agree to the introduction of the new Enforcement Policy

3.2 To refuse to the introduction of the new Enforcement Policy

Contact Officer: Alison Stocker - Senior Licensing Officer

Reporting to: Morgan Sproates- Regulatory Services Manager

### **Annex List**

Annex 1: Licensing Officers Enforcement Policy

### **Background Papers**

Old Enforcement Policy

### **Corporate Consultation**

**Legal:** Jennifer Phillips (Principle Litigation Solicitor)

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# Thanet District Council Licensing Officers Enforcement Policy

April 2023/V1/Regulatory Services/Licensing

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## 1. Aims of Policy

To promote a consistent approach to licensing related enforcement within the district. To provide licensing officers with a policy to enable them to make decisions in the field consistent with current nationally accepted standards and the Enforcement Concordat. To inform licensees and members of the public of what can be expected from licensing officers carrying out enforcement work.

## 2. General Background

The primary responsibility for ensuring that any necessary licence/permit/registration has been obtained rests with those who carry out the activity in question. They then have a responsibility to comply with the national law relevant to that activity and with any conditions that have been attached to the licence, etc.

The Council has responsibility for:-

- issuing various licences, permits and registrations which are enacted by many different pieces of legislation
- enforcing the conditions subject to which the licence, etc. has been granted
- establishing appropriate policies
- providing advice and guidance
- establishing appropriate licence conditions
- carrying out inspections
- consulting with other agencies
- assessing suitability and fitness
- determining applications for licences
- undertaking monitoring
- responding to complaints
- initiating appropriate disciplinary action
- initiating legal intervention where necessary
- refusing, revoking, suspending or varying licences

The primary objectives of the licensing regime are to ensure, where appropriate:-

- the safety and welfare of anyone who could be affected by the activity, including members of the public, employees, performers, etc.
- prevention of fraud
- prevention of public nuisance
- protection of children from harm
- ensure public safety
- the potential for crime and disorder is minimised
- by carrying out enforcement functions in an equitable, practical and consistent manner that a thriving local economy is promoted
- a fair and safe trading environment is maintained
- satisfactory standards of animal welfare are maintained

### 3. Areas of Responsibility

Many pieces of legislation require the implementation of systems of licensing and the service has responsibilities to determine and enforce many licensing regimes. The licensing authority has the responsibility for determining applications for licences, permits and registrations as detailed in the following table:

- Amusements with prizes (Gaming machines)
- Animal boarding establishments
- Alcohol and entertainments
- Breeding of dogs
- Casinos and Bingo
- Dangerous wild animals
- Ear piercing, tattooing, electrolysis, acupuncture, skin colouring
- Exhibition of animals
- Hackney Carriage & Private Hire drivers
- Hackney Carriage & Private Hire vehicles
- Private Hire Operators
- Hiring of horses
- Home boarding establishments for Animals
- House to house collections
- Late night refreshment
- Lotteries (Raffles)
- Game dealers
- Performing animals
- Scrap metal dealers
- Selling animals as pets
- Sex shops
- Street collections
- Pavement licensing
- Street trading
- Zoos

### 4. The Principles of Enforcement

The effectiveness of legislation in protecting consumers or sectors in society depends crucially on the compliance of those regulated. We recognise that most businesses and individuals want to comply with the law. We will, therefore, take care to help business and others meet their legal obligations without unnecessary expense, whilst taking firm action including prosecution where appropriate against those who flout the law or act irresponsibly.

# Agenda Item 4

## Annex 1

The Council has adopted the Concordat on Good Enforcement and accordingly enforcement activity is based on the following basic principles:-

### Standards

In consultation with relevant interested parties we will draw up clear standards setting out the level of service and performance the public and business people can expect to receive. We will publish these standards (some are already included in this document) and our performance against them. The standards will be made available to businesses and others who are regulated.

### Openness

Openness means helping individuals and businesses to understand what we expect of them and what they should expect from us.

It also means making clear why an officer intends to, or has taken enforcement action. This means distinguishing between statutory requirements and good practice. Individuals and organisations need to know what to expect from enforcing authorities and their procedures with regard to regulation. We will ensure that, wherever possible: -

- where action is required, it is clearly explained (in writing, wherever possible) why the action is necessary together with a suitable timescale with distinction being made between good practice and what is legally required
- General issues are discussed on what is required by law before enforcement action is taken, unless urgent action is required to protect service users or prevent evidence being destroyed;
- Where urgent action is required, a written explanation of the reasons is provided as soon as practicable after the event

### Helpfulness

We believe that prevention is better than cure and that our role therefore involves actively working with business, especially small and medium sized businesses, to advise on and assist with compliance. We will provide a courteous and efficient service and our staff will identify themselves by name. We will provide a contact point and telephone number for further dealings with us and we will encourage licensees to seek advice/information from us. Applications for licences, permits and registrations will be dealt with efficiently and promptly. We will ensure that, wherever practicable, our enforcement services are effectively coordinated to minimise unnecessary overlaps or time delays.

### Complaints About Service

In the first instance, anyone wishing to complain about the service should contact Licensing via email at [licensing@thanet.gov.uk](mailto:licensing@thanet.gov.uk) or telephone (01843) 577416. If still dissatisfied, the Council has a formal complaints procedure and this can be initiated by contacting the Council via email at [customer.feedback@thanet.gov.uk](mailto:customer.feedback@thanet.gov.uk), in writing to Customer Feedback, Thanet District Council, PO Box 9, Cecil Street, Margate, Kent, CT9 1XZ or contact us by telephone:- (01843) 577000.

Alternatively, you can submit a complaint or a compliment at:  
<https://www.thanet.gov.uk/services/complaints-compliments/>

### Proportionality

We will minimise the costs of compliance for business by ensuring that any action we require proportionate to the risk. As far as the law allows, we will take account of the circumstances of the case and the attitude of the person with whom we are dealing when considering action. We will take particular care to work with small businesses and voluntary and community organisations so that they can meet their legal obligations without unnecessary expense, where possible.

### Consistency

Consistency of approach does not mean uniformity. It means taking a similar approach in similar circumstances to achieve similar ends.

Individuals and organisations have the right to expect consistency in the advice given, use of enforcement powers, decisions to prosecute and the use of disciplinary procedures. Officers need to take into account many variables including the scale of impact on public safety, the effect of any non-compliance on others, the attitude and competency of the offender and history of previous incidents. Decisions on enforcement action are a matter of professional judgement and the Licensing Officer must exercise both consistency and discretion, including effective arrangements for liaison with other enforcement authorities. Where any doubt arises, discussions will be held with senior officers to agree the necessary course of action and to ensure a consistent approach. In addition, enforcement activities will be undertaken in accordance with the Council's Equal Opportunities Policy and with due reference to the provisions of the Human Rights Act and European Convention on Human Rights.

### Human Rights Act

The Human Rights Act 1998 (HRA) makes it unlawful for a public authority to act in a way that is incompatible with the European Convention on Human Rights (ECHR). This policy will be implemented taking into account the legal and procedural implications of both the HRA and ECHR.

## 5. Methods of Enforcement

The Council has various means at its disposal to achieve these objectives, including:

**Informal action** - such as provision of guidance, advice and warning letters

**Formal action** - such as refusal to grant, renew or transfer licences; suspension, revocation or refusal to renew licences, serve improvement notices and/or prosecution.

The Council has signed and is therefore committed to the Enforcement Concordat.

Decisions taken on the appropriate enforcement action required will be based on the principles set out above. Without prejudice to these principles, further information is given below regarding the

range of actions open to the Council's licensing officers and how these are likely be applied in practice.

The action an officer takes will be decided on the basis of the above principles taking into account:

- the nature and severity of the failure to comply
- the willingness and intention of the person to comply
- their knowledge of licensing legislation
- the track record of their previous compliance

### **5.1 Informal Enforcement**

Licensing Officers will seek to help those persons affected by these controls by offering guidance on compliance. Officers are aware that they are the key, and in some instances the only, source of help on how best to comply with licensing rules and therefore will provide appropriate guidance and advice.

The guidance may be verbal, in the form of leaflets or by signposting to where suitable guidance may be readily obtained.

Requirements and observations made will be made either at the time of inspection or/and within 10 working days in writing.

In either instance the officer will clearly identify any breaches, or other failings or defects, and necessary remedial works in a manner that is readily understandable.

All recommendations, made either verbally or in writing, will clearly distinguish whether they are mandatory or best practice advice.

All mandatory requirements will be subject to statutory timescales for completion or given a reasonable timescale for completion where no specific timescale is prescribed by legislation.

### **5.2 Formal Enforcement**

#### **5.2.1 - Improvement Notices**

These notices will be issued to ensure compliance with Animal Welfare concerns, a time scale for rectification will be given depending on the severity of the issue.

#### **5.2.2 Licence Suspension Notices**

These can be quick and effective in that they ensure, subject to the appeals procedure, that the relevant activity ceases without delay.

Suspension notices will be served where :-

- the relevant legislation permits their service, and

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## Annex 1

- the officer had reason to believe that, due to the severity of the risk/hazard brought about by non-compliance, informal action would not be sufficient for the Council to satisfy its regulatory duty or not be successful, or has already failed, and only the immediate cessation of the Contravention would suffice to enable the Council to fulfil its statutory licensing duties

At the time of service of a Suspension Notice, information will be given as to the reason for service, the ramifications, what is required before the notice can be withdrawn and the appeal procedure.

### 5.2.3 Revocation or Refusal to Grant or Renew a Licence

**Please refer to the Statement of Licensing Policy for matters related to the Licensing Act 2003. This will be dealt with by the Licensing Sub Committee.**

If the Senior Licensing Officer or Regulatory Services Manager, having regard to any legal or nationally recognised standards; local guidelines; observations from the Police, Fire Authority or other Council officer, is of the opinion that an existing licence should be revoked or not renewed or that an application for a new licence should not be granted they will refer the matter to the Council's Licensing Board.

Only the Licensing Board, which is made up of elected Councillors, has the power to take such action.

In a case where such action is proposed the licensee or licence applicant will be advised verbally and in writing of: -

- the reason for the proposed action
- the date, time and place of the Board meeting and the content of the written report sent to the Board in advance of the meeting
- their right to appear before the Board, to be heard and, if they so wish to be legally represented.
- the procedure followed by the Board

If the Board decides to revoke or refuse to grant or renew a licence, the licensee/applicant will be informed verbally at the meeting by the Legal Officer present at Board Hearings. This will be confirmed in writing by the Senior Licensing Officer within 5 working days, alongside information provided about any right of appeal.

### 5.2.4 Prosecution

Discretion will be used in deciding whether to initiate a prosecution. While prosecution can draw attention to the need for compliance with the law, the other approaches referred to above can often be a more effective way of securing compliance. However, prosecution is an essential part of enforcement and where the circumstances warrant it and there is adequate evidence to support a case, prosecutions will be taken without prior warning or recourse to alternative sanctions.

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## Annex 1

The decision to prosecute will be made by the Senior Licensing Officer, in conjunction with the Regulatory Services Manager and Legal Services, taking into account the criteria set out in The Code for Crown Prosecutors - in particular the evidential test and the public interest criteria.

The Code is a public document and is available from the CPS on their website: [www.cps.gov.uk](http://www.cps.gov.uk).

Subject to these two tests being satisfied, in deciding whether to prosecute the following will be taken into account:-

- the gravity of an alleged offence, taken together with the seriousness of any actual or potential harm
- the general record and approach of the offender
- if there has been reckless disregard of licensing legislation
- if there have been repeated breaches or persistent poor compliance
- if there has been a failure to comply with a written warning or suspension notice
- officers have been intentionally obstructed in the lawful course of their duties. Where officers are assaulted the Council will seek prosecution of offenders
- false information has been wilfully supplied or there has been an intent to deceive or obtain an unfair pecuniary advantage
- it is appropriate in the circumstances as a way to draw general attention to the need for compliance with the law and the maintenance of standards required by law. And conviction may deter others from similar failures to comply with the law

### 5.2.4 Formal Enforcement - Various Other Powers

In carrying out their functions, duly authorised licensing officers have a range of powers including the right :-

- of entry to premises and places, and
- to examine premises, places, vehicles and registers,
- to seize any identifying Thanet District Council plates
- to seize Animals
- to seize evidence

Prior to using such powers, the officers will have decided that informal action in that particular instance would not be appropriate, or would be inadequate for the Council to satisfy its duty, or would not be successful, or had already failed.

### 5.2.5 Tattooing, semi-permanent skin-colouring, cosmetic piercing, electrolysis and acupuncture

Under Local Government (Miscellaneous Provisions) Act 1976 it is a criminal offence to trade without registration (licensing) or to be in breach of the relevant local authority byelaws. Licensing Officers would determine whether it would be in the public interest to proceed with a prosecution in consultation with the Legal Team and Regulatory Services Manager. See 5.2.4.

### 5.2.6 Animal Licensing

If a dispute is raised with regards to star rating given as not reflecting the animal welfare standard and risk level of a business, the applicant should first make contact with the Licensing Officer to discuss this matter.

If the applicant is still not satisfied with the officer's explanation, the applicant has the option to formally appeal. The appeal must be made in writing and submit it within 21 days of the grading being issued. This can be by letter, addressed to Licensing, Thanet District Council, P.O. Box 9, Margate, Kent CT9 1XZ or by email to [licensing@thanet.gov.uk](mailto:licensing@thanet.gov.uk).

An appeal will be considered by the head of the department that issued the licence or another senior officer who has not been directly involved in the inspection on which the grade is based. The council must consider the appeal and provide a decision to the business within 21 days of the written appeal request being received.

The costs of any additional inspections related to the appeal will be borne by the applicant unless it results in a higher rating being awarded. This will depend on the nature of the dispute and whether a decision can or cannot be made on the basis of the paperwork.

If the applicant then disagrees with the outcome of the appeal they can challenge the decision through judicial review, they can also contact the Local Government Ombudsman if they consider that the Council have not properly followed the regulations and any statutory guidance.

A licence may also be refused or suspended, if the officer ascertains:

- the applicant is not capable or meeting their licence conditions
- that granting a licence might negatively affect the welfare, health or safety of the animals involved in the activity
- Consider the accommodation, staffing or management are inadequate for the animals' well being or for the activity or establishment to be run properly. The relevant guidance documents for the activity will explain in detail the requirements and conditions that must be met.
- that the applicant has been disqualified from holding a licence as per Schedule 8 of the Regulations.

The Licence Holder / Applicant may appeal to a First-tier Tribunal if they do not agree with the decision made. This must be done within 28 days of the decision.

### 5.2.7 Shared Enforcement Role

The Council's Licensing Officer's liaise closely with other statutory bodies who have a direct interest and involvement in licensing matters, including the Police, Fire Authority, Gambling Commission, RSPCA and others. This liaison ranges from discussion at a strategic level about licensing matters to joint inspections inside and outside usual office hours.

In cases considered by the Licensing Board, the Police are requested to make observations



on the crime and disorder implications and a Police officer may be present at the meeting of the Board to answer any questions Board members, applicants and any objectors may have. If during the course of licensing work evidence of a crime is discovered this will be reported to the relevant agency.

Licence application forms contain the following statement: 'This authority is under a duty to protect the public funds it administers and to this end may use the information you have provided on this form within this authority for the prevention and detection of fraud. It may also share this information with other bodies administering public funds solely for these purposes'.

Any covert surveillance which is conducted as part of any investigation of any case which falls within this policy will comply with the Regulation of Investigatory Powers Act 2000 (RIPA), in that covert surveillance falling within RIPA will be authorised and conducted in accordance with the statutory framework and any Codes made thereunder.

## 6. Interests of Consumers

The Council recognises that many businesses are seasonal and operate out of normal office hours and will need inspection and advice during those trading hours.

The Council also recognises that English may not be the first language of persons with whom it has to deal and care will therefore be taken to ensure that its enforcement actions are clearly understood by providing documents and arranging for interpreters in an appropriate language wherever possible.

## 7. Competence of Licensing Officers

No Licensing Officer will carry out licensing enforcement duties unless suitably trained, experienced and authorised in accordance with the constitution.

Training will be provided for all enforcement officers as required to take account of changes in legislation and enforcement procedures.

## 8. Review of Policy

This policy will be kept under constant review to take account of changes in legislation or amendments found necessary as a result of internal monitoring.

## 9. Disclosure and Data Protection

It is Thanet District Council's policy that disclosures will be made on receipt of a written application under the Freedom of Information Act 2000.

We process personal data in accordance with the UK General Data Protection Regulation and the Data Protection Act 2018 in order to undertake our duties.

### Further Information

How is your information used?

We may use information to: process applications, investigate and prosecute relevant illegal activities, investigate and prosecute Corporate Fraud; send communications that have been requested or that may be of interest; ask agencies, government departments or other public bodies to give us information they have about you; check information you have provided, or information about you that someone else has provided, with other information we hold; get information about you from certain third parties, or give information to them to check the accuracy of information, prevent or detect fraud or protect public funds. These third parties include Government Departments, other Local Authorities and private sector companies, as allowed by law.

Who has access to your information?

We may share information with:

Other Council Departments – to ensure we meet our statutory duties; or to collect debt, and prevent fraud and the misuse of public funds.

External organisations, for example, HM Revenues & Customs, the Department of Work and Pensions, the Police, the Audit Commission and other enforcement agencies and third parties, for other purposes allowed by law, including, to prevent fraud and the misuse of public funds.

For further information about how your personal information will be used, visit [www.thanet.gov.uk](http://www.thanet.gov.uk) where you can see a full copy of our TDC privacy notice.

Alternatively you can request a hard copy from - [dataprotection@thanet.gov.uk](mailto:dataprotection@thanet.gov.uk)

## 10. Contact Details

Licensing Officers can be contacted at:

Thanet District Council  
P O Box 9  
Cecil Street  
Margate  
Kent  
CT9 1XZ

Telephone: 01843 577000  
E-mail: [licensing.enforcement@thanet.gov.uk](mailto:licensing.enforcement@thanet.gov.uk)

## DRIVER KNOWLEDGE TEST

Meeting	<b>June 2023 - 10:00am</b>
Report Author	<b>Alison Brock – Technical Support Team Manager</b>
Portfolio Holder	
Status	<b>For Decision</b>
Classification:	<b>Unrestricted</b>

### **Executive Summary:**

**To consider a report to amend the Council's current Knowledge Test.**

### **Recommendation:**

The instructions of the Board are requested.

## **CORPORATE IMPLICATIONS**

### **Financial and Value for Money**

Costs associated with processing the application are taken from licensing fee income.

The applicant or any other person (objector) may appeal the Committee's decision to Magistrates' Court within 21 days. Should this decision be appealed the Council will incur costs defending the appeal. Should the appeal be successful it could result in costs being awarded against the Council. Therefore all decisions should ensure that they are in line with the Local Government (Miscellaneous Provisions) Act 1976

### **Legal**

The Licensing Board must pay proper attention to the applicant's rights under the provisions of the Human Rights Act 1998, which gives further effect in the United Kingdom to the fundamental rights and freedoms contained in the European Convention on Human Rights. The Licensing Board must have proper regard to the rights of the individual applicant when making decisions that affect them. However, it also has to have regard to the safety and protection of the public and therefore to ensure that the right balance is found and think hard about how it can cause the least possible harm to individuals, bearing in mind its duty to ensure the protection of the public.

Section 17 of the Crime and Disorder Act 1998 states: "Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that is reasonably can to prevent crime and disorder in its area"

In considering this application the Licensing Board will balance the competing Human Rights of the various parties including the right to respect for private and family life, the protection of property and the right to a fair hearing.

There is a right of appeal to a Magistrates' Court within 21 days of the date of the decision of the Licensing Board with regard to the grant/refusal of a licence or any of the conditions attached to it. The risk of appeal/challenge is increased if any decision made is not evidence-based and proportionate.

Whilst there is no statutory guidance with regards to the definition of a fit and proper person, in 2018 The Institute of Licensing produced guidance on determining the suitability of applicants and licensees in the Hackney Carriage and Private Hire Trades in order to bring clarity and conformity to the definition of a 'fit and proper person'.

## **Risk Management**

This section of the report should address each step of our Risk Management process that has been adopted to identify, evaluate and control and mitigate risks. Full details are provided in our Risk Management Strategy, but in summary the following should be considered:

### Identify

Asking the following questions can help identify risks:

- If in a year from now we haven't achieved this objective, why – what could have stopped us?
- What could realistically go wrong?
- What do we need in order to achieve this objective? Do we depend on others to succeed?
- What opportunities might arise?

### Evaluate

The purpose of this step is to understand the scale of the risks that have been identified and whether or not we need to take action to lower or manage the impact and/or likelihood.

### Control and Mitigate

Risk treatment involves taking actions to reduce likelihood of the risk occurring, or limiting the impact if the risks did materialise.

There are 4 principal ways in which we can respond to risks, these are known collectively as 'the Four Ts': Treat, Tolerate, Transfer, Terminate.

## **Corporate**

The Council's Core Business Objectives set out the direction of travel for the Council until 2023 laying the strong foundations that will benefit, shape and grow the district. By taking this approach, the Council's resources will be focused on what matters most, service delivery will be strengthened and both staff and partners will be working towards a common goal - ensuring prosperity and improved quality of life for our residents and the community.

These Core Business Objectives are:

### **Growth**

We will continue to ensure we work to consider new ways to generate income and invest our current resources. Delivering a Council that is financially strong to discharge its services and invest in growth of the District.

### **Environment**

Having a clean and well-maintained environment remains important to us. We will be clear with our residents on what we do and what our asks of residents are - cultivating a shared responsibility approach. Delivering a clean and accessible living environment, maintaining an emphasis on prevention but where necessary we will use an enforcement approach.

### **Communities**

Through effective partnership working with both the public sector agencies and the community, we will provide leadership and direction across the district and the region to ensure everyone is working to the same goal. Delivering high-quality housing, safer communities and enhancing the health and wellbeing of our residents.

## **Equality Act 2010 & Public Sector Equality Duty**

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

In considering this application it is appropriate to consider the rights of both the applicant and other parties, such as “responsible authorities” and/or “other persons” (objectors). The procedure for determining licences has a prescribed format to ensure fair representation of the relevant facts by all parties.

## **Introduction and Background**

All applicants who apply to be a Private Hire Driver or a Hackney Carriage Driver are required to take a Knowledge Test. The current test was introduced towards the end of 2019.

The Thanet Private Hire Association, which consists of 3 of the local operators, there are 42 operators currently registered with the Council, requested a meeting with Mr Mackinlay and council officers which was held at the office of Mr Mackinlay in November 2022 to discuss the lack of drivers passing the current knowledge test.

A report was brought before the Board in March 2023 a copy of which is attached at Annex A this contains just the report there are a number of annexes that can be found along with the original report at the link below.

<https://democracy.thanet.gov.uk/ieListDocuments.aspx?CId=116&MId=6231&Ver=4>

## **2.0 The Current Situation**

### **2.1 The decision of the Board in March was**

That the price to take the knowledge test remains at £41 for the first instance and then drops to £20 for every repeat test. (this has to be passed by finance as it is a change to fees and charges)

That the option for an evening course once a month be looked into for new applicants.

With immediate effect the current safeguarding course will be upgraded to the on-line classroom based course therefore ensuring that applicants are actually taking the test themselves, cost of the course to be paid by the applicant.

That going forward, the Technical Support Team will do a full review of the testing procedure, looking specifically at an in-house full day training course and assessment and present a further report to the Board at the June meeting.

- 2.2 The knowledge test is still being held fortnightly, the numbers taking the test have remained the same as before and there have been no requests for tests to be held in the evening.
- 2.3 There are now two online Safeguarding courses that can be booked via the TDC website. These are both online classroom based courses.
- 2.4 The questions have been reviewed and changes made where necessary. The number of questions in each section has remained the same.
- 2.5 As mentioned in the previous report if a course or one to one training was to be held in house this would require a new member of staff to be employed and fully trained on all aspects of safeguarding etc. This would be on a starting salary of £29,520 plus oncosts.
- 2.6 All authorities have some form of Knowledge test either in house in a similar format to Thanets current one or some now outsource their knowledge tests and training.

The current knowledge test and safeguarding course costs the applicant between £66.00 and £81.00 depending on which safeguarding course they attend.

Attached at Annex 2 are the details of a one day course that can be carried out here at the Council Offices at a cost of £130 to the candidate, this includes a resit if they fail the first one. The cost has a maximum number of 12 delegates each day and can be held fortnightly or more frequently if required.

The course can be tailored to the Councils needs and can include an assessment of the applicants English language skills which is a requirement of the Statutory Taxi & Private Hire Standards.

### **3.0 Options**

- 3.1 Leave the knowledge test as it currently stands
- 3.2 Agree to the Green Penny one day course to be started as soon as possible.

Contact Officer: Alison Brock – Technical Support Team Manager

Reporting to: Penny Button Director of Neighbourhoods

### **Annex List**

Annex A - March Board report

Annex B - Details of one day course

## **Background Papers**

Suitability of applicants and licences in the hackney carriage and private hire trades-

Access to taxis and private hire vehicles for disabled users

<https://www.gov.uk/government/publications/access-to-taxis-and-private-hire-vehicles-for-disabled-users/access-to-taxis-and-private-hire-vehicles-for-disabled-users--2>

Statutory Taxi and Private Hire Vehicle Standards

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf)

Consultation on Best Practice guidance

<https://www.gov.uk/government/consultations/taxi-and-private-hire-vehicle-best-practice-guidance>

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## CHANGES TO DRIVER KNOWLEDGE TEST

Meeting	<b>21<sup>st</sup> March 2023 - 10:00am</b>
Report Author	<b>Alison Brock – Technical Support Team Manager</b>
Portfolio Holder	
Status	<b>For Decision</b>
Classification:	<b>Unrestricted</b>

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**To consider a report to amend the Council's current Knowledge Test.**

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### 2.0 The Current Situation

2.1 The knowledge test is held fortnightly with up to 20 applicants attending.

The details of the current test are attached at Annex A

2.2 There is currently a national shortage of drivers. A number of Thanet drivers left during the pandemic or following it and have not returned. In April 2022 it also became a requirement at renewal to register for Tax with the HMRC.

The table below shows the number of PHD licences issued and closed/not renewed over the last 6 years.

Calendar Year	New PHD Licences Issued	Closed/not renewed
2022	30	101
2021	26	32
2020	11	69
2019	42	81
2018	54	11
2017	55	28

2.3 As can be seen from the table a large number did not renew their licence in 2022. Drivers do not have to retake the test at renewal only drivers applying for a new licence have to take the test.

2.4 All local authorities are required to test applicants who wish to become a Private Hire or Hackney Carriage Driver having regard to the

Home Office – Guidance for licensing authorities to prevent illegal working in the taxi and private hire sector in the UK – 2022

Taxis and Private Hire Vehicles (Disabled Persons) Bill – duties of drivers

Statutory guidance – Access to taxis and private hire vehicles for disabled users.

Department for Transport:-

# Agenda Item 5

## Annex 1

Statutory Taxi and Private Hire Vehicle Standards – July 2020 – Driver section attached at Annex B

Taxi and Private Hire Vehicle Licensing Best Practice Guidance - 2010

A consultation document on the Best Practice Guidance was issued in 2022.

### **Fit and Proper Test**

As stated in the Statutory & Best Practice Guidance for taxi and PHV licensing authorities.

Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is a fit and proper to pose oneself the following question:

*Without any prejudice, and based on the information before you, would you allow a person for who you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of the day or night?*

If on balance of probabilities, the answer to the question is 'no' the individual should not hold a licence.

- 2.5 Attached at Annex C is a list of some of the other authorities within Kent and the tests that they require for a new driver.

All information in regard to the Thanet current knowledge test along with a study guide can be found online at

<https://www.thanet.gov.uk/info-pages/taxi-and-private-hire-vehicle-knowledge-test/>

with links to the courses required and to conditions of licences, byelaws etc to KCC for school information, and the Visit Thanet site for details of local attractions, pubs & hotels.

- 2.6 The current process if someone wishes to apply for a private hire drivers licence is

- 1) Collect a DBS form from the reception desk and once completed request an appointment to have the form checked and sent off. Appointment times are Tues and Thurs mornings. These are sent off the same day, we have no control over how long they take to be returned.
- 2) Take the online Safeguarding course and Visitor Ambassador Course once these have been completed then

# Agenda Item 5

## Annex 1

- 3) Take the knowledge test, this cannot be booked until the above 2 courses have been completed, as the certificates need to be attached to the booking – these are held fortnightly on a Wednesday morning for up to 20 candidates.
- 4) once the knowledge test has been passed then the New driver application paperwork can be completed and an appointment made for this to be checked and if the DBS has been sent back the licence can be issued that day or the next at the latest.

Applicants used to pay the full application fee and then apply to take the test. They only now have to pay for the DBS application (£40) and knowledge test (£41) and pay the actual application fee once they have passed the knowledge test.

- 2.7 Thanet Private Hire Association have submitted a statement and further information as public speaking is not allowed at a Licensing Board meeting - Annex D
- 2.8 Details of the costings for the tests mentioned in the TPHA paperwork are attached at - Annex E
- 2.9 The other operators were contacted and asked for their comments – attached at Annex F

### **3.0 Options** – some options for the Board to consider

- 3.1 Keep the test in its current format
- 3.2 Make changes to the test, i.e. lower the pass rate and/or split the test into a longer Hackney Driver Test (more local knowledge) and a Private Hire Driver Test with less local knowledge. Review all the questions.
- 3.3 Include the first test with the application fee and further tests charged for. This would mean the full application fee would have to be paid at the beginning of the process.
- 3.3 Any requirement for in house training would mean employing a member of staff to be trained on all aspects of the test including safeguarding, disability awareness, training the trainer courses etc. This would be at a cost of approx. £36,500 - £40,000 (this includes on cost but no training costs)
- 3.4 Change the test to include a driver assessment course, the online classroom course for safeguarding both paid for by the applicant and a shortened in-house knowledge test, of which the first test could be included in the application fee. This would of course mean the whole application fee would have to be paid at the beginning of the process.
- 3.5 Any changes/additions the Board deem appropriate for the test

Contact Officer: Alison Brock – Technical Support Team Manager

Reporting to: Penny Button Director of Neighbourhoods

**Annex List**

- Annex A - Details of current test
- Annex B – Extract from Standards
- Annex C – Other Kent authority tests and costs
- Annex D – Paperwork submitted by TPHA
- Annex E – Costings of tests mentioned by TPHA
- Annex F – Comments on Knowledge test from other operators

**Background Papers**

Suitability of applicants and licences in the hackney carriage and private hire trades-

Access to taxis and private hire vehicles for disabled users

<https://www.gov.uk/government/publications/access-to-taxis-and-private-hire-vehicles-for-disabled-users/access-to-taxis-and-private-hire-vehicles-for-disabled-users--2>

Statutory Taxi and Private Hire Vehicle Standards

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf)

Consultation on Best Practice guidance

<https://www.gov.uk/government/consultations/taxi-and-private-hire-vehicle-best-practice-guidance>

## Initial Course for New Drivers Course Overview

<b><u>Taxi &amp; Private Hire Knowledge Course</u></b>		
<b><u>LO &amp; Subject</u></b>	<b><u>Learning Criteria</u></b>	<b><u>Approximate Timings</u></b>
<b><u>Learning Outcome 1:</u></b>  <b>Current legislation, rules, and regulations applicable to drivers</b>	1.1 Understand relevant legislation in relation to the role of a taxi driver 1.2 Understand relevant rules and regulations in relation to the role of a taxi driver 1.3 Understand specific local legislation, rules and regulations in relation to the relevant licensing authorities policies	60 minutes
	<p><i>Course content for this LO to include:</i></p> <ul style="list-style-type: none"> <li>• <i>Summary of key areas contained within Statutory Taxi and Private Hire Standards</i></li> <li>• <i>Summary of key common areas within each council's policy</i></li> <li>• <i>Any key areas requested by council</i></li> </ul> <p><i>References:</i></p> <ul style="list-style-type: none"> <li>• <i>Statutory Taxi and Private Hire Standards</i></li> <li>• <i>District Council licensing policy and/or other councils if and when applicable (l            ³ District Council and            ¹ City Council, Council).</i></li> </ul>	
<b><u>Learning Outcome 2:</u></b>	1.1 Understand basic customer service rules and expectations 1.2 Understand how to deliver basic customer service to passengers	

## Initial Course for New Drivers Course Overview

<b>Expectations for customer service</b>		30 minutes
	<p><i>Course content for this LO to include:</i></p> <ul style="list-style-type: none"> <li>• <i>Basic customer service expectations to be highlighted and discussed.</i></li> <li>• <i>Interactive activity sharing customer service experiences.</i></li> </ul>	
<b>BREAK</b>		15 Minutes
<p><b><u>Learning Outcome 3:</u></b></p> <p><b>Increasing drivers own awareness and how to ensure their own safety</b></p>	<p>1.1 Demonstrate an awareness of personal safety in relation to the role of taxi driver</p> <p>1.2 Demonstrate the ability to identify risk to self and others in relation to the role of taxi driver and how to reduce these risks</p> <p>1.3 Identify situations that could lead to a risk to personal safety or to passenger safety</p> <p>1.4 Identify how to avoid situations that are a threat to personal safety or passenger safety</p>	30 minutes
	<p><i>Course content for this LO to include:</i></p> <ul style="list-style-type: none"> <li>• <i>Awareness of personal safety</i></li> <li>• <i>Identifying risk to driver and passengers and educating this risk.</i></li> <li>• <i>Interactive discussion on situations attendees foresee they may find themselves in and how they will deal with these.</i></li> <li>• <i>Tutor led discussion on situations they may not have thought of.</i></li> </ul>	



## Initial Course for New Drivers Course Overview

<p><b><u>Learning Outcome 4:</u></b></p> <p><b>How to report a crime and advising drivers how to deal with customer complaints</b></p>	<p>1.1 Understand procedures for reporting crimes (emergency and non-emergency)</p> <p>1.2 Understand any additional procedures for reporting crimes in relation to local authority's policy</p> <p>1.3 Understand how to deal with customer feedback and complaints to a satisfactory level</p> <p>1.4 Understand local authority's procedure in relation to customer feedback and complaints</p>	<p style="text-align: center;">30 minutes</p>
<p><i>Course content for this LO to include:</i></p> <ul style="list-style-type: none"> <li>• <i>Recognised procedures for reporting crimes (emergency and non-emergency)</i></li> <li>• <i>District Council's procedures in this area.</i></li> <li>• <i>Other relevant council's procedures in this area</i></li> <li>• <i>Customer service skills in relation to dealing with and preventing complaints</i></li> </ul>		
<p><b><u>Learning Outcome 5:</u></b></p> <p><b>Highway code</b></p>	<p>1.1 Understand the rules relating to dropping off and picking up passengers, relevant to the role of a taxi driver</p> <p>1.2 Understand the rules relating to legal and appropriate speed</p> <p>1.3 Understand the rules relating to vehicle condition and how this relates to safety and the legal consequences for drivers</p>	<p style="text-align: center;">40 Minutes</p>
<p><i>Course content for this LO to include:</i></p> <ul style="list-style-type: none"> <li>• <i>Parking</i></li> <li>• <i>Stopping/waiting restrictions</i></li> <li>• <i>Speed</i></li> <li>• <i>Vehicle condition</i></li> <li>• <i>Any other relevant information</i></li> </ul>		

## Initial Course for New Drivers Course Overview

LUNCH BREAK		40 minutes
<p><b><u>Learning Outcome 6:</u></b></p> <p><b>Disability and equality awareness</b></p>	<p>1.1 Understand legislation on disability relevant to the role of taxi driver 1.2 Understand legislation on equality relevant to the role of taxi driver</p> <hr/> <p><i>Course content for this LO to include:</i></p> <ul style="list-style-type: none"> <li>• <i>Overview of legislation on disability and equality in relation to the role of a taxi driver.</i></li> <li>• <i>How to prevent any problems in this area</i></li> </ul>	30 Minutes
<p><b><u>Learning Outcome 7:</u></b></p> <p><b>Safeguarding responsibilities</b></p>	<p>1.1 Understand the definition of Safeguarding 1.2 Understand the definition of child sexual abuse and exploitation 1.3 Understand own responsibilities as a taxi driver in relation to safeguarding</p> <hr/> <p><i>Course content for this LO to include:</i></p> <ul style="list-style-type: none"> <li>• <i>Overview of safeguarding responsibilities relating to a taxi driver</i></li> <li>• <i>Child sexual abuse</i></li> <li>• <i>Exploitation</i></li> <li>• <i>County lines</i></li> </ul>	40 minutes
<p><b><u>Learning Outcome 8:</u></b></p> <p><b>Payment and basic arithmetic</b></p>	<p>1.1 Demonstrate basic understanding of arithmetic in relation to the role of taxi driver 1.2 Demonstrate ability to work out additional fares that may be charged 1.3 Understand basic customer service rules and expectations 1.4 Understand how to deliver basic customer service to passengers</p>	30 minutes

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## Initial Course for New Drivers Course Overview

	<p><i>Course content for this LO to include:</i></p> <ul style="list-style-type: none"> <li>• <i>Interactive activity on payment and basic arithmetic</i></li> <li>• <i>Working out correct change</i></li> <li>• <i>Working out fares where they are charged at a higher rate (e.g. after a certain time of day).</i></li> </ul>	
<b>BREAK</b>		15 minutes
<p><b><u>Learning Outcome 9:</u></b></p> <p><b>English language</b></p>	<p>1.1 Demonstrate a sufficient level of understanding of and ability to use written English in relation to the role of taxi driver</p> <p>1.2 Demonstrate a sufficient level of understanding of and ability to use spoken English in relation to the role of taxi driver</p> <p><u>Concerns in this area will be raised with _____ District Council.</u></p>	N/A
	<p><i>No course content will be created for this learning outcome.</i></p> <p><i>This learning outcome will be assessed using the following methods:</i></p> <ul style="list-style-type: none"> <li>• <i>Assessor observing communication between each attendee and between attendees and tutor</i></li> <li>• <i>Written skills used whilst on the test</i></li> </ul>	
<b>Test</b>	The test will be conducted at the end of the course.	45 minutes (+ 35 minutes for geographic test, if applicable)

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## LICENSING AND GAMBLING STATEMENT REPORT

Meeting	13th June 2023 - 10:00am
Report Author	Alison Brock – Technical Support Team Manager
Portfolio Holder	
Status	For Decision
Classification:	Unrestricted

### Executive Summary:

To consider a report to amend the Council's current Knowledge Test.

### Recommendation:

The instructions of the Board are requested.

## CORPORATE IMPLICATIONS

### Financial and Value for Money

Costs associated with processing the application are taken from licensing fee income.

The applicant or any other person (objector) may appeal the Committee's decision to Magistrates' Court within 21 days. Should this decision be appealed the Council will incur costs defending the appeal. Should the appeal be successful it could result in costs being awarded against the Council. Therefore all decisions should ensure that they are in line with the Local Government (Miscellaneous Provisions) Act 1976

### Legal

The Licensing Board must pay proper attention to the applicant's rights under the provisions of the Human Rights Act 1998, which gives further effect in the United Kingdom to the fundamental rights and freedoms contained in the European Convention on Human Rights. The Licensing Board must have proper regard to the rights of the individual applicant when making decisions that affect them. However, it also has to have regard to the safety and protection of the public and therefore to ensure that the right balance is found and think hard about how it can cause the least possible harm to individuals, bearing in mind its duty to ensure the protection of the public.

Section 17 of the Crime and Disorder Act 1998 states: "Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that is reasonably can to prevent crime and disorder in its area"

In considering this application the Licensing Board will balance the competing Human Rights of the various parties including the right to respect for private and family life, the protection of property and the right to a fair hearing.

There is a right of appeal to a Magistrates' Court within 21 days of the date of the decision of the Licensing Board with regard to the grant/refusal of a licence or any of the conditions attached to it. The risk of appeal/challenge is increased if any decision made is not evidence-based and proportionate.

Whilst there is no statutory guidance with regards to the definition of a fit and proper person, in 2018 The Institute of Licensing produced guidance on determining the suitability of applicants and licensees in the Hackney Carriage and Private Hire Trades in order to bring clarity and conformity to the definition of a 'fit and proper person'.

## **Risk Management**

This section of the report should address each step of our Risk Management process that has been adopted to identify, evaluate and control and mitigate risks. Full details are provided in our Risk Management Strategy, but in summary the following should be considered:

### Identify

Asking the following questions can help identify risks:

- If in a year from now we haven't achieved this objective, why – what could have stopped us?
- What could realistically go wrong?
- What do we need in order to achieve this objective? Do we depend on others to succeed?
- What opportunities might arise?

### Evaluate

The purpose of this step is to understand the scale of the risks that have been identified and whether or not we need to take action to lower or manage the impact and/or likelihood.

### Control and Mitigate

Risk treatment involves taking actions to reduce likelihood of the risk occurring, or limiting the impact if the risks did materialise.

There are 4 principal ways in which we can respond to risks, these are known collectively as 'the Four Ts': Treat, Tolerate, Transfer, Terminate.

## **Corporate**

The Council's Core Business Objectives set out the direction of travel for the Council until 2023 laying the strong foundations that will benefit, shape and grow the district. By taking this approach, the Council's resources will be focused on what matters most, service delivery will be strengthened and both staff and partners will be working towards a common goal - ensuring prosperity and improved quality of life for our residents and the community.

These Core Business Objectives are:

### **Growth**

We will continue to ensure we work to consider new ways to generate income and invest our current resources. Delivering a Council that is financially strong to discharge its services and invest in growth of the District.

### **Environment**

Having a clean and well-maintained environment remains important to us. We will be clear with our residents on what we do and what our asks of residents are - cultivating a shared responsibility approach. Delivering a clean and accessible living environment, maintaining an emphasis on prevention but where necessary we will use an enforcement approach.

### **Communities**

Through effective partnership working with both the public sector agencies and the community, we will provide leadership and direction across the district and the region to ensure everyone is working to the same goal. Delivering high-quality housing, safer communities and enhancing the health and wellbeing of our residents.

## **Equality Act 2010 & Public Sector Equality Duty**

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

In considering this application it is appropriate to consider the rights of both the applicant and other parties, such as “responsible authorities” and/or “other persons” (objectors). The procedure for determining licences has a prescribed format to ensure fair representation of the relevant facts by all parties.

## **Introduction and Background**

The Council has to publish a Licensing Policy Statement and a Gambling Policy Statement and these should be reviewed every 3 years.

### **2.0 The Current Situation**

- 2.1 Both of the statements need renewing. The statements have to go out for consultation with various bodies, the trade and the public, every time they are renewed or changes are made that may have an effect on aspects of the statements. The Government is currently in the process of reviewing the Gambling Act and making some changes to the Licensing Act.

Current statements attached at Annex A & B

- 2.2 Once the changes have been agreed and made to the Acts, changes will have to be made to the two statements and they will need to go out for full consultation. Therefore I am requesting that the Board agrees to an extension to the statements in their current form for a period of no longer than 12 months.

Once the changes have been made to the Acts the statements will be fully updated to reflect these and any other changes that may be required following consultation with all interested parties.

### **3.0 Options**

- 3.1 Agree to the Statements being in place for up to another 12 months.
- 3.2 To not approve an extension of the current Statements

Contact Officer: Alison Brock – Technical Support Team Manager

Reporting to: Penny Button Director of Neighbourhoods

## **Annex List**

Annex A - Current Gambling Statement

Annex B - Current Licensing Statement



# **Gambling Act 2005**

## **Gambling Policy Statement**

**January 2016**

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## Foreword

It is just over eight years since the Gambling Act came into force and responsibility for Gambling premises moved from the Magistrates' Court to the Council.

The Act has three key objectives in relation to gambling, to ensure it is fair, crime free and children and vulnerable persons are protected. Local Authorities have responsibility for Betting, Casino and Bingo premises as well as premises with gaming machines and small society lotteries.

This document is a formal statement of the Policy adopted by Thanet District Council, setting out how it will secure the 'licensing objectives'. The Policy takes into consideration the latest Guidance issued by the Gambling Commission.

I hope that those in the licensed trade, and other interested parties, will find the Policy an essential document.

### **1. The Licensing Objectives**

In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

Licensing Authorities will aim to permit the use of premises for gambling as set out in Section 153 of the Act.

### **2. Introduction**

Thanet District Council is situated in the County of Kent, which contains 12 District Councils and 1 Unitary Authority in total. Each is represented on the Kent & Medway Regulatory Licensing Steering Group (K&MRLStGp) whose role includes the identification of issues on which a consistent countywide approach is considered essential and the formulation of recommended policy that establishes a minimum standard on these identified issues.

This policy has been formulated by the K&MRLStGp.

Thanet District Council area has a population of approximately 130,000 making it one of the largest in the County in terms of population. In terms of area it is one of the smallest, covering 40 square miles. Thanet contains the towns of Margate, Ramsgate and Broadstairs. The population is mainly resident in the towns with a spread around the whole coast..

# Agenda Item 6

## Annex 1

### Thanet District Council - Gambling Act 2005 Gambling Policy Statement January 2016

Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles that they proposed to apply when exercising their functions. This statement must be published at least every three years. The statement can also be reviewed from “time to time” and the amended parts re-consulted upon. The statement must then be re-published.

In determining its policy the licensing authority must have regard to the Guidance and will give appropriate weight to the views of those it has consulted.

Thanet District Council consulted widely on this policy statement before finalising and publishing it. A list of the persons consulted and responses is provided at appendix 5.

The Gambling Act requires that the following parties be consulted by Licensing Authorities:

- The Chief Officer of Police
- One or more persons who appear to the authority represent the interests of persons carrying on gambling businesses in the authority’s 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 Gambling Act 2005

The list of persons consulted when preparing this Policy statement is deliberately wide. The list of persons this authority consulted can be found at appendix 5.

The consultation took place between the 23<sup>rd</sup> July and 15<sup>th</sup> October 2015.

The full list of comments made, the consideration of them by the Council and the reasons given for decisions made in drafting the policy following consultation, is available by request to: Licensing Department, Thanet District Council, PO Box 9, Cecil Street, Margate CT9 1XZ, 01843 577432.

The policy was approved at a meeting of the Full Council on the 3rd December 2015 and was published via our website on [www.thanet.gov.uk](http://www.thanet.gov.uk). Copies have been placed in the public libraries of the area as well as being available in the principal Council Offices. Should you have any comments as regards this policy statement please send them via email or letter to the following contact:

Name:

Address: PO Box 9, Cecil Street, Margate CT9 1XZ

Email:

This policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence. Each application or representation will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005 and the Guidance issued by the Gambling Commission (the Guidance).

### 3. Declaration

In producing this final licensing policy statement, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance, and any responses from those consulted on the policy statement.

### 4. Casinos

**No Casinos resolution** – Section 166 of the Gambling Act 2005 gives a Licensing Authority the ability to resolve not to issue casino premises licences. This licensing authority has **not** passed a ‘no casino’ resolution. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution.

**5. Functions** – This table shows which functions local authorities are responsible for under the Act.

	<b>Function</b>
	<b>Who deals with it</b>
Be responsible for the licensing of premises where gambling activities are to take place by issuing <i>Premises Licences</i>  Licensing Authority	Issue <i>Provisional Statements</i>  Licensing Authority
Regulate <i>members' clubs</i> and <i>miners' welfare institutes</i> who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits  Licensing Authority	Issue <i>Club Machine Permits to Commercial Clubs</i>  Licensing Authority
Grant permits for the use of certain lower stake gaming machines at <i>unlicensed Family Entertainment Centres</i>  Licensing Authority	Receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines  Licensing Authority
Grant <i>Licensed Premises Gaming Machine Permits</i> for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required  Licensing Authority	Register <i>small society lotteries</i> below prescribed thresholds  Licensing Authority

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## Annex 1

Thanet District Council - Gambling Act 2005 Gambling Policy Statement January 2016

Issue <i>Prize Gaming Permits</i> Licensing Authority	Receive and Endorse <i>Temporary Use Notices</i> Licensing Authority
Receive <i>Occasional Use Notices</i> Licensing Authority	Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange') Licensing Authority
Maintain registers of the permits and licences that are issued under these functions Licensing Authority	

Please Note:

The Gambling Commission functions are listed on page 22.

The Licensing Authority is not responsible for remote gambling.

Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.

### 6. Responsible Authorities

In exercising this licensing authority's powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm, the following principles have been applied:

- the need for the body to be responsible for an area covering the whole of the licensing authority's area
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc

In accordance with the Gambling Commission's Guidance for local authorities this authority designates the following for this purpose:

Kent Social Services  
Brenchley House  
County Hall  
Maidstone  
Kent ME14 1RF

The contact details of all the Responsible Bodies under the Gambling Act 2005 are available via the Council's website at: [www.thanet.gov.uk](http://www.thanet.gov.uk)

### 7. Interested Parties

Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as someone who, in the opinion of the licensing authority which issues the licence or to which the application is made, -

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b).

The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:

Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision-making. It will however consider the following matters as recommended by the Guidance to local authorities:

- the size of the premises
- the nature of the premises
- the distance of the premises from the location of the person making the representation
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment); and



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## Annex 1

### Thanet District Council - Gambling Act 2005 Gambling Policy Statement January 2016

- the nature of the complainant. (not the personal characteristics of the complainant but the interests of the complainant, which may be relevant to the distance from the premises. For example, it could be reasonable for an authority to conclude that “sufficiently close to be likely to be affected” could have a different meaning for (a) a private resident (b) a residential school for children with truanting problems and (c) residential hostel for vulnerable adults).
- the catchment area of the premises (i.e. how far people travel to visit); and
- whether the person making the representation has business interests in that catchment area, that might be affected.

**The Gambling Commission has emphasised to licensing authorities, that ‘demand’ cannot be a factor in decisions.**

Guidance also states that moral objections to gambling are not a valid reason to reject applications for premises licences. This is because such objections do not relate to the licensing objectives (Guidance to Licensing Authorities Para 5.34).

The Gambling Commission has also recommended that the licensing authority state that interested parties include trade associations and trade unions, and residents and tenants’ associations. This authority will not however generally view these bodies as interested parties unless they have a member who can be classed as one under the terms of the Gambling Act 2005 i.e. lives sufficiently close to the premises to be likely to be affected by the authorised activities.

Interested parties can be represented by other persons such as Ward Councillors, Councillors for the Division, MP’s etc. Councillors who are part of the Licensing Committee dealing with the licence may not be able to represent an interested party. They may recommend another councillor who may help. If an interested party needs advice on this matter he should contact the Council’s Democratic Services section at Thanet District Council.

### **8. Exchange of Information**

In holding and exchanging information with other bodies during the exercise of its functions under the Act the licensing authority will act in accordance with the provisions of the Act , the Data Protection principles as set out in the Data Protection Act 1998 and its duties under the Freedom of Information Act 2000.

The licensing authority will have regard to any Guidance issued by the Gambling Commission to Local Authorities on this matter as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

### 9. Enforcement

The Kent & Medway Licensing Steering Group has formulated an Enforcement Protocol which each Licensing Authority and Responsible Authority has agreed. The purpose of this protocol is to facilitate co-operation and co-ordination between enforcement agencies in pursuance of both the Gambling Act 2005 and the Licensing Act 2003. It will underpin the mutual operational support required to tackle licensing issues.

In accordance with the Guidance this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This licensing authority will also, as recommended in the Guidance, adopt a risk-based inspection programme.

Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

This licensing authority's principles are that:

It will be guided by the Guidance and will endeavour to be:

- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects

The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions, which it authorises.

The Gambling Commission will be the enforcement body for the Operator and Personal Licences. The Gambling Commission will be responsible for compliance as regards unlicensed premises.

Philip Bensted  
Regulatory Services Manager  
January 2016

### Introduction

### Appendix 1

The Gambling Commission's Guidance for licensing authorities states the following. The paragraphs below endeavour to meet this request:

*"The statement of policy should set out what factors it is likely to take into account when considering applications for premises licences, permits and other permissions and when determining whether to review a licence. This may be informed by the licensing authority's local area profile and will include considerations such as the proximity of gambling premises to schools and vulnerable adult centres, or to residential areas where there may be a high concentration of families with children. Although the statement of policy should identify the factors to be considered, it should be clear that each application or review will be decided on its merits. Importantly, if an applicant for a premises licence can show how risks to the licensing objectives can be mitigated, the licensing authority will need to take that into account in its decision making "(6.33 and 6.34)*

#### Permits

##### **(i) Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)**

Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit.

The Gambling Act 2005 states that a licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25.

It should be noted that a licensing authority cannot attach conditions to this type of permit and that the "statement of principles" only applies to initial applications and not to renewals.

For initial applications, the Licensing Authority does not have to have regard to the licensing objectives but does need to have regard to any Gambling Commission guidance.

Guidance for local authorities states: "a licensing authority may include a statement of principles that it proposes to apply when exercising its functions in considering applications for permits. In particular it may want to set out the matters that it will take into account in determining the suitability of the applicant. Given that the premises is likely to appeal particularly to children and young persons, licensing authorities may wish to give weight to matters relating to protection of children from being harmed or exploited by gambling and to ensure that staff supervision adequately reflects the level of risk to this group." (24.8)

The Guidance also states: “An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application. In considering the application, the licensing authority shall have regard to this guidance and may have regard to the licensing objectives. The licensing authority may also consider asking applicants to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act);
- that employees are trained to have a full understanding of the maximum stakes and prizes.” (24.9)

This licensing authority adopted a statement of principles which is at Appendix 6.

With regard to renewals of these permits, the licensing authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

### **(ii) (Alcohol) Licensed premises gaming machine permits – (Schedule 13 Para 4(1))**

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. The licensing 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;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*” This licensing authority considers that “such matters” will be decided on a case by case basis but that if

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## Annex 1

### Thanet District Council - Gambling Act 2005 Gambling Policy Statement January 2016

any general themes arise it will endeavour to provide examples of such in this licensing policy statement by way of a revision.

It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

#### **(iii) Prize Gaming Permits – (Statement of Principles on Permits - Schedule 14 Para 8 (3))**

The Gambling Act 2005 states that a Licensing Authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit”.

The Guidance states: “In their Licensing Authority Statement of Policy, licensing authorities should include a statement of principles that they propose to apply when exercising their functions in considering applications for permits. In particular, they may want to set out the matters that they will take into account in determining the suitability of the applicant. Given that the premises will particularly appeal to children and young persons, in considering what to take into account in the application process and what information to request from the applicant, licensing authorities will want to give weight to child protection issues. Licensing Authorities should ask the applicant to set out the types of gaming that he or she is intending to offer and the applicant should be able to demonstrate that:

- they understand the limits to stakes and prizes that are set out in Regulations;
- the gaming offered is within the law.” (27.12)

This licensing authority has prepared a statement of principles which is at Appendix 6.

In making its decision on an application for this permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

It should be noted that there are conditions in the Gambling Act 2005 that the permit holder must comply with, but that the licensing authority cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;

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### Thanet District Council - Gambling Act 2005 Gambling Policy Statement January 2016

- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and participation in the gaming must not entitle the player to take part in any other gambling.

#### **(iv) Club Gaming and Club Machines Permits**

Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations. A Club machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

Guidance for local authorities states: "members' clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is restricted to that of a prescribed kind (currently bridge and whist). Members' clubs must be permanent in nature, but there is no need for a club to have an alcohol licence." (25.4)

This Licensing Authority is aware that: "Licensing authorities may only refuse an application on the grounds that:

- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young persons;
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years;
- (e) an objection has been lodged by the Commission or the police (25.38)

It should be noted that there is a 'fast-track' procedure available for premises that hold a Club Premises Certificate under the Licensing Act 2003. As the Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse a permit are reduced" and "The grounds on which an application under the process may be refused are that:

- (a) the club is established primarily for gaming, other than gaming prescribed by regulations under Section 266 of the Act;
- (b) in addition to the prescribed gaming, the applicant provides facilities for other gaming;
- (c) a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled." (25.43)

### Premises Licences

### Appendix 2

#### (i) Decision making - general:

Premises Licences will be subject to the permissions/restrictions set-out in the Gambling Act 2005 and Regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives and
- in accordance with the authority's statement of licensing policy

As regards licence conditions, the Guidance for local authorities states that "Conditions imposed by the licensing authority must be proportionate to the circumstances which they are seeking to address. In particular, licensing authorities should ensure that the premises licence conditions are:

- relevant to the need to make the proposed building suitable as a gambling facility
- directly related to the premises (including the locality and any identified local risks) and the type of licence applied for
- fairly and reasonably related to the scale and type of premises:
- reasonable in all other respects. (9.31)

The Commission also adds that "licensing authorities should make decisions on conditions on a case by case basis, and in the context of the principles of S.153. They must aim to permit the use of premises for gambling and so should not attach conditions that limit their use except where it is necessary in accordance with the licensing objectives, the Commission's codes of practice and this Guidance, or their own statement of policy. Conversely, licensing authorities should not turn down applications for premises licences where relevant objections can be dealt with through the use of conditions." (9.28)

This licensing authority is in agreement with these statements by the Gambling Commission.

There are also conditions which the licensing authority cannot attach to premises licences which are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition

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### Thanet District Council - Gambling Act 2005 Gambling Policy Statement January 2016

- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated and
- conditions in relation to stakes, fees, winning or prizes

**The Gambling Commission has also emphasised to local authorities, that ‘demand’ cannot be a factor in decisions.**

#### **(ii) “premises”:**

Premises is defined in the Act as “any place”. It is for the licensing authority to decide whether different parts of a building can be properly regarded as being separate premises taking into consideration Guidance issued by the Gambling Commission.

This licensing authority takes particular note of the Gambling Commission’s Guidance for local authorities which states that ‘Licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular, they should be aware that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not ‘drift’ into a gambling area. The plan of the premises should clearly denote entrances and exits.’(7.26)

#### **(iii) Location:**

This licensing authority notes the Guidance which states that: “licensing authorities may need to consider the location of premises in the context of this<sup>1</sup> licensing objective. For example, in considering an application for a premises licence or permit that is in an area noted for particular problems with disorder, organised criminal activity etc, the licensing authority should think about what, if any, controls might be appropriate to prevent those premises being associated with or used to support crime. That might include conditions on the premises licence, such as a requirement for door supervisors. The requirement for conditions might be determined by the operator’s own risk assessment or the local area profile carried out by the licensing authority” (5.3)

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<sup>1</sup> Preventing gambling being a source of crime or disorder, being associated with crime or disorder or being used to support crime.



### **(iv) Planning:**

Planning and licensing are different regulatory systems and will be dealt with separately. The Guidance states: "When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have to comply with the necessary planning or building consents. Nor should fire or health and safety risks be taken into account. Those matters should be dealt with under relevant planning control, building and other regulations, and must not form part of the consideration for the premises licence. Section 210 of the Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building." (7.65)

This authority will listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions should such a situation arise.

### **(v) Duplication:**

In accordance with the Guidance this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

### **(vi) Door Supervisors:**

The Guidance states that licensing authorities may require persons operating premises in which gambling takes place to take measures such as the supervision of entrances; segregation of gambling from non-gambling areas frequented by children (assuming such non-gambling areas are compatible with requirements of the Act); and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives.

It is to be noted that door supervisors at licensed casino or bingo premises are exempt from the requirements of the Private Security Industry Act 2001. Where an authority imposes door supervision requirements on such licences, the personnel will not need licensing under the 2001 Act.

However where a casino or bingo premises are licensed under the Licensing Act 2003 Door Supervisors employed are required to be licensed under the PSIA Act 2001 to enable them to perform their functions under that Act.

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Thanet District Council - Gambling Act 2005 Gambling Policy Statement January 2016

### **(vii) Licensing objectives:**

This licensing authority has considered the Gambling Commission's Guidance to local authorities and some comments are provided with regard to the licensing objectives.

#### Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime:

The Guidance has noted that "disorder is intended to mean activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder would include whether police assistance was required and how threatening the behaviour was to those who could see or hear it." This authority agrees with this statement.

#### Ensuring that gambling is conducted in a fair and open way:

The Guidance states that "Generally the Commission would not expect licensing authorities to find themselves dealing with issues of fairness and openness frequently. Fairness and openness is likely to be a matter for either the way specific gambling products are provided and therefore subject to the operating licence, or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence." (5.11) This licensing authority also notes, however, that the Gambling Commission also states "in relation to the licensing of tracks the licensing authority's role will be different from other premises in that track owners will not necessarily have an operating licence. In those circumstances the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable." (5.12)

#### Protecting children and other vulnerable persons from being harmed or exploited by gambling:

The Guidance states that "The objective talks of protecting children from being "harmed or exploited by gambling", but in practice that often means preventing them from taking part in or being in close proximity to gambling..."

This Licensing Authority has also noted that Guidance states "Licensing authorities need to consider, in relation to particular premises, whether any special considerations apply in relation to the protection of vulnerable persons. This could be a local risk that is reflected in the licensing authority's statement of policy. Any such considerations need to be balanced against the authority's objective to aim to permit the use of premises for gambling." (5.18)

As regards the term "vulnerable persons" it is noted that the Gambling Commission is not seeking to offer a definition but states that "it does, for regulatory purposes, assume that this group includes people who gamble more than they want to, people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to, for example, mental health, a learning disability or substance misuse relating to alcohol or drugs." This licensing authority will consider the objective on a case-by-case basis. (5.17)

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Thanet District Council - Gambling Act 2005 Gambling Policy Statement January 2016

This licensing authority will pay particular attention to any Codes of Practice, which the Gambling Commission issues as regards this licensing objective in relation to specific premises such as casinos. It is understood that a Code for casinos must:

- specify steps that the premises licence-holder must take to ensure that children and young persons (that is those under the age of 18) do not enter casino premises, or in the case of the regional casino do not enter the gambling area;
- amongst those specified steps, ensure that each entrance to the casino or gambling area is supervised by at least one person (“the supervisor”) who is responsible for compliance with the code of practice; and
- require that, unless the supervisor is certain that a person seeking admittance is an adult, evidence of age must be required of all those seeking to enter the casino or gambling area.

### **(viii) Reviews:**

Interested parties or responsible authorities can make requests for a review of a premises licence; however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the following matters:

- it is in accordance with any relevant code of practice issued by the Gambling Commission
- it is in accordance with any relevant guidance issued by the Gambling Commission
- it is reasonably consistent with the licensing objectives and
- it is in accordance with the authority’s statement of licensing policy

as well as consideration as to whether the request is frivolous, vexatious, or will certainly not cause this authority to wish alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

The licensing authority can also initiate a review of a licence on the basis of any reason that it thinks is appropriate.

### **(ix) Provisional Statements:**

This licensing authority notes that the Guidance states:

“As the Court has held in a 2008 case, operators can apply for a premises licence in respect of premises which have still to be constructed or altered, and licensing authorities are required to determine any such applications on their merits. Such cases should be considered in a two stage process; first, licensing authorities must decide whether, as a matter of substance after applying the principles in section 153 of the Act, the premises ought to be permitted to be used for gambling; second, in deciding whether or not to grant the application a licensing authority will need to consider if appropriate

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conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.” (7.59)

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In terms of representations about premises licence applications, following the grant of a provisional statement, the Guidance states: “If a provisional statement has been granted, the licensing authority is constrained in the matters it can consider when an application for a premises licence is made subsequently in relation to the same premises. No further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant’s circumstances. In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by way of representations at the provisional licence stage
- which, in the authority’s opinion, reflect a change in the operator’s circumstances
- Where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. This must be a substantial change to the plan and licensing authorities should discuss any concerns they have with the applicant before making a decision”. (11.8,11.9 and 11.10)

This authority also has noted in the Guidance that “A licensing authority must not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building law.”

#### **(x) Adult Gaming Centres:**

This licensing authority particularly notes that the Guidance states: “No-one under the age of 18 is permitted to enter an AGC. Licensing authorities will wish to have particular regard to the location of and entry to AGCs to minimise the opportunities for under 18s to gain access. This may be of particular importance in areas where young people may be unsupervised, for example, where an AGC is in a complex, such as a shopping centre or airport.” (21.2 and 21.3)

#### **(xi) (Licensed) Family Entertainment Centres:**

This licensing authority will, in accordance with the Guidance refer to the Commission’s website to see any conditions that apply to operator licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences.

### **(xii) Tracks:**

This licensing authority is aware that the Gambling Commission may provide specific guidance as regards tracks. We will take note of the Guidance issued by the Gambling Commission in this regard.

### **(xiii) Casinos:**

**Casinos and competitive bidding** – This licensing authority is aware that where a licensing authority area is enabled to grant a Premises Licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators which will want to run the casino. In such situations the local authority will run a ‘competition’ under Schedule 9 of the Gambling Act 2005. This licensing authority will run such a competition in line with any regulations issued under the Gambling Act 2005 by the Secretary of State.

**Betting machines** – This licensing authority is aware that, as explained in Guidance for local authorities: “Section 181 contains an express power for licensing authorities to restrict the number of SSBTs (self-service betting terminals), their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of SSBTs in particular premises, the licensing authority, amongst other things, should take into account the ability of employees to monitor the use of the machines by children and young persons or by vulnerable people.” (19.9)

**Credit** - Guidance for Local Authorities states that:- “section 177 does not prevent the licensee from contracting a third-party to install cash dispensers (ATMs) on their premises, which may accept both credit and debit cards. Such an arrangement is subject to requirements that the premises licence holder has no other commercial connection in relation to gambling with the provider of the ATMs (aside from the agreement to site the machines), does not profit from the arrangement, and does not make any payment in connection with the machines. All premises licences also include a mandatory condition which requires that any ATM made available for use on the premises must be located in a place that requires any customer who wishes to use it to cease gambling in order to do so.” (9.12)

### **(xiv) Bingo:**

The licensing authority is aware and will take notice of the Guidance issued by the Gambling Commission in relation to Bingo.

### **(xv) Temporary Use Notices:**

There are a number of statutory limits as regards Temporary Use Notices. It is noted that it falls to the licensing authority to decide what constitutes a ‘set of premises’ where Temporary Use Notices are received relating to the same building / site (see Gambling Commission’s Guidance for Local Authorities).

### **(xvi) Occasional Use Notices:**

The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The licensing authority will though need to consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

### **(xvii) Travelling Fairs:**

It will fall to this licensing authority to decide whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses shared boundaries is monitored so that the statutory limits are not exceeded.

### **(xviii) Betting premises:**

**Betting machines** - The Guidance states: "Section 181 contains an express power for licensing authorities to restrict the number of SSBTs (self-service betting terminals), their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of SSBTs in particular premises, the licensing authority, amongst other things, should take into account the ability of employees to monitor the use of the machines by children and young persons or by vulnerable people." (19.9)

**Credit** - The Gambling Commission Guidance states: "section 177 does not prevent the licensee from contracting a third-party to install cash dispensers (ATMs) on their premises, which may accept both credit and debit cards. Such an arrangement is subject to requirements that the premises licence holder has no other commercial connection in relation to gambling with the provider of the ATMs (aside from the agreement to site the machines), does not profit from the arrangement, and does not make any payment in connection with the machines. All premises licences also include a mandatory condition which requires that any ATM made available for use on the premises must be located in a place that requires any customer who wishes to use it to cease gambling in order to do so." (9.12)

### Information exchange

It should be noted that there are sections of the Gambling Commission’s Guidance for local authorities which relate to Information Exchange.

The sections are:

- “Licensing authorities do not need to investigate the suitability of an applicant for a premises licence, including in relation to crime. The issue of suitability will already have been considered by the Commission, because any applicant (except occupiers of tracks who do not propose to offer gambling themselves) will have to hold an operating licence from the Commission before the premises licence can be issued. However, if the licensing authority receives information during the course of considering a premises licence application or at any other time, that causes it to question the suitability of the applicant to hold an operating licence, these concerns should be brought to the attention of the Commission without delay” (5.10)
  
- “Regulatory issues arising from the prevention of disorder are likely to focus almost exclusively on premises licensing, rather than on operating licences. However, if there are persistent or serious disorder problems that an operator could or should do more to prevent, the licensing authority should bring this to the attention of the Commission so that it can consider the continuing suitability of the operator to hold an operating licence.” (5.6)
  
- “If it comes to the attention of licensing authorities that Alcohol-licensed premises or clubs or institutes are playing bingo during the course of a week which involves significant stakes and prizes and that makes it possible that the £2,000 in seven days is being exceeded, authorities should inform the Commission.” (18.15)

### Gambling Commission Functions

Function	Who deals with it
Issue and renewal of <i>Operating Licences</i>	Gambling Commission
Review <i>Operating Licences</i>	Gambling Commission
Issue <i>Personal Licences</i>	Gambling Commission
Issue <i>Codes of Practice</i>	Gambling Commission
Issue <i>Guidance to Licensing Authorities</i>	Gambling Commission
Licence remote gambling through Operating Licences	Gambling Commission
Issue licences in relation to the <i>manufacture, supply, installation, adaptation, maintenance or repair of gaming machines</i>	Gambling Commission
Deal with appeals against Commission decisions	Gambling Appeals Tribunal



**Responsible Authorities Contact details:**

**Appendix 3**

**Licensing Authority  
Thanet District Council  
Licensing Department  
PO Box 9 , Cecil Street,  
Margate CT9 1XZ  
01843 577432**

**Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham B2 4BP**

**Chief Officer of Police  
Licensing, CSU,  
Police Station  
Old Dover Road  
Canterbury CT1 3JQ  
01227 868414**

**Kent Fire & Rescue Service  
East Kent Group  
Fire Safety Office  
Canterbury Fire Station  
Upper Bridge Street  
Canterbury  
CT1 2NH**

**Local Planning Authority  
Thanet District Council  
PO Box 9, Cecil Street,  
Margate CT9 1XZ**

**Environmental Protection/ H&S  
Thanet District Council  
PO Box 9, Cecil Street,  
Margate CT9 1XZ**

**Child Protection Service  
Kent County Council Social Services  
Brenchley House  
County Hall  
Maidstone ME14 1RF**

**HM Revenue & Customs  
National Registration Unit  
Portcullis House  
21 India Street  
Glasgow G4 2PZ**

Appendix 4

**TABLE OF DELEGATIONS OF LICENSING FUNCTIONS**

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE OF LICENSING COMMITTEE	OFFICERS
Final approval of three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting (when appropriate)	X		
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission or responsible authorities	Where no representations received from the Commission or responsible authorities
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming /club machine permits		Where objections have been made and not withdrawn	Where no objections made/objections have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X

Decision to give a counter notice to a temporary use notice		X	
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### Appendix 5

#### Consultation

##### List of Persons Consulted

Local Gambling businesses – three casinos, two bingo premises, eighteen betting offices, nine adult gaming centres and four family entertainment centres

Kent Police	Gambling Commission	Kent Fire & Rescue
Planning, TDC	Environmental Protection, TDC	Social Services
HM Revenue & Customs	Eastern & Coastal Kent PCT	Citizens Advice Bureau
Kent County Council	Thanet Parish & Town Councils	Thanet District Councillors
Casino Operators Association	Mackenzie Dillon Solicitors	Ivor Thomas Amusements
Shepherd Neame	John Icke Automatics	Gamcare
BACTA	Local MP's	British Beer & Pub Assoc.
Assoc. of British Bookmakers	Casino Operators Assoc. UK	Poppleston Allen Solicitors
Thanet Community Safety Partnership		
Senior Management Team, TDC		
Chief Executives, Dover DC and Canterbury CC		

##### Responses Received

Coral Racing Limited  
 The Association of British Bookmakers  
 Broadstairs & St Peter's Town Council

**Statement of Principles  
For  
Unlicensed Family Entertainment  
Centres,  
Gaming Machine Permits  
&  
Prize Gaming Permits  
  
Gambling Act 2005**

**Contents**

1. The Gambling Act 2005
2. Purpose of this document
3. Unlicensed family entertainment centres (UFECs)
4. Prize Gaming Permits
5. Statement of Principles for UFEC gaming machine permits and prize gaming permits
6. Supporting documents
7. Child protection issues

8. Protection of vulnerable persons issues

9. Other miscellaneous issues

### 1. **The Gambling Act 2005**

Unless otherwise stated any references in this document to the council is to the Thanet District Council as the licensing authority.

The Act requires the council, as the licensing authority, to aim to permit the use of premises for gambling in so far as the authority thinks it:

- In accordance with a relevant code of practice
- In accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the licensing objectives and
- In accordance with the licensing authority policy issued under the Act.

The licensing objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

### 2. **Purpose of this document**

This document has been prepared to assist persons considering making an application for either an unlicensed family entertainment centre (UFEC) gaming machine permit or a prize gaming under the Gambling Act 2005.

Thanet District Council fully endorses the licensing objectives detailed above and expects all applicants to work in partnership to promote these objectives through clear and effective management of each gambling operation whether in respect of a permit or premises licence.

In respect of UFEC gaming machine permits it has been prepared in accordance with Paragraph 7 of Schedule 10 of the Act and in respect of prize gaming permits it has been prepared in accordance with paragraph 8 of Schedule 14 of the Act. The document should be read in conjunction with Thanet District Council Statement of Licensing Policy and Principles. – Gambling Act 2005.

The purpose of the document is to clarify measures that the council will expect applicants to demonstrate when applying for either of these permits so the council can determine the suitability of the applicant and the premises for a permit.

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## Annex 1

### Thanet District Council - Gambling Act 2005 Gambling Policy Statement January 2016

Within this process the council will aim to grant the permit where the applicant is able to demonstrate that:

- They are a fit and proper person to hold the permit
- They have considered and are proposing suitable measures to promote the licensing objectives and they have a legal right to occupy the premises to which the permit is sought.

The measures suggested in this document should be read as guidance only and the council will be happy for applicants to suggest measures above and beyond those listed in the document and or to substitute measures as appropriate.

### **3. Unlicensed family entertainment centres**

The term 'unlicensed family entertainment centre' is one defined in the Act and refers to a premises which provides category D gaming machines together with various other amusements such as computer games and "penny-pushers".

The premises is 'unlicensed' in that it does not require a premises licence but does require a permit to be able to provide its category D gaming machines. It should not be confused with a 'licensed family entertainment centre' that does require a premises licence because it contains both category C and D gaming machines.

Unlicensed family entertainment centres (UFECs) will be most commonly located at seaside resorts, in airports and at motorway service centres, and will cater for families, including unaccompanied children and young persons. The council will only grant a UFEC gaming machine permit where it is satisfied that the premises will be operated as a bona fide unlicensed family entertainment centre.

In line with the Act, while the council cannot attach conditions to this type of permit, the council can refuse applications if they are not satisfied that the issues raised in this "Statement of Principles" have been addressed through the application.

Applicants only need to address the "Statement of Principles" when making their initial applications and not at renewal time. (Permits are granted for a period of ten years.)

### **4. Prize gaming permits**

Section 288 defines gaming as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences. Prize gaming can often be seen at seaside resorts in amusement arcades where bingo is offered and the prizes are displayed.

A prize gaming permit is a permit issued by the council to authorise the provision of facilities for gaming with prizes on specified premises.

Applicants should be aware of the conditions in the Gambling Act 2005 by which prize gaming permits holders must comply. The conditions in the Act are:

- The limits on participation fees, as set out in regulations, must be complied with

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## Annex 1

### Thanet District Council - Gambling Act 2005 Gambling Policy Statement January 2016

- All chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played
- The prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize) and participation in the gaming must not entitle the player to take part in any other gambling

In line with the Act, while the council cannot attach conditions to this type of permit, the council can refuse applications if they are not satisfied that the issues raised in this "Statement of Principles" have been addressed through the application.

Applicants only need to address the "Statement of Principles" when making their initial applications and not at renewal time. Permits are granted for a period of ten years.

#### **5. Statement of Principles for UFEC gaming machine permits and prize gaming permits**

##### **Supporting documents**

The council will require the following supporting documents to be served with all UFEC gaming machine permit and prize gaming permit applications:

- Proof of age (a certified copy or sight of an original birth certificate, driving licence, or passport – all applicants for these permits must be aged 18 or over)
- Proof that the applicant has the right to occupy the premises. Acceptable evidence would be a copy of any lease, a copy of the property's deeds or a similar document
- An enhanced criminal record certificate. (this should be no greater than one month old.) This will be used to check that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act.)

In the case of applications for a UFEC gaming machine permit evidence that the machines to be provided are or were supplied by a legitimate gambling operator who holds a valid gaming machine technical operating licence issued by the Gambling Commission a plan of the premises to which the permit is sought showing the following items:

- The boundary of the building with any external or internal walls, entrances and exits to the building and any internal doorways where any category D gaming machines are positioned and the particular type of machines to be provided (eg. Slot machines, penny falls, cranes)
- The location where any prize gaming will take place (including any seating and tables) and the area where any prizes will be displayed
- The positioning and types of any other amusement machines on the premises
- The location of any fixed or semi-fixed counters, booths or offices on the premises whereby staff monitor the customer floor area the location of any ATM/cash machines or change machines the location of any fixed or temporary structures such as columns or pillars
- The location and height of any stages in the premises; any steps, stairs, elevators, balconies or lifts in the premises

- The location of any public toilets in the building.

(Unless agreed with the council, the plan should be drawn to a standard scale with a key showing the items mentioned above. The standard scale is 1:100)

### **6. Child protection issues**

The council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations.

The council will assess these policies and procedures on their merits, and they should (depending on the particular permit being applied for) include appropriate measures/training for staff as regards the following:

- Maintain contact details for any local schools and or the education authority so that any truant children can be reported
- Employ policies to address the problems associated with truant children who may attempt to gain access to the premises and gamble when they should be at school
- Employ policies to address any problems that may arise during seasonal periods where children may frequent the premises in greater numbers, such as half terms and summer holidays
- Maintain information at the premises of the term times of any local schools in the vicinity of the premises and also consider policies to ensure sufficient staffing levels during these times
- Display posters displaying the 'Child Line' phone number in discreet locations on the premises e.g. toilets
- Maintain an incident register of any problems that arise on the premises related to children such as children gambling excessively, truant children, children being unruly or young unaccompanied children entering the premises (The register should be used to detect any trends which require attention by the management of the premises.)
- Ensure all young children are accompanied by a responsible adult
- Maintain policies to deal with any young children who enter the premises unaccompanied
- Enhanced criminal records checks for all staff who will be working closely with children

NB: Any supporting evidence of the above measures e.g. Training manuals or other similar documents/written statements should be attached to the application.

### **7. Protection of vulnerable persons.**

The council will expect the applicant to show that there are policies and procedures in place to protect vulnerable persons.

The council will assess these policies and procedures on their merits, however they may (depending on the particular permit being applied for) include appropriate measures / training for staff as regards the following:



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### Thanet District Council - Gambling Act 2005 Gambling Policy Statement January 2016

- Display Gamcare helpline stickers on all gaming machines
- Display Gamcare posters in prominent locations on the premises
- Training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect persons who may be vulnerable
- Consider appropriate positioning of ATM and change machines (including the display of Gamcare stickers on any such machines)
- To ensure that they are aware that one early sign of problem gambling is borrowing money for gambling, and that it is never appropriate for a premises or its staff to encourage or enable problem gamblers to borrow money for gambling e.g staff should understand that it is wrong to encourage or enable easy-access credit cards or other high-risk lenders to tout for business in or near the premises

NB: Any supporting evidence of the above measures e.g. Training manuals or other similar documents/written statements should be attached to the application.

### **8. Other miscellaneous issues**

The applicant should also be mindful of the following possible control measures (depending on the particular permit being applied for) to minimise crime and disorder and the possibility of public nuisance as follows:

- Maintain an effective CCTV system to monitor the interior and exterior of the premises
- Keep the interior and exterior of the premises clean and tidy
- Ensure the external lighting is suitably positioned and operated so as not to cause nuisance to neighbouring and adjoining premises
- Consider the design and layout of the outside of the premises to deter the congregation of children and youths
- Restrict normal opening hours to 8.45am to midnight daily
- Not permit any person who is drunk and disorderly or under the influence of drugs, to enter or remain on the premises
- Take such steps as are reasonably practicable to eliminate the escape of noise from the premises
- Ensure, where possible the external doors to the premises remain closed, except when in use, by fitting them with a device for automatic closure or by similar means
- Ensure that the premises are under the supervision of at least one responsible, adequately trained person at all times the premises are open

NB: Any supporting evidence of the above measures e.g. Training manuals or other similar documents/written statements should be attached to the application.

Applicants may obtain an enhanced Criminal Record Check on application to Disclosure Scotland on 0870 609 6006 or online at [www.disclosurescotland.co.uk](http://www.disclosurescotland.co.uk)

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## Annex 1

**Thanet District Council - Gambling Act 2005 Gambling Policy Statement January 2016**

Regulatory Services Manager  
January 2016

**STATEMENT OF LICENSING POLICY**  
**Thanet District Council**

**1.0 INTRODUCTION**

- 1.1 Thanet District 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 in the District in respect of the sale and/or supply of alcohol. The Licensing Authority also licences the provision of regulated entertainment, late night refreshment and sexual entertainment venues.
- 1.2 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**
  - **public safety**
  - **the prevention of public nuisance**
  - **the protection of children from harm**
- 1.3 The 2003 Act further requires that the Licensing Authority publish a 'Statement of Licensing Policy' that sets out the policies the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications made under the Act.
- 1.4 The aims of this Statement of Licensing Policy in line with the four licensing objectives are to:
- a. help build and maintain a fair and prosperous society that properly balances the rights of individuals and their communities
  - b. integrate its aims and objectives with other initiatives, policies plus strategies that will:
    - encourage young people and culture
    - reduce crime and disorder
    - encourage tourism and visitors to the Area
    - continue to develop the day time economy and encourage an early evening and night time economy which is both viable and sustainable
    - reduce alcohol misuse
    - encourage employment
    - encourage the self sufficiency of local communities
    - reduce the burden of unnecessary regulation on business

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- 1.5 This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the 2003 Act and having regard to the Guidance issued under Section 182 of the Act. Where it is necessary to depart from the Guidance, either in this policy or at any other time, the Licensing Authority will give clear and cogent reasons for doing so. It has been drafted in partnership with the Kent Licensing Regulatory Steering Group. The Licensing Authority shall endeavour to work with other local authorities (particularly where licensing authorities' boundaries meet) to ensure that a consistent approach is taken in licensing matters whilst respecting the differing needs of individual communities.
- 1.6 When assessing applications, the Licensing Authority will need to be satisfied that the measures proposed in the applicant's operating schedule aim to meet the licensing objectives, as far as possible.
- 1.7 However, it should be recognised that this policy covers a wide variety of premises and activities carried on in them including theatres, cinemas, restaurants, pubs, nightclubs, private members' clubs, village halls and community centres, as well as off-licences, fast food outlets, late night cafes etc. For this reason, this policy cannot detail all the factors that influence the achievement of the licensing objectives nor can this policy detail all the control measures that may be appropriate in any given circumstances.
- 1.8 In respect of each of the four licensing objectives, applicants will need to satisfy the Licensing Authority that suitable and sufficient measures, as detailed in their operating schedule, will be implemented and maintained, relevant to the individual style and characteristics of their premises and events. Reference will need to be made as to whether additional measures will be taken on a permanent basis or specific occasion such as when a special event or promotion is planned, which is intended to, or likely to attract, larger audiences.
- 1.9 When considering applications, the Licensing Authority will have regard to this Policy, the Licensing Act 2003, particularly the Licensing Objectives and Guidance issued under Section 182 of the Act, and any supporting regulations that may from time to time be made. It will also seek proper integration with local crime prevention, planning, transport, employment and cultural strategies. To this end, the Licensing Authority may provide reports to the Planning Committee on the situation regarding licensed premises in the area and arrangements will be made, if necessary, for the Licensing Authority to receive reports on the needs of the local tourist economy and the cultural strategy for the area to ensure that these are reflected in their considerations. The Licensing Authority will monitor the impact of licensing on the provision of regular entertainment particularly live music and dancing. Care will be taken to ensure that only necessary, proportionate and reasonable licensing conditions are imposed.
- 1.10 The Policy does not undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits. It does not override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act. In formulating this policy the Licensing Authority has had regard to the provisions of the Human Rights Act 1998. This Act places a duty on public authorities to protect the rights of individuals in a variety of circumstances, and to balance those rights against the rights of persons trading in licensable activities and to achieve proportionality.

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The Licensing Authority has also had regard to the Equalities Act 2010, the Gambling Act 2005, and Section 17 Crime and Disorder Act 1998.

- 1.11 Applicants and those making representation in respect of applications to the Licensing Authority have a right of appeal to the Magistrates' Court against the decisions of the Licensing Authority.
- 1.12 The object of licensing is to maintain appropriate control of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the 2003 Act. Where any party makes relevant representations, the Licensing Authority will seek to make objective judgements as to whether conditions may need to be attached to a licence, or certificate to secure achievement of the licensing objectives. Any such conditions will primarily focus on the direct impact of the activities taking place at licensed premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the vicinity and will cover issues that are reasonably within the control of individual licensees.
- 1.13 When considering any conditions, the Licensing Authority acknowledges that the licensing function is not the only mechanism for the general control of the anti-social behaviour of individuals once they are outside the vicinity of licensed premises and beyond the direct control of the licensee of any premises concerned. Therefore, other mechanisms may be utilised, where appropriate, to tackle unruly or unlawful behaviour of patrons when beyond the control of premises. These include:-
  - Partnership working with the Kent Police (and other agencies as appropriate) to promote enforcement of the law, including disorder and antisocial behaviour, and the issuing of fixed penalty notices
  - Partnership working with businesses, transport operators and other parts of the Council to create a safe and clean environment.

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

A key aim of the licensing policy is to maintain a safe and family friendly environment in the Local Authority Area. It may be that conditions that would be relevant in the town centres may not be appropriate in rural areas – but each application will be considered on its merits.

Further, when the Licensing Authority is considering any application, it will avoid duplication with other regulatory regimes, (e.g. health and safety at work, environmental protection, disability discrimination, the Regulatory Reform (Fire Safety) Order so far as possible. The licensing regime is not intended to be used to achieve outcomes that have been or will be achieved by other legislation. In particular, its licensing functions will be discharged separately from its functions as the Local Planning Authority.

### **Licences and planning permission**

- 1.14 The use of any licensed premises or places may be subject to planning controls. There are several key differences between licensing and planning control.

Licensing is concerned with the fitness of the operator and detailed issues concerning the operation and management of the premises that are not addressed by the planning process which relates to the use of the premises.

It will be expected in general that the grant or variation of planning permission would be resolved before a licence application is made. Provisional statements may be treated differently. The Licensing Committee may refuse to grant a licence following representations from the local planning authority if the:

- (1) activity sought to be licensed would amount to an unlawful use of the premises;
- (2) hours being sought exceed those authorised by any planning permission.

It will be for the applicant to demonstrate any special circumstances to justify a departure from this policy in the face of representations from the local planning authority.

- 1.15 With the exception of the approval and review of its Licensing Policy, decisions on licensing matters will be taken in accordance with a published and approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making.

### **CUMULATIVE IMPACT OF A CONCENTRATION OF LICENSED PREMISES**

- 1.16 "Cumulative impact" is not mentioned specifically in the 2003 Act but means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the Licensing Authority to consider in developing its licensing policy statement.

- 1.17 This Licensing Authority will have regard to the relevant paragraphs of the Guidance issued under Section 182 of the Licensing Act 2003 when determining 'cumulative impact'. There are currently no cumulative impact areas within Thanet.

### **Advice and Guidance**

- 1.18 The Licensing Authority recognises the valuable cultural, social and business importance that premises and events requiring a licence under the 2003 Act provide and welcomes the diversity of activities that are provided by licence holders. For this reason, pre-application discussions will be encouraged to assist applicants to develop their operating schedule to the standards the Licensing Authority will normally expect. The Licensing Authority, Kent Police and/or Kent Fire and Rescue Service will offer as much advice and guidance to applicants, as resources permit.

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

### Consultation

- 1.20 There are a number of groups who have a stake in the leisure industry, including businesses, customers, residents and regulators, all of whom have views and concerns that require consideration as part of the licensing function and promotion of the licensing objectives.
- 1.21 In developing this Policy Statement, the Licensing Authority consulted widely. Along with the statutory consultees (the Chief Police Officer for the District and the Kent Fire and Rescue Service) and the Community Safety Partnership, the views of existing licence holders, businesses, voluntary groups and residents were also taken into account. Due consideration was given to the views of all those who responded to that consultation process.
- 1.22 This Policy Statement took effect on 7/1/2016 and will remain in force for a period of 5 years. It will be subject to regular review by the Licensing Authority. This may lead to Interim Provisions within the five year period that would then be published in a revised policy statement. There will be further consultation prior to the renewal of the policy.

### 1.23 Amusement with prizes machines

The Gambling Act 2005 gives an automatic entitlement to two gaming machines for category C or D to the holders of premises that are licensed for the sale of alcohol for consumption on the premises at a bar. 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.

### 1.24 Minor Variations

Holders of premises licences and club premises certificates may seek minor variations to licences and certificates. The test as to whether such a minor variation is appropriate is 'could this variation taken singly, or on its own, adversely effect the licensing objectives?' If, in the view of the licensing authority, this is the case, a full variation would be required.

Guidance issued under Section 182 of the Licensing Act 2003 provides assistance. The licensing authority may consult with such responsible authorities as it thinks appropriate and must consider any representation made by an interested party.

### 1.25 Adult Entertainment

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 no more than 11 times in any rolling year and there is at least one calendar month between performances. Where the exemption applies the holders of authorities under the Licensing Act 2003 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.

### 1.26 **Mandatory Conditions**

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.

### 1.27 **Early Morning Restriction Orders (EMRO)**

Sections 172A to 172E of the 2003 Licensing Act 2003 allow a licensing authority to make, vary or revoke an EMRO. The power enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12 midnight and 6 a.m in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.

EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specified times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises. There are currently no EMROs within Thanet.

### 1.28 **Reviews**

Where possible and appropriate the Licensing Authority, Kent Police and/or Kent Fire & Rescue Service will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.

No more than one review will normally be permitted within any 12 month period on substantially similar grounds except in exceptional and compelling circumstances or where it arises following a closure order.

Responsible authorities and other persons can trigger a review of a premises licence but an evidentiary basis would be required to be presented to the Licensing Authority.

### 1.29 **Enforcement**

The Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services. The Council has adopted the principals of the Government's Enforcement Concordat designed to ensure effective and efficient public protection services. Specifically, the Council is committed to accord with the principles of good enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner.

### 1.30 The Enforcement Concordat is based on the principles that businesses should:

- receive clear explanations from enforcers of what they need to do and by when;
- have opportunities to resolve differences before enforcement action is taken - unless immediate action is needed;
- receive an explanation of their rights of appeal.

### 1.31.1 The Licensing Authority recognises the interests of both individual citizens and the requirements of businesses and will work closely with partners to assist licence holders to comply with the law and the four licensing objectives it seeks to promote.



However, proportionate but firm action will be taken against those who commit serious offences or persistently break the law. The Licensing Authority has set clear standards of service and performance that the public and businesses can expect. In particular, a licensing enforcement policy has been created that explains how the Council will undertake its role as Licensing Authority and how the principles of effective enforcement will be achieved. This policy is freely available from the Licensing Department as are details of the Council's corporate complaints procedures. These documents can also be viewed on the Council's website

[www.thanet.gov.uk](http://www.thanet.gov.uk)

- 1.32 The Council has established protocols with Kent Police, Kent Fire and Rescue Service and Kent County Council Trading Standards on enforcement issues. These protocols provide for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are well operated.
- 1.33 The principle of using a scoring scheme based on risk factors will normally prevail and proactive inspections will usually be undertaken in accordance with a priority inspection scheme. This should ensure that resources are more effectively allocated to higher risk or 'problem premises'. Monitoring visits will also take place in and around premises.  
*See Enforcement Policy, Appendix 2.*

## 2.0 LICENSING OBJECTIVES

- 2.1 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**
- 2.2 In each section relating to the objectives, the Licensing Authority has defined its intended outcome. Each section then lists the factors that would influence the achievement of that objective but, because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive. Applicants know their premises best and will be expected to address all aspects relevant to the individual style and characteristics of their premises and events.
- 2.3 Further, in each section, a list of possible control measures is provided, to be of assistance to applicants, but again is not intended to be an exhaustive list. Many control measures achieve more than one objective but have not necessarily been listed under each objective. Applicants will not be required to mention a control measure more than once in their operating schedule.
- 2.4 The Licensing Authority will expect the selection of control measures, referred to in 2.3 above, to be based upon a risk assessment of the premises, events, activities and the customers expected to attend (e.g. their age, number, etc.). Whilst the Licensing Authority may not require such risk assessments to be documented, (other than where required by other legislation), it considers such documentation to be good practice and a useful tool in the instruction and training of staff. It is also a sound basis for review by the licence holder, in the event of an application for variation or a response to changing circumstances/conditions at the premises being required.

- 2.5 Additional measures may be necessary on a specific basis such as when a special event (e.g. popular live band) or promotion (e.g. during major sporting occasions) is planned, which is intended to, or likely to attract larger audiences and/or audiences of a different nature, and which can have a significant impact on the achievement of the licensing objectives.
- 2.6 The Licensing Authority considers the effective and responsible management of the premises, instruction, training and supervision of staff and the adoption of best practice to be amongst the most essential control measures for the achievement of all the licensing objectives.
- 2.7 Occupancy capacity for premises may be a relevant factor in achieving the four licensing objectives.
- 2.8 The design and layout of premises are important in determining capacity, as is the availability and size of exits within recommended travel distances. Other factors should also be considered when assessing the appropriate capacity for premises or events. These might include:
- The nature of the premises or event
  - The nature of the licensable activities being provided
  - The provision or removal of such items as temporary structures, such as a stage, or furniture
  - The number of staff available to supervise customers both ordinarily and in the event of an emergency
  - The customer profile (e.g. age, disability)
  - The attendance by customers with disabilities
  - Availability of suitable and sufficient sanitary accommodation
  - Nature and provision of facilities for ventilation

### **3.0 PREVENTION OF CRIME AND DISORDER**

- 3.1 Thanet District Council is committed to further improving the quality of life for the people of Thanet by continuing to reduce crime and the fear of crime. Thanet District Council will also consult and involve the Community Safety Partnership in decision making in order to maximise the effectiveness of reducing crime, misuse of drugs and the fear of crime.
- 3.2 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on Thanet District Council, Kent Police, Kent County Council and others to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003 reinforces this duty for local authorities.
- 3.3 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.
- 3.4 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and/or activities:

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- Effective and responsible management of premises
- Training and supervision of staff
- Adoption of best practice guidance (e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice,
- Acceptance of accredited 'proof of age' cards and/or driving licences with photographs, passports, an official identity card issued by H M Forces.
- Provision of effective CCTV in and around premises
- Employment of Security Industry Authority licensed Doorstaff. If two or more are employed preferably there should be at least one male and one female
- Provision of toughened or plastic glasses where appropriate
- Provision of secure deposit boxes for confiscated items ('sin bins')
- Provision of litterbins and other security measures, such as lighting, outside premises
- Membership of a Pub Watch scheme

3.5 Within the operating schedule for premises from which alcohol will be sold, a Designated Premises Supervisor (DPS) must be identified and named. The Licensing Authority will normally expect the DPS to have been given the day-to-day responsibility for running the premises by the premises licence holder. In 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.

3.6 Certain temporary events are not required to be licensed but must be notified to the Licensing Authority, Environmental Health and Police using the Temporary Event Notice procedure.  
Organisers of these events are encouraged to submit their notification as soon as reasonably practicable and at least ten working days before the event to enable the Police, Environmental Health and the Licensing Authority to work with them to avoid grounds for objection.

3.7 Where the Licensing Authority has given notice in writing to the holder of the premises licence prohibiting the exhibition of a film on the grounds that it contains matter which, if exhibited, would be likely to:

- Encourage or incite crime or lead to disorder, or
- Stir up hatred or incite violence towards any section of the public on grounds of colour, race or ethnic or racial origin, disability, religious beliefs, sexual orientation or gender

the Licensing Authority will expect that the film shall not be exhibited in the premises except with the consent in writing of the Licensing Authority and in accordance with any conditions attached to such consent.

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

#### **4.0 PUBLIC SAFETY**

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

ensure public safety, relevant to the individual style and characteristics of their premises and events.

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

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

The Licensing Authority may set capacity limits in consultation with the Fire Authority for the following premises:- premises where there is regulated entertainment such as nightclubs, cinemas, theatres as appropriate.

The 2003 Act repealed the Cinematograph (Safety) Regulations 1955 which contained a significant number of regulations in respect of fire safety provision at cinemas. Similar provisions may therefore be reproduced on licences for such premises.

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

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

## 5.0 PREVENTION OF PUBLIC NUISANCE

5.1 Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. The Licensing Authority wishes to proactively maintain and protect the amenity of residents and other

businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

- 5.2 The Licensing Authority intends to 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.
- 5.3 Applicants need to clearly understand that the Licensing Authority will pay particular attention whether or not to impose stricter conditions, including controls on licensing hours, with a view to protecting the quality of life of residential occupiers.
- 5.4 In the case of shops, stores and supermarkets and garages selling alcohol, the Licensing Authority will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless there are good reasons based on the licensing objectives.
- 5.5 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.
- 5.6 When addressing the issue of prevention of public nuisance, the applicant should have considered those factors that impact on the likelihood of public nuisance. These may include:
  - The location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship
  - The hours of operation, particularly if between 2300 and 0700
  - 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
  - The availability of public transport
  - Last admission time
  - The steps the applicant has taken or proposes to take to ensure that staff leave the premises quietly
  - The steps the applicant has taken or proposes to take to prevent disturbance by patrons arriving or leaving the premises
  - Whether routes to and from the premises, on foot or by car or service or delivery vehicles, pass residential premises.
  - Whether other measures have been taken or are proposed such as the use of CCTV or the employment of licensed 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, is installed inappropriately.
- Whether the premises would result in increased refuse storage or disposal problems or additional litter in the vicinity of the premise and any measures or proposed measures to deal with this.
- The history of previous nuisance complaints proved against the premises, particularly where statutory notices have been served on the present licensees.

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

- Effective and responsible management of premises
- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance
- Control of operating hours for all or parts (e.g. garden areas) of premises
- 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
- Liaison with public transport providers
- Siting of external lighting, including security lighting
- Management arrangements for collection and disposal of litter
- Effective ventilation systems to prevent nuisance from odour

## 6.0 PROTECTION OF CHILDREN FROM HARM

6.1 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events. The Licensing Authority commends the Portman Group Code of Practice on the naming and packaging of alcoholic drinks.

6.2 The protection of children from harm is an important issue. It is hoped that family friendly premises will thrive, but the risk of harm to children remains a paramount consideration when determining applications.

6.3 The relaxation in the 2003 Licensing Act giving accompanied children greater access to licensed premises is seen as a positive step, which may bring about a social change in family friendly leisure. Clearly, this relaxation places additional responsibilities upon licence holders. However, it is recognised that parents and others accompanying children also have responsibilities.

6.4 The protection of children from harm includes the protection of children from moral, psychological and physical harm and, in relation to the exhibition of films, or the transmission of programmes by video or DVD. This includes the protection of children from exposure to strong language, sexual imagery and sexual expletives. In certain circumstances children are more vulnerable and their needs will require special consideration. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, the unpredictability of their age and the lack of understanding of danger.

- 6.5 Whilst children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. When addressing the issue of protecting children from harm, the applicant must demonstrate that those factors that impact on harm to children have been considered. These may include the potential for children to:-
- Purchase, acquire or consume alcohol
  - Be exposed to drugs, drug taking or drug dealing
  - Be exposed to serious gambling
  - Be exposed to activities of an adult or sexual nature
  - Be exposed to incidents of violence or disorder
  - Be exposed to special hazards
- 6.6 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and/or activities:
- 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
  - 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 and/or driving licences with photographs, passport, an official identity card issued by HM Forces or by a EU country bearing the photograph and date of birth of bearer.
- 6.7 In the case of film exhibitions, the Licensing Authority will expect licensees to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the BBFC or the Licensing Authority. In the case of a film exhibition that has not been classified, the Licensing Authority will expect the licensee to certify to the Licensing Authority that an assessment of the suitability of the film for exhibition to children in accordance with the BBFC Guidelines has been carried out, and that this has been confirmed by the Licensing Authority, in writing, prior to public viewing.
- 6.8 Where certain regulated entertainment is provided the Licensing Authority may require the presence of an adequate number of adult staff to control the access and egress of children and to protect them from harm whilst on the premises. Where children are present as performers, the Licensing Authority will normally require an adequate number of adult staff to be responsible for the child performers. The staff should be suitably screened to work with children.
- 6.9 The Licensing Authority will rarely impose complete bans on access by children. In exceptional circumstances conditions restricting access or excluding children completely may be considered necessary. Those conditions may restrict children from entering all or part of licensed premises:

- (1) at certain times of the day or

- (2) when certain licensable activities are taking place or
- (3) to which children aged under 16 years should have access only when supervised by an adult or
- (4) to which unsupervised children under 16 will be permitted access

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

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

Philip Bensted, Regulatory Services Manager  
January 2016



Appendix 1

**The District of Thanet**

The seaside district of Thanet lies at the eastern end of Kent in close proximity to continental Europe. It comprises three main coastal towns – Margate, Ramsgate and Broadstairs, each with its own special and distinctive character. There are also a number of attractive coastal and rural villages.

The district has an area of approximately 40 square miles and a residential population of about 129,000 people living in some 56,000 households. Approximately 30% of the District is urban with 95% of the population living in the main centres.

Many of Thanet's beaches have been awarded European Blue Flag status.

Over 600 commercial outlets now offer licensable activities including pubs, clubs, off licences, public entertainment establishments and late night refreshment houses.

**Appendix 2**

**Thanet District Council  
Licensing Enforcement Policy**

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

The Council has adopted the provisions of the Government's Enforcement Concordat.

**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.

**3.Licensing Visits**

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

Both the Licensing Authority 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 Licensing Authority 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.

There will be a presumption that visits will take place when various crime and disorder and other indicators show that there are potential problems developing in relation to specific premises or areas.

The Licensing Authority 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 Licensing Authority Licensing policy statement.

#### **4.Consistency**

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

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

#### **5.Proportionality**

The Licensing Authority, 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 Licensing Authority 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.

#### **6. Enforcement Action/Options**

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

# Agenda Item 6

## Annex 2

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 the Council or the Police 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 on a case-by-case basis decide 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 give 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

## Agenda Item 6

### Annex 2

- The willingness of the business/individual to prevent a reoccurrence of the problem and the level of cooperation 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 Licensing Authority takes a proactive stance towards the proper regulation of, and enforcement of the provisions of this legislation. The Licensing Authority 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 Licensing Authority will give full cooperation to any other agency in carrying out their investigations.

**Appendix 3**

**Contact Details and Useful Addresses**

The Licensing Department  
Thanet District Council  
PO Box 9  
Cecil Street  
Margate  
Kent CT9 1XZ  
01843 577413

Chief Officer of Police  
Licensing  
CSU, Police Station  
Old Dover Road  
Canterbury  
Kent CT1 3JQ  
01227 868414

East Kent Group Fire Safety  
Office  
Fire Station  
Upper Bridge Street  
Canterbury  
Kent CT1 2NH  
01622 212451

Health & Safety Executive  
East & South East Division  
Ashford Office  
International House  
Dover Place  
Ashford  
Kent TN23 1HU  
01233 653910

Environmental Health  
Thanet District Council  
PO Box 9  
Cecil Street  
Margate  
Kent CT9 1XZ  
01843 570000

Development Control  
Thanet District Council  
PO Box 9  
Cecil Street  
Margate  
Kent CT9 1XZ  
01843 570000

Kent Social Services  
St Peters House  
Dane Valley Road  
St Peters  
Broadstairs  
Kent CT10 3FD  
01843 860000

Trading Standards  
PO Box 320  
Ashford  
Kent TN24 8AS  
08454 040506

Public Health  
Kent County Council  
Sessions House  
Maidstone  
Kent ME14 1XQ

Home Office  
(Immigration Enforcement)  
Alcohol Licensing Team  
Lunar House  
40 Wellesley Road  
Croydon CR9 2BY

# Agenda Item 6

## Annex 2

### Delegation of Functions

### Appendix 4

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence		If a police objection	If no objection made
Application for personal licence with 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
Applications for interim Authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a temporary event notice		All cases	
Application for minor variation			All cases

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## EXCLUSION OF PUBLIC AND PRESS

Licensing Board	<b>13/06/2023</b>
Report Author	<b>Steven Matthews, Democratic Services Officer</b>
Status	<b>For Decision</b>
Classification:	<b>Unrestricted</b>

### **Executive Summary:**

To consider whether to exclude the press and public for the consideration of agenda item 9.

### **Recommendation:**

That the public and press be excluded from the meeting for agenda item 9 as they contain exempt information as defined in Paragraph 2 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

### **CORPORATE IMPLICATIONS**

#### **Financial and Value for Money**

There are no direct financial implications arising from the report.

#### **Legal**

As per Part 1 of Schedule 12A and Part VA of the Local Government Act 1972 (as amended).

#### **Corporate**

Thanet District Council will endeavour to keep the number of exempt reports it produces to a minimum in order to promote transparency.

#### **Equality Act 2010 & Public Sector Equality Duty**

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

There are no specific equity and equality considerations that need to be addressed in this report.

## **1.0 Introduction and Background**

- 1.1 Whilst the starting point for all public meetings of the Council is to admit the public and press, they may be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted that confidential or exempt information would be disclosed. Under such circumstances, confidential or exempt information may be excluded from the public agenda. The public and press must be excluded from meetings if confidential information will be considered and disclosed, and such material must be excluded from the public agenda.

### **Meaning of confidential information**

- 1.2 Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

### **Exempt information – discretion to exclude public**

- 1.3 Subject to Article 6 of the Human Rights Act 1998 (right to a fair trial) the public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that “exempt” information would be disclosed.

## **2.0 Exempt information**

- 2.1 The full rules are set out in Part 1 of Schedule 12A and Part VA of the Local Government Act 1972 (as Amended) and is as shown below:

### **Paragraph 2**

Information which is likely to reveal the identity of an individual.

## **3.0 Reason Why Agenda Item 9 is considered to be “exempt”**

- 3.1 The report author has classified Agenda item 9 as disclosing exempt information under Paragraph 2.

## **4.0 Justification/Public Interest Test**

- 4.1 Agenda item 9 is restricted as the information contained within it is exempt under paragraph 2 of Part 1 to Schedule 12A to the Local Government Act 1972 (as amended). There is an expectation that in the interests of those involved and the council that these matters are not raised in public.
- 4.2 It is therefore considered that the public interest is served by the non-disclosure of the information contained within the report at agenda item 9.

## **5.0 Not Excluding the Press and Public**

- 5.1 There will be occasions when the meeting may decline to exclude the press and public from the meeting. If that occurs it does not simply mean that those members of the press and public who are present are allowed to stay for the discussion of the item(s). Declining to exclude the press and public would also mean that the press and public are allowed access to the actual report contained within the confidential part of the agenda (what Democratic Services refer to as the “pink pages”).
- 5.2 Members may wish to note that if a committee member is of the view that it is possible that the recommendation in this report may not be approved at the meeting, they should let Democratic Services know (as soon as they have read the agenda papers before the meeting); in order that spare copies are made available ready to be distributed, if necessary, at the meeting.
- 5.3 If the referred item is not exempted, Democratic Services would also make arrangements for the report to be retrospectively published on the Council’s website.

## **6.0 Decision Making Process**

- 6.1 If the press and public are to be excluded for the agenda item; this Committee must exercise its power to agree to the recommendation.

Contact Officer: Nick Hughes, Committee Services Manager  
Reporting to: Sameera Khan, Interim Head of Legal and Monitoring Officer

## **Annex List**

None

## **Corporate Consultation**

Finance: Chris Blundell, Head of Financial Services  
Legal: Sameera Khan, Interim Head of Legal and Monitoring Officer

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By virtue of paragraph(s) 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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