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Licensing Act 2003

Statement of Licensing Policy

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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

- 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.

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.

AMUSEMENT WITH PRIZES MACHINES

- 1.23 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.

MINOR VARIATIONS

- 1.24 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.

ADULT ENTERTAINMENT

- 1.25 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.

MANDATORY CONDITIONS

- 1.26 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.

EARLY MORNING RESTRICTION ORDERS (EMRO)

- 1.27 Sections 172A to 172E of the 2003 Licensing Act 2003 allow a licensing authority to make, vary or revoke and 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.

REVIEWS

- 1.28 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.

Enforcement

- 1.29 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 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

- 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:
- 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 that 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.

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.
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

- 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
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
CT9 1XZ
01843 577000

Development Control
Thanet District Council
PO Box 9
Cecil Street
Margate
CT9 1XZ
01843 577000

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

Delegation of Functions

Appendix 4

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation 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