



Tunbridge Wells Borough Council

# Statement of Licensing Policy 2021-2026

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Licensing Act 2003

All applications will be considered on their merits



# Contents

Item	Page
Introduction	3
Section 1 – Consultation	4
Section 2 – Background	5
Section 3 – Licensing Authority general policy considerations	7
Section 4 – Responsible Authorities and other persons	10
Section 5 – Exchange of information	11
Section 6 – Human Rights and Equal Opportunities	11
Section 7 – Compliance and enforcement	12
Section 8 – New premises applications	14
Section 9 – Variations to licences	15
Section 10 – Variations to specify a new designated premises supervisor	15
Section 11 – Transfer of premises licences	16
Section 12 – Provisional statement for premises	16
Section 13 – Club premises certificates	17
Section 14 – Review of a premises licence or club premises certificate	18
Section 15 – Application to vary premises licence at community premises to remove the mandatory requirement for a DPS	19
Section 16 – Hearings	20
Section 17 – Licence conditions	21
Section 18 – Personal licences	25
Section 19 – Temporary event notices	26
Section 20 – Outdoor Events	27
Section 21 – Other relevant matters	28
Section 22 – Information	29
Appendix A – Contact details of Local Licensing Authority Department	30
Appendix B – Responsible Authorities	31
Appendix C – References to guides of best practice	33
Appendix D – Useful contacts	34
Appendix E – Recommended delegation of functions	35

# Introduction

Tunbridge Wells Borough Council is a member of the Licensing Partnership, which includes Maidstone Borough Council, Sevenoaks District Council and the London Borough of Bexley. However this policy relates to Tunbridge Wells.

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

This Statement of Licensing Policy commences on the **7 January 2021** and continues for a five year period. During the five year period the Policy will be kept under review and the Authority will make such revisions to it at such times as it considers appropriate. Further licensing statements will be published every five years thereafter or earlier as necessary.

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

The 2003 Act requires the Council 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.

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

- minimise nuisance and disturbance to the public through the licensing process
- help build a fair and prosperous society that properly balances the rights of people and their communities
- integrate its aims and objectives with other initiatives, policies plus strategies that will:
  1. reduce crime and disorder;
  2. encourage tourism;
  3. encourage an early evening and night time economy which is viable, sustainable and socially responsible;
  4. reduce alcohol misuse;
  5. encourage employment;
  6. encourage the self sufficiency of local communities;
  7. reduce the burden of unnecessary regulation on business;
  8. encourage and promote live music, dancing and theatre for the wider cultural benefit of communities generally.

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

This policy covers a wide variety of premises and activities carried on within them. For this reason, this policy cannot detail all the factors that influence the achievement of the licensing objectives nor can this policy detail all the control measures that may be appropriate.

However, there will be zero tolerance of dealing in or using controlled drugs (as defined by the Misuse of Drugs Act 1971) on licensed premises.

### **Covid-19 impact and response**

The impact of Covid-19 has been unprecedented across many areas of work, with licensed premises specifically impacted by a long period of Central Government led lockdown. As a Licensing Authority, we have had to respond to the pandemic and have implemented changes such as virtual licensing hearings, implementing short term changes to procedures to enable social distancing and considering the policy implications for Tunbridge Wells Borough Council. At the time of reviewing this document, the Government announced plans to re-open pubs, clubs and other licensed premises with additional social distancing guidance to be published. We are committed to supporting local licensed premises to re-open safely and with new requirements in place. Whilst we cannot specify the requirements that may be needed – and we recognise that the response to covid-19 changes regularly, it is our intention to ensure that we fully comply as a Licensing Authority with any new regimes and requirements. Licensed premises/holders will also be required to comply fully with any new regulations or requirements placed upon them at a national level. We encourage all licensed premises to talk to the Licensing Authority, Police and other relevant Responsible Authorities at the earliest opportunity if they are uncertain regarding any compliance with any conditions or they wish to seek a temporary and/or informal relaxation of conditions.

We recognise that policy frameworks change, new or emerging issues arise at both a local and national level which may need to be taken into account when applying this Licensing Policy. We may therefore, from time to time, make new applicants and existing licence holders/operators aware of these changes so that they can ensure they meet any future challenges.

## **1. Consultation**

- 1.1. The Statement of Licensing Policy will be kept under review and where any significant amendments are considered necessary these will only be made after consultations have taken place in accordance with Section 5 of the Licensing Act 2003, and the subsequent amendments made to the Act by the Police & Social Responsibility Act 2011 section 122. Amendments required due to a change in legislation that do not impact on the aims and objectives of the Policy or the promotion of the Licencing Objectives will be made with the approval of an authorised officer of the Council in order for the policy to remain legislatively current.

- 1.2. Proper weight, in accordance with the Guidance, has been given to the views of all those consulted. Those consulted in the preparation of this Policy included:
- the Chief Officer of Police for Kent
  - the Superintendent of Police for the Tunbridge Wells Borough area
  - the Fire and Rescue Service for Kent
  - one or more persons who appear to the authority to represent the interests of persons carrying on licensed businesses in the council area
  - one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act
  - any other bodies the council deemed appropriate
  - members of the public who requested to be consulted and have responded previously.
- 1.3. In accordance with the guidance the following persons have also been consulted on this revised statement:
- all ward members
  - all parish councils
  - all bordering local authorities
  - Kent Police Licensing Team
  - all responsible authorities under the Licensing Act 2003
  - British Beer and Pub Association

# The policy

## 2. Background

2.1. When administering licensing matters the Council as the Licensing Authority will have regard to and promote the four Licensing Objectives set out in section 4 of Part 2 of the Licensing Act 2003.

The four licensing objectives are the:

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

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

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

2.3. This Statement of Licensing Policy has been prepared in accordance with the provisions of the 2003 Act having regard to the revised guidance issued under section 182 of the Act and any amendments or consequential amendments, the Police Reform and Social Responsibility Act 2011 and the Live Music Act 2012.

2.4. The 2003 Act further requires the Licensing Authority to monitor, review and where appropriate, amend its Statement of Licensing Policy. Where significant changes or a review of this Policy is undertaken, the Licensing Authority will consult with those parties listed at paragraphs 1.2 and 1.3 above and others prior to amending the Policy and also in preparing each statement of Licensing Policy in the future. Minor amendments reflecting legislative changes will be undertaken by officers to maintain accuracy.

2.5. Tunbridge Wells Borough Council is the Licensing Authority pursuant to the Licensing Act 2003 (the Act) and is responsible for considering a range of licence applications and amendments to licences for a number of activities detailed below. The purpose of licensing is to regulate the carrying on of licensable activities on licensed premises, at qualifying clubs and under temporary event notices. The activities as defined by the Act include:

- Sale and/or supply of alcohol
- The Provision of regulated entertainment which includes:
  - the performance of a play

- an exhibition of a film
- an indoor sporting event
- boxing or wrestling entertainment
- a performance of live music (subject to some exemptions)
- playing of recorded music
- performance of dance
- entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.
- Provision of late night refreshment, limited to hot food or hot drink between 23:00 – 05:00

2.6. Following the introduction of the Live Music Act 2012, the Legislative Reform (Entertainment Licensing) Order 2014 and the Deregulation Act 2015, a licence is not required to stage a performance of live music, or the playing of recorded music if:

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

You also don't need a licence:

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

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

- Pubs and night clubs
- Off licences (includes supermarkets/shops selling alcohol)
- Restaurants serving alcohol
- Restaurants serving hot food and drink after 11pm
- Private members clubs/social clubs
- Hotels/guest houses selling alcohol
- Cinemas/theatres

- Community premises and village halls
  - Providers of temporary events involving licensable activities
- and any other premises at which licensable activities are to be provided.

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

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

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



### 3. Licensing Authority general policy considerations

- 3.1. The Licensing Authority encourages the development of premises which are not alcohol-led and which are aimed at different sectors of the population, including age and gender. Premises that promote the arts, a food offer, or other cultural activities are particularly encouraged.
- 3.2. Where premises such as pubs are alcohol-based, they are encouraged to consider diversifying their provisions so as to encourage a mixed customer-base and wider attractions, including community uses, soft refreshments, snacks and live entertainment. Diversification is important in the promotion of the licensing objectives as well as ensuring a sustainable economic future for premises.
- 3.3. The Licensing Authority recognises the need to promote and encourage live and recorded music, dancing, theatre and other forms of entertainment for the wider cultural benefit of communities generally. The potential for limited disturbance in neighbourhoods will be carefully balanced with the wider benefits.
- 3.4. The Licensing Authority expects applicants to have researched and understood the relevant Law and the area surrounding the vicinity of the proposed premises, in relation to their application and their particular business plans as well as this policy.
- 3.5. The Licensing Authority offers a pre-application advice service. This advisory service is chargeable. The advice is a bespoke service for licensing applications. The aim is to help applicants and respond to challenges that may arise during the process. However advice given cannot pre-determine the outcome of any licensing application, particularly if representations are received and brought before the Licensing Sub-Committee. Guidance notes are available on the licensing pages of Council's website – [www.tunbridgewells.gov.uk](http://www.tunbridgewells.gov.uk)
- 3.6. *Supermarkets and other 'Off' licensed premises selling alcohol.* The Licensing Authority will generally consider licensing, shops, stores and supermarkets to sell alcohol for consumption off the premises throughout opening times. However where there are reasons for restricting or amending hours, for example, where premises become the focus of disorder and/or disturbance, such restrictions or amendments will be considered where relevant representations have been made.
- 3.7. All 'Off' licensed premises must comply with the Licensing Act 2003 Mandatory Conditions Order in relation to age related sales. The Licensing Authority also expects such premises to implement additional measures to prevent and deter proxy sales on behalf of under 18's
- 3.8. Licensees should also carefully consider alcohol sales to customers who have or appear to have alcohol related health issues, and whether those customers appear to be under the influence of alcohol when attempting to make purchases.

- 3.9. The Licensing Authority expects adequate checks to be made and all reasonable steps taken to ensure alcohol delivered by way of online shopping services (as provided by most large supermarket chains) is not delivered to minors to prevent a risk of underage consumption. Therefore the authority requests that as part of the application the Operating Schedule should include the procedures the applicant is intending to operate to ensure the following:
- The person they are selling alcohol to is over the age of 18
  - That alcohol is only delivered to a person over the age of 18
  - That a clear document trail of the order process from order, despatch from the licensed premises and delivery to the customer is maintained (with times and signatures) and available for inspection by an authorised officer.
  - The time that the alcohol deliveries/despatch takes place. This is to assist with the prevention of public nuisance to the neighbouring properties.
- 3.10. Where self-pay till points are made available in stores selling alcohol, provision must be included for alcohol sales to be identified and approved prior to completion of the purchase.
- 3.11. *Designated Premises Supervisor (DPS) at alcohol licensed premises.* Whilst this role has a limited definition under the Licensing Act 2003, it is expected that this person nominated on a licence will have overall responsibility for the day to day management and control of the licensed premises and in particular be responsible for the safe receipt, storage and sale of alcohol.
- 3.12. The Licensing Authority would expect the DPS to be onsite at the licensed premises for the majority of time when alcohol is being sold subject to working hours' legislation and absence for sickness and holidays. The Licensing Authority expects the DPS to provide training to staff in relation to alcohol sales and to authorise the employees the DPS considers competent to sell alcohol on their behalf in writing.
- 3.13. The Licensing Authority expects that a DPS should have responsibility for only one licensed premises at a time to ensure good management of the premises and the licensable activities. Where the same person is a nominated DPS on more than one premises licence and representations are made, the Licensing Authority will wish to satisfy itself that the premises in question can properly be managed by that person whilst responsibly promoting the licensing objectives.
- 3.14. *Film Exhibitions* the Licensing Authority expects Licence and Club Certificate holders to include in their operating schedules arrangements for restricting children from viewing age restricted films classified according to the recommendations of the British Board of Film Classification or the licensing authority itself.
- 3.15. *Live Music.* It is acknowledged the implementation of the Live Music Act in 2012 has resulted in a lighter touch regulation of live music up to 11pm on alcohol licensed premises, and this is seen as a positive approach for premises wishing to provide live music. However, the Licensing Authority does not see this as an

opportunity for licensees to provide live music events that cause nuisance and disturbance to local residents or businesses.

- 3.16. The Licensing Authority expects that where unregulated live music is proposed at licensed premises, all due care and consideration is taken to prevent disturbance. The council will consider using its powers under the Environmental Protection Act 1990 to prevent and control public nuisance caused by poorly managed live music at licensed premises.
- 3.17. *Deregulated Entertainment.* The Legislative reform (Entertainment Licensing) Order 2014 and the Deregulation Act 2015 has reduced the regulatory controls on some regulated entertainment however the Licensing Authority will expect licence holders to ensure that no nuisance or disturbance is caused to local residents and businesses when providing the deregulated activities. The Licensing Authority will consider using alternative powers as per para 3.15
- 3.18. *Late Night Levy (LNL).* Whilst it is acknowledged that the provisions for implementing a late night levy arise from the Police Reform and Social Responsibility Act 2011, any levy will potentially have a direct impact on all licensed premises within the borough. The Licensing Authority has considered the options around the imposition of a LNL but has no plans, at this time, of reviewing this policy. Should evidence arise to support implementing a levy the statutory consultation process will be followed and the authority will very carefully use its discretion in relation to design and impact of a levy.
- 3.19. In advance of any decision to implement a LNL, this authority will enter into discussions with the Police to agree the allocation of the Police share of the levy to support the policing of the night time economy within this Borough.
- 3.20. The licensing legislation is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and therefore beyond the direct control of the individual, club or business holding the licence, certificate or authorisation.
- 3.21. *Early Morning Alcohol Restriction Order (EMARO).* The Licensing Authority has considered the options around the imposition of an early morning alcohol restriction order and has no plans at this time of developing this policy to consider an imposition of this Order. There is currently evidence of low levels of alcohol related crime and disorder, nuisance and anti-social behaviour within the borough which is decreasing. Should evidence arise to support implementing an EMARO, the statutory consultation process will be followed and the matter referred to the Full Council for determination
- 3.22. Licensing and planning permission. The use of a licensed premises or place may be subject to planning controls. This is a separate regulatory regime outside the scope of the Licensing Act 2003. The Licensing Authority recognises that there is no legal basis for refusing a licence application in the absence of any planning permission for the business to which the licence application relates.

- 3.23. Need for licensed premises and Cumulative Impact. 'Need' concerns the commercial demand for particular licensed premises such as a pub, club or hotel. This is a 'market forces' matter and is not of concern to the Licensing Authority. 'Cumulative Impact' means the potential impact on the promotion of the licensing objectives by a significant or excessive number of licensed premises concentrated in one locality. This is a matter for consideration by the Licensing Authority.
- 3.24. The Licensing Authority acknowledges that a concentration of some types of licensed premises in a locality can result in increased footfall, congregation of the public in the streets and potential for increased crime and disorder, litter and anti-social behaviour, as well as noise nuisance to local residents. This would be a result of the presence of the number of premises and not attributable to individual businesses.
- 3.25. The Licensing Authority, having regard to the evidence available, considers that currently there is no particular part of the borough where there is an identified cumulative impact of licensed premises on any of the licensing objectives. If residents or a Responsible Authority (in particular the Police) provide relevant evidence through a representation in the future that support the imposition of a Policy that restricts the number of new and/or later opening premises, this will be considered and consulted on.
- 3.26. The absence of an existing cumulative impact or saturation policy does not, however, prevent any responsible authority or other person making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. The Licensing Authority will also take into account the effect on resources, including police resources, to cope with any influx of visitors to an area, particularly late at night.

## **4. Responsible authorities and other persons**

- 4.1. Responsible authorities are public bodies that are statutory consultees that must be notified of applications by the applicant. The full list and contact details can be found at Appendix C and are contained on the Tunbridge Wells Borough Council web-site at Responsible Authorities.
- 4.2. When dealing with applications for licences and reviews of premises licences, the Licensing Authority is obliged to consider representations from two categories of persons, referred to as 'Responsible Authorities' and 'Other Persons'. This allows for a broad range of persons to comment both for and against applications for premises licences and club premises certificates and for reviews.
- 4.3. The Licensing Authority may only consider representations that are relevant. In that they relate to the promotion of the licensing objectives, or that they raise issues in relation to this Statement of Licensing Policy or Home Office Guidance.

- 4.4. The Licensing Authority will take care to ensure that concerns raised by Responsible Authorities in relation to their own legislative functions are not taken into account if they are not relevant to the application for a premises licence under the Act, or the promotion of the licensing objectives. It would expect those authorities to use their powers and duties within their statutory roles to control such matters. Any representation made by a Responsible Authority that relates to the promotion of the licensing objectives will be accepted.
- 4.5. The Licensing Authority must give the appropriate amount of weight to representations made by the Police on crime and disorder matters. The Police are the Licensing Authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. The Licensing Authority will accept representations made by the Police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives.
- 4.6. Where an 'Other Person or Persons' request to be represented when seeking to make a representation, the Licensing Authority will require written evidence from the person/s being represented that they have authorised a third party to speak or write on their behalf.
- 4.7. The Licensing Authority will examine closely all representations to ensure that they are not frivolous, repetitive or vexatious. Matters that this authority will look at are likely to include:
- who is making the representation, and whether there is a history of making representations that are not relevant or which have been previously considered vexatious or frivolous
  - whether the representation raises a 'relevant' issue
  - whether the representation raises issues specifically to do with the premises and/or the licensable activities that are the subject of the application.
- 4.8. The above considerations are not exhaustive, and the Licensing Authority will have regard to anything a person making a representation, or persons representing them, say about his or her status to make representations. Nothing in this Policy should be taken to undermine the right of any person to make a representation on an application or to seek a review of a licence where provision to do so exists.
- 4.9. *The Health Authority as a 'Responsible Authority'*. It is acknowledged that they may be useful in providing evidence of alcohol related health harms that are directly linked to premises or a cluster of premises. It may also be able to provide relevant information on alcohol related admissions and sickness that relate to specific licensed premises.
- 4.10. *The Licensing Authority as a Responsible Authority*. The Licensing Authority has carefully considered its role as a Responsible Authority under the Act. It will achieve a separation of responsibilities through procedures and approved delegations within the authority to ensure procedural fairness and eliminate conflicts of interest. A

separation is achieved by allocating distinct functions (i.e. those of Licensing Authority and Responsible Authority) to different officers within the licensing team.

- 4.11. The Licensing Authority does not expect to act as a Responsible Authority on behalf of third parties but accepts that there may be rare circumstances where this approach may be required. An example may be where matters arise at premises of which the licensing authority is aware that impact negatively on the promotion of the licensing objectives and residents, and other third parties are unwilling or unable to either request a review or make a representation.

## **5. Exchange of information**

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

## **6. Human rights and equal opportunities**

- 6.1. The Human Rights Act 1998 makes it unlawful for a local authority to act in a way which is incompatible with the European Convention on Human Rights. In making decisions and determining appropriate action the council will have due regard to the Convention. The Licensing Authority will interpret the LA2003 in a manner consistent with the Human Rights Act 1998.
- 6.2. The Licensing Authority will consider the effect upon people's human rights and adopt a principle of proportionality and the need to balance the rights of the individual with the rights of the community as a whole. Action taken by the council which affects another's rights must be no more onerous than is necessary in a democratic society.
- 6.3. The Equality Act 2010 requires public bodies to consider all individuals when carrying out their day to day work – in shaping Policy, in delivering services and in relation to their own employees. It requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different people when carrying out their activities.
- 6.4. The Equality Duty supports good decision making – it encourages public bodies to understand how different people will be affected by their activities, so that their policies and services are appropriate and accessible to all and meet different people's needs. By understanding the effect of their activities on different people, and how inclusive public services can support and open up people's opportunities,

public bodies can be more efficient and effective. The Equality Duty therefore helps public bodies to deliver the Government's overall objectives for public services.

- 6.5. Immigration Act 2016 and the Modern Slavery Act 2015 – The Licensing Authority has responsibilities that relate to the prevention of immigration crime, specifically the prevention of illegal working in licensed premises. Licences must not be issued to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from doing work relating to the carrying on of a licensable activity.

These provisions apply to premises licences for alcohol and late night refreshment, (but not entertainment only licences) and personal licences. Other types of authorisation under the Licensing Act 2003 (Club premises certificates and temporary event notice (TEN)) are not covered. This is due to there being little evidence of immigration abuse in respect of premises authorised under a club premises certificate, and it would have been disproportionate to apply the requirements to a TEN.

## **7. Compliance and enforcement**

- 7.1. There are a range of other offences detailed under Part 7 of the Licensing Act 2003. The Licensing Authority will liaise with the Responsible Authorities to determine enforcement of specific offences on a case by case basis. Offences related to sales of alcohol to minors will be enforced by the Police or Trading Standards Authority unless they form part of a range of offences identified by the Licensing Authority.
- 7.2. The Licensing Authority has an approved Licensing Enforcement Policy which complies with the Regulatory Compliance Code and it has also adopted the Kent and Medway Enforcement Protocol.
- 7.3. A risk-based inspection programme is in place, which includes the targeting of high risk premises which require greater attention, whilst operating a lighter touch in respect of low risk and well managed premises. The risk-based approach is based on Home Office Guidance; the activities authorised and premises compliance history.
- 7.4. The authority acknowledges that where annual fee payments for premises licences or club premises certificates are not made it must notify the holder in writing and specify the date on which the suspension takes effect; this date must be at least two working days after the day the authority gives the notice to suspend the licence or certificate and may inform the Police Authority of the suspension. This Authority may consider giving the holder a longer period of notice.

Where licences or certificates are suspended, the premises or club may be visited and enforcement action may be taken where licensable activities are being provided unlawfully while a licence is suspended.

# Consideration of applications

## 8. New premises applications

- 8.1. This Licensing Authority is aware that in making decisions about applications for licences it will have regard to:
- Licensing Act 2003
  - Its Statement of Licensing Policy made under section 5 of the Licensing Act 2003
  - Statutory Guidance issued under section 182 of the Licensing Act 2003, and that decisions made are reasonably consistent with the four licensing objectives.
- 8.2. Where elements of applications are unclear or unspecific, particularly in relation to operating schedules and trading hours, the Licensing Authority will expect the applicants to provide additional clarity on a request from a delegated officer of the Authority.
- 8.3. Officers will routinely check that the required Public Notices are exhibited at the premises and the Public Notices are published in newspapers in accordance with the Regulations.
- 8.4. Delegated officers will usually notify Ward Councillors to whose Ward the application relates, and the Parish Council for the relevant parish via the weekly premises tracker.
- 8.5. Where there are no representations in relation to an application for a Premises Licence or a Club Premises Certificate, the licence or certificate is automatically deemed granted after the 28 day consultation period under the terms and conditions applied for. Licensing officers will interpret the detail of the operating schedule and convert into enforceable licence conditions.
- 8.6. Where relevant representations are received the application will be referred to the Licensing Sub-Committee for determination at hearing, unless all parties, following mediation, agree that a hearing is not necessary. See para 16.5 for procedure to follow.
- 8.7. Where applications result in the need for a hearing, the process at page 22, paragraph 16 of this policy will apply.
- 8.8. Annual fees and suspension of licences or certificates for non-payment. The Licensing Authority is required under sections 55A or 92A of the Licensing Act to suspend premises licenses or club premises certificates where the annual fee has not been paid. The Licensing Authority will invoice each licence/certificate holder when the annual fee is due, setting out the fee, and the consequences for non-



payment. Where this has not been paid or there has been no claim of administrative error by the end of 21 days of the due date, this Authority will serve the required notice to suspend the licence or certificate and may notify the Police.

- 8.9. Where a licence or certificate is suspended this means that no licensable activities will be authorised to be provided at the premises, until the suspension is lifted on receipt of payment of the overdue fee. Officers may conduct visits to premises where a licence or certificate has been suspended and may take the appropriate action in accordance with the legislation and the Council's Enforcement Policy.
- 8.10. Each case will be determined on its individual merits and depending upon the circumstances and where appropriate in accordance with the Licensing Act, the Licensing Authority may decide not to suspend a licence or certificate or carry out enforcement, pending payment of the overdue fee.

## **9. Variation to licences**

- 9.1. From time to time licensees may wish to change the nature of the business and vary the trading hours or the licensable activities on offer. These can range from minor changes having little or no impact such as minor changes to the premises plan to more significant changes that will affect the promotion of the licensing objectives. These could include for example; the provision of additional activities, increasing capacities or extended trading hours. However where a variation is so substantial that it significantly changes the nature of the business and layout of the premises it is likely that a new premises licence application will be required rather than a variation.
- 9.2. The relevant parts of this Policy to be applied to significant variation applications is the same as for new premises licence applications at section 8 above.
- 9.3. Where applications are made for minor variations Licensing Officers will consider whether there are any impacts on any of the Licensing Objectives. Where the variation proposed could have an adverse effect on any of the Licensing Objectives the application will be rejected and the applicant advised to seek a variation in accordance with section 34 of the Act.
- 9.4. Where minor impact or no impact is considered Officers will consult with the relevant (if any) responsible authorities.

## **10. Variation to specify a new designated premises supervisor (DPS)**

- 10.1. The Licensing Authority expects the nominated DPS on a licence to be involved in and supervising the day to day operation of licensed premises that sell alcohol. Where the person nominated as DPS ceases to undertake that role the Licensing Authority would expect the licensee to replace that person as soon as is reasonably practicable to maintain adequate control of the premises.

- 10.2. Where a DPS notifies the Licensing Authority that he or she has resigned, the licensing officers will enter into immediate discussion with the licensee in relation to the mandatory conditions concerning the sale of alcohol, and provide appropriate advice to prevent unauthorised alcohol sales.
- 10.3. All applications to specify a new DPS must be made by the licence holder or by a person/body authorised in writing to act on the licensee's behalf.
- 10.4. Where there are no representations the default position is to grant the variation.
- 10.5. The Licensing Authority will follow the Guidance issued under s.182 of the Licensing Act 2003, with respect to representations in relation to crime and or disorder. Applications that are subject to representations will be referred for a hearing at which point the Sub-Committee may approve or reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so.

## **11. Transfers of premises licences/club premises certificates**

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

## **12. Provisional statements for premises**

- 12.1. A provisional statement may be applied for where a proposed licensed premises has yet to be built or altered for the purpose of becoming a licensed premises. This option allows potential applicants advance notice of whether a premises licence is likely to be granted on completion of its construction or conversion.
- 12.2. The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and other parties may make representations and there are rights of appeal.

- 12.3. The holder of a provisional statement may apply for a premises licence once the premises are constructed, altered or acquired. The Licensing Authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, 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.
- 12.4. In addition, this authority may refuse the premises licence application (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 statement stage,
  - which, in this authority's opinion, reflect a change in the operator's circumstances, or
  - 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 this authority will discuss any concerns with the applicant before making a decision.

## **13. Club premises certificates**

- 13.1. The Licensing Authority acknowledges the importance and history of members clubs and the privileged position held by clubs historically in relation to alcohol licensing.
- 13.2. Members clubs are able to obtain a club premises certificate to authorise licensable activities for their members and their guests. There is no requirement for any members to hold a personal licence under the Licensing Act 2003, and there is no requirement to specify a designated premises supervisor. It is acknowledged that alcohol is supplied by and for the members through their membership of the club.
- 13.3. In order to apply for a club premises certificate the Licensing Authority must be satisfied that the club is a bona fide club and satisfies the legal conditions set out in the Act. Applicants for a club premises certificate will be required to complete a club declaration form setting out how the club will meet the conditions and definitions stated in the Act. Licensing officers will have delegated authority to make additional enquiries where appropriate in order to satisfy that a proposed club meets the criteria laid out in the Act.
- 13.4. The fundamental principles for premises licence applications set out at section 8 of this Policy will apply to applications for club premises certificates subject to exemptions in respect of the DPS and the requirement for evidence of the club's status.

- 13.5. Any qualifying club wishing to offer licensable activities at events to which non-members will attend will be required to authorise such activities by way of a Temporary Event Notice (TEN) or by ensuring compliance with the club rules to allow the public to enjoy the clubs facilities and activities without jeopardising the validity of the club premises certificate.
- 13.6. The Licensing Authority expects 'public' events on club premises to be authorised by a Temporary Event Notice. It is expected that club committee members will seek advice from the Licensing Authority prior to providing such activities for non-members to prevent any unauthorised activities.
- 13.7. Where the Licensing Authority identifies that a club no longer meets the conditions set out in section 62 of the Licensing Act 2003 or where the Licensing Authority obtains evidence to demonstrate that a club no longer acts in good faith as a qualifying club, it will give the club a notice withdrawing the club premises certificate.
- 13.8. Suspension of Club Premises Certificates may also occur under section 92A of the LA2003.

## 14. Review of a premises licence or club premises certificate

- 14.1. The Licensing Authority acknowledges that matters can arise at premises that raise concern as to the continued promotion of the licensing objectives at licensed premises.
- 14.2. The Act allows a licence or certificate to be **reviewed** where such matters arise. It is expected that most reviews will be applied for by Responsible Authorities.
- 14.3. Although this Licensing Authority is also a Responsible Authority and entitled to bring about a review application, it is not expected that it will act as a Responsible Authority on behalf of other parties (for example, local residents, local councillors or community groups).
- 14.4. Such parties can make relevant representations to the Licensing Authority in their own right, and it is reasonable for the Licensing Authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and the Licensing Authority is aware of relevant grounds to make a representation, it may consider acting in its capacity as Responsible Authority.
- 14.5. The Licensing Authority will determine whether a review application is relevant and the validity of a review application will be determined by a licensing officer. This will be on the basis of whether the request for the review is relevant to the matters listed below:
  - in accordance with the Guidance issued by the Home Office;

- relevant to the non-promotion of the licensing objectives

- 14.6. The request for the review will also be subject to the consideration by the licensing officer as to whether the request is frivolous, vexatious, or repetitious.
- 14.7. The Licensing Authority would expect grounds for a review to be evidence based but will consider each application on its merits and allow the benefit of doubt where appropriate.
- 14.8. Where a review application is accepted the Licensing Authority will encourage the parties to enter into mediation during the consultation period to help resolve issues arising. The Council would be happy to assist in these meetings being chaired by a member of their team but all parties may choose to have a different third party as a mediation chairperson.
- 14.9. All representations received in support of or against a review application will be considered by the licensing officers as to whether such representations are relevant to the application. Where appropriate the benefit of doubt will be given and representations accepted.
- 14.10. All reviews, save where agreed by all parties as unnecessary, will lead to a hearing before a Sub-Committee. This may be a full hearing or a condensed hearing to consider the outcome of mediation. However other parties who have made representation but not been involved in mediation will be permitted to voice their representations at the hearing in accordance with the Hearings Regulations. The Policy applied to hearings can be found in section 16.
- 14.11. The authority considers that where reviews are raised as a result of serious crime and disorder causing that licensing objective to be undermined, then it is likely that a revocation of the licence will be considered.

## **15. Application to vary premises licence at community premises to remove the mandatory requirement for a DPS**

- 15.1. The Licensing Authority acknowledges the value that local community premises bring to their localities and that most are operated and managed by volunteers. The mandatory requirement for a nominated DPS to be in place at alcohol licensed community premises can be burdensome and difficult for an individual to manage at such premises.
- 15.2. The Act allows Management Committees at Community Premises to take over the responsibility of the alcohol sales by applying to the Licensing Authority to remove the requirement to have a nominated DPS at the premises to authorise sales of alcohol. The Licensing Authority will, subject to strong evidence that a community premises is well managed by an experienced committee, support applications to remove the

mandatory condition requiring all alcohol sales to be authorised by a personal licence holder.

- 15.3. Before considering an application the Licensing Authority will satisfy itself that a premises meets the definition of a community premises. Enquiries will be made as to the regular use of the premises and whether it is in the main 'community' based. Where there is a regular 'commercial' or 'non-community based' use or a membership requirement to use the premises it is unlikely that such a premises would meet the definition of a community premises and permission to remove the requirement for a DPS is likely to be refused.
- 15.4. In general it is expected that premises that form part of a church hall or chapel hall or are a village or community hall would in most cases meet the definition of a community premises, although each will be considered on its individual merits and the evidence provided or obtained.
- 15.5. The licensing officer will consider, on a case by case basis, all applications to remove the mandatory condition and will ask such questions or seek the necessary evidence to confirm the suitability of the management committee to collectively authorise the alcohol sales.
- 15.6. Committees that make an application will be expected to have members who are aware of the law relating to the sale of alcohol, contain steps within their operating schedule to prevent offences relating to alcohol sales and also to include appropriate rules in hiring agreements where the premises is hired out to the public for events that will involve the sale of alcohol.

## 16. Hearings

- 16.1. Any application that has resulted in the submission of relevant representations from any party will be referred to the Licensing Sub-Committee for a hearing and determination in accordance with the 2003 Act and the Licensing Act 2003 (Hearings) Regulations 2005.
- 16.2. A Sub-Committee will consist of three suitably trained members of the Licensing Committee. No Members will serve on a Sub-Committee involving an application for a licence or certificate within their own ward. The Sub-Committee will be advised on the legislation by a representative from the Legal Services Partnership. That representative will not usually have been involved in the application process to prevent a conflict of interest by ensuring a clear separation of roles.
- 16.3. This Policy will play a key role in achieving consistency in decision making.
- 16.4. Where representations are made only by Responsible Authorities, the Licensing Authority would expect applicants and Responsible Authorities to enter into negotiation or mediation prior to a hearing in an attempt to resolve issues before attending the licensing hearing.

- 16.5. Where mediation is successful and a hearing is deemed unnecessary by all parties the mediation outcome will be presented to the licensing Sub-Committee in writing and signed by all parties for ratification and determination (this is not applicable to applications for a review of Premises Licence or a Club Premises Certificate). The Sub-Committee may still determine that the addition of appropriate licence conditions at the determination stage.
- 16.6. Parties will be advised of the hearing date and procedure in advance and in accordance with the statutory process. At all hearings the sub-committee will have regard to the Guidance issued under section 182 of the Act. This authority may use its discretion where there are strong and defensible reasons for departing from the Guidance and where it considers it right to do so. In any such case this authority will clearly express and explain its reasons for doing so.
- 16.7. The Licensing Authority must give the appropriate amount of weight to representations made by the Police on crime and disorder matters. It will give appropriate weight to all representations made by all parties based on the content and relevance to the promotion of all licensing objectives.
- 16.8. All decision notices will be in writing and will include clearly stated reasons to explain a decision on an application.

## **17. Licence conditions**

- 17.1. A key concept in the Licensing Act is that conditions that are attached to licences or certificates are tailored to suit the individual style and characteristics of the premises and its activities and the impact of those activities. Those conditions will be deemed appropriate and proportionate in order to promote the licensing objectives at that premises.
- 17.2. All licences that authorise the sale of alcohol will be subject to the mandatory conditions set out in the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 and 2014 (and any subsequent Mandatory Conditions that are introduced). The Mandatory Conditions apply irrespective of whether they are printed on the certificate or licence.
- 17.3. Applicants will be expected to include appropriate steps within their operating schedule which will be interpreted in accordance with the applicant's intention and then converted to conditions on a premises licence or club premises certificate. Those steps will be expected to be achievable, enforceable and relevant to the business in question and will ensure the promotion of each of the four licensing objectives.
- 17.4. Where applications receive valid representations and are subject to a hearing, the sub-committee will consider the evidence provided within representations, the detail of the application, the nature of the premises and business and only where appropriate will attach conditions to a licence to secure the promotion of the licensing objectives in light of the evidence provided.

- 17.5. Decisions on individual licence conditions will be made on a case by case basis, and where there are concerns over the effective promotion of the licensing objectives, the applicant will be expected to offer suggestions on how the objectives can be met. This authority will work closely with all parties and the applicant in establishing workable, enforceable and reasonable conditions for new and variation applications.
- 17.6. In all cases the Licensing Authority will have regard to the Guidance when considering the implementation of licence conditions.
- 17.7. In all cases conditions will aim to promote the licensing objectives, be unambiguous and enforceable, appropriate to the activities and the business, achievable and applicable to the premises and the areas around the premises which is within the licence holders control.
- 17.8. The Licensing Authority recognises the need to avoid, so far as possible, duplication with other regulatory systems including Health and Safety at Work, Fire Safety, Food Hygiene and Nuisance Control. However these regulations may not cover the unique circumstances of some activities and entertainment. In these circumstances, the council may therefore, where necessary, attach conditions to premises licenses for the promotion of the licensing objectives.

## **Conditions to promote the prevention of crime and disorder**

- 17.9. Under the Act the Licensing Authority has a duty to promote the licensing objectives, and a further duty under the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough.
- 17.10. Wholesale of alcohol. Since 1 April 2017, businesses which sell alcohol (for example, retailers of alcohol and trade buyers) need to ensure that the UK wholesalers that they buy alcohol from have been approved by HMRC under the Alcohol Wholesaler Registration Scheme (AWRS). They will need to check their wholesalers Unique Registration Number (URN) against the HMRC online database. This is an ongoing obligation and if a business is found to have bought alcohol from an unapproved wholesaler, they may be liable to a penalty or could even face a criminal prosecution and their alcohol stock may be seized. Any trader who buys alcohol from a wholesaler for onward sale to the general public (known as a 'trade buyer') does not need to register unless they sell alcohol to other businesses.
- 17.11. Examples of trade buyers would be pubs, clubs, restaurants, cafes, retailers and hotels. However, they will need to check that the wholesaler they purchase alcohol from is registered with HMRC.
- 17.12. The applicant will be expected to detail in their operating schedule how they will prevent crime and disorder on and close to the premises. Such detail should reflect the licensable activities on offer, location and character of the area, the nature of the premises use and the range of customers likely to use the premises.

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

- Prevention of disorderly conduct and anti-social behaviour



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

17.13. In busier premises the Licensing Authority would expect to see a short (say 30mins) ‘wind down’ or ‘drinking up’ period allowed for after the cessation time of entertainment and alcohol sales as this is effective in assisting in a reduction in noise and exuberance of customers before leaving the premises.

Where the Licensing Authority determines after consultation with the police that a premises is one that warrants additional security and monitoring it would expect applicants to include such provision. Where door staff is to be provided, it is a Mandatory Condition that the said door staff are SIA approved. Relevant premises are usually those used mainly for drinking alcohol, have later opening hours and are situated within the Town Centre night time economy area. Applicants will be expected to seek advice from the Police and the Licensing Authority. The Licensing Authority will follow the Guidance issued under s.182 (as amended) with regards to representations made by the Police in respect of crime and disorder. Where appropriate, applicants for licences in the Town Centre areas providing mainly alcohol, music and dancing would be expected to include a provision of safety glasses to prevent a risk of injury on the rare occasion that a glass may be used as a weapon.

17.14. The use of CCTV should be considered where appropriate or on the advice and recommendations of the Police and to a quality and standard approved by the Police for evidence purposes. Licence/Certificate holders will be expected to fully comply with the requirements of the Information Commissioners Office and the UK Data Protection Act 2018 in respect of any surveillance equipment installed at a premises.

17.15. In any application the sub-committee will consider each application on its individual merits and determine the imposition of conditions that are appropriate to the objectives.

## Conditions to promote public safety

- 17.16. The applicant will be expected to show that the physical safety of persons attending the premises will be protected and will offer relevant steps in the operating schedule to promote this.
- 17.17. Such steps will not replace the statutory obligation on the applicant to comply with all relevant legislation under the Health and Safety at Work etc. Act 1973 or under the Regulatory Reform (Fire Safety) Order 2004.
- 17.18. Applicants will be expected to have carried out the necessary risk assessments to ensure safe occupancy levels for the premises. Where a representation from the Fire Authority suggests that for the promotion of the Public Safety objective a maximum occupancy should be applied, the Licensing Authority will consider adding such a limit as a licence condition.

It is expected that an operating schedule will specify occupancy limits for the following types of licensed premises:

- (i) High Volume Vertical Drinking e.g. premises that provide mainly stand up drinking facilities with limited seating/table space and the prime activity is the sale of alcohol
- (ii) Nightclubs
- (iii) Cinemas
- (iv) Theatres
- (v) Other premises where regulated entertainment is likely to attract a large number of people

## Conditions to promote the prevention of public nuisance

- 17.19. The applicant will be expected to detail steps to prevent nuisance and disturbance arising from the licensable activities at the premises and from the customers using the premises.
- 17.20. The applicant will be expected to demonstrate that they have considered the following and included steps to prevent public nuisance:
- (i) Proximity of local residents to the premises
  - (ii) Licensable activities proposed and customer base
  - (iii) Hours and nature of operation
  - (iv) Risk and prevention of noise leakage from the premises from equipment, customers and machinery
  - (v) Prevention of noise from customers leaving the premises and customer pick up points outside the premises and from the car park

- (vi) Availability of public transport to and from the premises
- (vii) Noise from use of the garden/outside space including smoking shelters
- (viii) Delivery and collection times and locations
- (ix) Impact of external security or general lighting on residents
- (x) History of management of and complaints about the premises
- (xi) Applicant's previous success in preventing Public Nuisance
- (xii) Outcomes of discussions with the relevant Responsible Authorities
- (xiii) Impact of location, noise and contamination from outside smoking areas on neighbours and other customers
- (xiv) Collection of litter arising from the premises

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

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

## **Conditions to promote the protection of children from harm**

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

17.24. Steps to prevent children from harm must be included where:

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

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

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

## 18. Personal licences

- 18.1. Any person who wishes to act as a DPS at licensed premises must be in possession of a personal licence issued under the Licensing Act 2003. Any other person may also apply for a personal licence subject to meeting the necessary criteria. The Licensing Authority acknowledges the default grant position for applicants who meet the statutory criteria under the Licensing Act 2003.
- 18.2. The Police will only be consulted where the applicant declares a previous conviction for a relevant offence. A relevant conviction is one that is listed on Schedule 4 of the Licensing Act 2003.
- 18.3. Where a representation is received from the Police the Licensing Authority acknowledges that it has discretion whether or not to grant the licence.
- 18.4. Where a representation is received from the Police objecting to an application for a personal licence, and that representation is deemed relevant by the licensing team in that there is a belief that granting the licence will undermine the prevention of Crime and Disorder Licensing objective, the application will be referred to the Licensing Sub-Committee for determination at a hearing where the Licensing Sub-Committee will either grant or refuse the application.
- 18.5. The Police must give a notice of objection to the Licensing Authority within the statutory 14 day consultation period. The Licensing Authority accepts that there is no discretion to accept a late notification from the Police even if the objection provided evidence that to grant the licence would undermine the crime prevention objective.
- 18.6. The Licensing Authority requires all personal licence holders to advise it each time there is a change of their name or address. All licence holders are advised of this requirement when a licence is granted. Any changes will be updated and an amended licence will be issued within 20 working days of a notification of change.
- 18.7. The Licensing Authority anticipates that the Magistrates and Crown Courts will take appropriate action in relation to a personal licence where licence holders are convicted of relevant offences in those courts after the grant of a personal licence and to notify the Licensing Authority of any action taken in respect of a personal licence.
- 18.8. The Licensing Authority requires personal licence holders to undertake their duty to disclose any convictions for a relevant offence after a personal licence has been granted. The Licensing Authority and/or the Police will take appropriate formal action against the licence holder where subsequent relevant convictions are not declared under that duty.

## 19. Temporary event notices

- 19.1. The Licensing Act 2003 makes provision for the authorisation of a person (known as a premises user) to provide licensable activities on a temporary basis at unlicensed premises, or to add activities and/or extend the hours of existing activities at a licensed premises. The activities are authorised by the serving of a Temporary Event Notice (TEN) on the Licensing Authority, subject to the notice meeting the proper criteria as detailed under the Act.
- 19.2. Comprehensive planning of events is essential and where there are likely to be impacts on neighbouring residents or businesses as a result of the activities to be authorised by a TEN, the Licensing Authority expects the premises user to have advised those residents and businesses and considered any potential impacts and how they may be mitigated.
- 19.3. The Licensing Authority welcomes requests for advice from applicants who wish to provide temporary events to ensure they understand the law relating to such events. The Licensing Authority offers a pre-application advice service. This advisory service is chargeable. The advice is a bespoke service for licensing applications. The aim is to help applicants and respond to challenges that may arise during the process. However advice given cannot pre-determine the outcome of any licensing application, particularly if representations are received and brought before the Licensing Sub-Committee. Guidance notes are available on the licensing pages of the Council's website.
- 19.4. There are two types of TEN, Standard or Late. Both are subject to a numerical limit on the number of each type of TEN that can be served by personal licence holders and non-personal licence holders in a calendar year i.e. Jan-Dec. There is also a numerical limitation on the number of TENs that may be served in respect of individual premises or place.
- 19.5. **Standard TEN.** A standard TEN must be served at least 10 working days (Monday to Friday excluding Bank Holidays) before the event commences. The 10 working days excludes the day of service and the day on which the event starts. Copies of the TEN must be served on the Licensing Authority, The Environmental Health (EH) Department, and the Police. The fee is payable only to the Licensing Authority. Applicants are encouraged to serve TENs at least 28 days before the proposed events to allow greater time for an event to be planned.
- 19.6. Where numerical limits are exceeded the Licensing Authority will serve a counter notice and the proposed licensable activities will not be authorised.
- 19.7. Where objections are received from the Police and/or EH and not withdrawn, the notice will be referred for a hearing before the Licensing Sub-Committee. The Sub-Committee may approve the TEN as applied for, add appropriate conditions (if the TEN takes place on a premises with an existing premises licence) or reject a TEN by serving a counter notice.

- 19.8. **Late TEN.** A late TEN may be served between 9 and 5 working days before a proposed event commences. The same limitations apply to the day the notice was served and the day of the event. Where numerical limits are exceeded a counter notice will be served and the proposed licensable activities will not be authorised.
- 19.9. If the late TEN is served with fewer than 5 working days' notice it is deemed invalid and would be rejected. The proposed activities would not be authorised. The Licensing Authority has no discretion to accept TENs outside the permitted statutory deadlines.
- 19.10. Where an objection notice is given by the Police or EH in respect of a late TEN, the TEN will be rejected and proposed activities will be unauthorised. A refund of the fee will not be made.
- 19.11. The Licensing Authority will take the appropriate action where there is evidence that licensable activities have been provided without the authorisation of a TEN.
- 19.12. There are restrictions on the numbers of each type of TEN that can be submitted.
- 19.13. It should be noted that if a TEN has been processed and is no longer required the fee will not be refunded as the Licensing Authority has already carried out its obligations.

## 20. Outdoor events

- 20.1. The general terminal hour for all licensable activities shall be 23:00 at outdoor events;
- 20.2. Organisers/applicants shall demonstrate that they have the required permissions in place to use the land (whether private land or on Council owned land);
- 20.3. Organisers/applicants shall demonstrate that they have arrangements in place to ensure the site is properly checked and certified (for example, if water supplies or electrics need to be safety checked); and
- 20.4. Organisers / applicants using Council owned land will demonstrate that they have notified and where necessary sought authorisation / advice from the relevant Council departments (for example, the Parks and Open Spaces, Highways etc. ).

## 21. Other relevant matters

- 21.1. Adult entertainment. The Licensing Authority has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and premises offering regular entertainment of a sexual nature must be licensed as a sex establishment under those provisions.
- 21.2. The Licensing Authority acknowledges that exemptions under the above legislation do allow sexual entertainment to be provided at premises licensed under the Licensing Act 2003, as long as it is provided on no more than 11 occasions within 12 months and with at least one month between each occasion. Those infrequent events will be

regulated by the licence granted under the Licensing Act 2003 where that licence authorises performances of dance.

- 21.3. **Gaming machines in licensed premises - Automatic entitlement.** There is provision in the Gambling Act 2005 (GA2005) for premises licensed to sell alcohol for consumption **on** the premises to automatically have two gaming machines of category C and/or D. The premises licence holder merely needs to notify this Licensing Authority and pay the prescribed fee.
- 21.4. This authority can remove the automatic authorisation in respect of any particular premises if:
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives (under the GA2005);
  - gaming has taken place on the premises that breaches a condition of section 282 of the GA2005 (for example, the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines;
  - the premises are mainly used for gaming; or
  - an offence under the GA2005 has been committed on the premises.
- 21.5. **Gaming Machine Permit** – If a premises wishes to have more than 2 machines of categories C and/or D, then it needs to apply for a permit and this authority will consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission under section 25 of the Act, and such matters as officers consider relevant.
- 21.6. In determining such matters, consideration will be given to the need to protect children from harm and to the need to protect vulnerable persons from harm or being exploited by gambling. The applicant will be required to satisfy the authority that there will be sufficient measures to ensure that minors do not have access to the adult only gaming machines.
- 21.7. Measures to satisfy the authority relate to restricting access to age restricted machines and adult machines being in sight of the bar, or in sight of staff that will monitor that the machines are not being used by minors. Notices and signage should also be displayed to this effect. Applicants may consider the provision of information leaflets and helpline numbers for organisations such as GamCare to demonstrate their responsibility in the protection of vulnerable persons and compliance with Codes of Practice issued by the Gambling Commission.
- 21.8. **Gambling in alcohol ‘On’ licensed premises.** Exempt gaming is equal chance gaming that is generally permissible in any club or alcohol licensed premises. Equal chance gaming includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker. Such gaming should be ancillary to the purposes of the premises.

- 21.9. This exemption is automatically available to all clubs or alcohol licensed premises, but is subject to statutory stakes and prize limits determined by the Secretary of State. Licensees are expected to seek advice from the Gambling Commission at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk) or this Licensing Authority before providing any forms of gambling at alcohol licensed premises.
- 21.10. Licensees will be expected to make appropriate arrangements for customers who wish to smoke outside the premises to ensure that the licensed pavement area is not also used as the allocated smoking area. This is to prevent nuisance and potential ill-health to non-smokers who wish to use the outside seating.

## 22. Information

- 22.1. In order to ensure that applicants and persons who make representations have the necessary information to be able to do so, information is available on the Tunbridge Wells Borough Council's website [www.tunbridgewells.gov.uk](http://www.tunbridgewells.gov.uk) or by contacting the Licensing Partnership administration team by email [licensing@sevenoaks.gov.uk](mailto:licensing@sevenoaks.gov.uk) or by telephone on 01732 227004.



## Appendix A: Contact details of Local Authority Licensing Department

Sharon Degiorgio  
Senior Licensing Officer for Tunbridge Wells Borough Council  
email: [sharon.degiorgio@tunbridgewells.gov.uk](mailto:sharon.degiorgio@tunbridgewells.gov.uk)  
Telephone: 01892 554 489

Trevor Horner  
Licensing Officer for Tunbridge Wells Borough Council  
email: [trevor.horner@tunbridgewells.gov.uk](mailto:trevor.horner@tunbridgewells.gov.uk)  
Telephone: 01892 554034

Licensing Department  
Tunbridge Wells Borough Council Town Hall  
Royal Tunbridge Wells Kent  
TN1 1RS  
Web: [www.tunbridgewells.gov.uk](http://www.tunbridgewells.gov.uk)  
email: [licensing@tunbridgewells.gov.uk](mailto:licensing@tunbridgewells.gov.uk)  
Telephone: 01892 554034

Licensing Partnership  
Sevenoaks District Council  
Council Offices  
PO Box 182  
Argyle Road  
Sevenoaks Kent TN13 1GP

Web: [www.sevenoaks.gov.uk/licensing](http://www.sevenoaks.gov.uk/licensing)  
Email: [licensing@sevenoaks.gov.uk](mailto:licensing@sevenoaks.gov.uk)  
Telephone: 01732 227004

See the Tunbridge Wells Borough Council Website [www.tunbridgewells.gov.uk](http://www.tunbridgewells.gov.uk) for details of the Town and Parish Councils within the Borough. Details of your local Councillors may also be obtained from the website.

**Information on Tunbridge Wells licensing applications being processed is available on the licensing pages of the Licensing Partnership website at Sevenoaks District Council's website [www.sevenoaks.gov.uk](http://www.sevenoaks.gov.uk)**

## Appendix B: Responsible Authorities

Environmental Protection  
Tunbridge Wells Borough Council  
Town Hall  
Royal Tunbridge Wells  
Kent TN1 1RS  
Tel: 01892 526 121  
Email: [envprotection@midkent.gov.uk](mailto:envprotection@midkent.gov.uk)

Health and Safety  
Tunbridge Wells Borough Council  
Town Hall  
Royal Tunbridge Wells  
Kent TN1 1RS  
Tel: 01892 526 212  
Email: [food&commercial@tunbridgewells.gov.uk](mailto:food&commercial@tunbridgewells.gov.uk)

Health & Safety Executive  
International House  
Dover Place  
Ashford TN23 1HU  
Tel 01233 653900  
Website: [www.hse.gov.uk](http://www.hse.gov.uk)

Local Planning Authority  
Tunbridge Wells Borough Council  
Town Hall  
Royal Tunbridge Wells  
Kent TN1 1RS  
Tel: 01892 526 121  
Email: [planning@tunbridgewells.gov.uk](mailto:planning@tunbridgewells.gov.uk)

West Kent Fire Safety Office  
Tonbridge Fire Station  
424 Vale Road  
Tonbridge  
Kent TN9 1SW  
Tel: 01622 692 121  
Email: [tfs.midgroup@kent.fire-uk.org](mailto:tfs.midgroup@kent.fire-uk.org)

West Kent Licensing Officer  
Community Safety Unit  
Kings Hill  
Gibson Building  
Gibson Drive  
West Malling ME19 4LZ  
Tel: 01732 379 255  
Email: [west.division.licensing@kent.police.uk](mailto:west.division.licensing@kent.police.uk)

Trading Standards  
Kent County Council  
1st Floor, Invicta House  
County Hall  
Maidstone  
Kent ME14 1XX  
Tel: 01622 221012  
Email: [trading.standards@kent.gov.uk](mailto:trading.standards@kent.gov.uk)

Kent Child Protection Committee  
Children's and Families  
KCC Social Services  
Sessions House, Room 2.60  
County Road  
Maidstone  
Kent ME14 1XQ  
Website: [www.kent.gov.uk](http://www.kent.gov.uk)  
Email: [social.services@kent.gov.uk](mailto:social.services@kent.gov.uk)

Kent Public Health Department  
Room 3.45, Sessions House  
County Hall, County Road  
Maidstone  
ME14 1XQ  
Tel: 0300 333 6379  
[www.kent.gov.uk](http://www.kent.gov.uk)

Home Office (Immigration Enforcement)  
Alcohol Licensing Team  
Lunar House  
40 Wellesley Road  
Croydon  
CR9 2BY  
<https://www.gov.uk/immigration-reporting-centres>

## Appendix C: Reference to guides of best practice

Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics [www.ioa.org.uk](http://www.ioa.org.uk)

Good Practice Guide: Licensing published jointly by the Justices' Clerks' Society and the Magistrates' Association (April 1999) [www.magistrates-association.org.uk](http://www.magistrates-association.org.uk)

The National Alcohol Harm Reduction Strategy Toolkit [www.alcoholconcern.org.uk](http://www.alcoholconcern.org.uk)

The Point of Sale Promotions published by BBPA [www.beerandpub.com](http://www.beerandpub.com)

Public Places Charter [www.ash.org.uk](http://www.ash.org.uk)

Tunbridge Wells Night Time Co-ordinator, email: [pubwatch@twstp.co.uk](mailto:pubwatch@twstp.co.uk)

National Pub Watch [www.nationalpubwatch.org.uk](http://www.nationalpubwatch.org.uk)

## Appendix D: Contact details and useful addresses

West Kent Chamber of Commerce  
Castle Lodge  
Castle Street  
Tonbridge  
Kent TN9 1BH

Disclosure and Barring Service (DBS)  
Customer Services  
PO Box 165  
Liverpool L69 3JD  
Information line: 0870 90 90 811  
Website: <https://www.gov.uk/disclosure-barring-service>

British Beer & Pub Association (BBPA)  
Ground Floor  
Brewers' Hall Aldermanbury Square London  
EC2V 7HR  
Tel: 020 7627 9191  
Fax: 020 7627 9123  
email: [contact@beerandpub.com](mailto:contact@beerandpub.com)  
Press Office: 020 7627 9199

British Institute of Inn keeping (BII)  
Wessex House  
80 Park Street  
Camberley  
Surrey GU15 3PT  
Tel: 01276 684 449  
Fax: 01276 23045  
Website: [www.bii.org](http://www.bii.org)  
email: [reception@bii.org](mailto:reception@bii.org)

Security Industry Association (SIA)  
PO Box 49768  
London. WC1 V6WY  
Website: [www.sia.homeoffice.gov.uk](http://www.sia.homeoffice.gov.uk)  
Tel: 0844 892 1025  
Fax: 0844 892 0975

## Appendix E: Recommended delegation of functions

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a police objection	If no objection made
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	If no objection made
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	If no objection made
Applications for interim authorities		If a police objection	If no objection made
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc.			All cases
Decision to object when Local Authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a temporary event notice		All cases	

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for a minor variation			All cases