

## REVISED COMPLIANCE AND ENFORCEMENT POLICY

Council - 21 July 2016

Report of Chief Officer, Environmental and Operational Services

Status: For Decision

Also Considered by: Licensing Committee - 13 July 2016

Key Decision: No

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**Executive Summary:** This report seeks Committee to consider the revised Compliance and Enforcement Policy for Licensing.

It is best practice that the Authority revises the policies on Compliance and Enforcement processes from time to time to ensure the most current information and guidance is made available to applicants taking into consideration the legislation and resources available to the Licensing Partnership.

If agreed by members, the revised policy will be adopted by full Council on 21 July 2016.

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**This report supports the Key Aim of Safe and Caring Communities and Dynamic and Sustainable Economy**

Portfolio Holder Cllr. Anna Firth (Legal and Democratic Services)

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### **Recommendation to Licensing Committee:**

To recommend to full Council the adoption of the Compliance and Enforcement Policy.

### **Recommendation to Council:**

To approve the adoption of the Compliance and Enforcement Policy

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### **Reason for recommendation:**

It is essential that this Authority implements best practice. Providing an updated Compliance and Enforcement Policy will provide prospective applicants, existing licence holders, unlicensed trade, the public and businesses with a transparent and

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consistent approach to ensuring compliance with the legislation covered by the service. The other authorities within the Licensing Partnership will be using this policy as a template to use in their authorities. It is a Service Objective that we seek harmonisation of our policies.

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## **Introduction and Background**

- 1 Sevenoaks District Council as the Licensing Authority has responsibility for licensing and registering a range of functions in the interests of public safety and protection. As such, we have a moral and legal duty to uphold upholding the requirements of various legislation in which we are governed.
- 2 It is best practice to be transparent and concise in how we as the Licensing Authority achieve compliance and enforcement. It is important to revise our policy on our approach to compliance and enforcement matters to reflect change over time, changes in resources and to reflect changes in legislation in order to maintain public confidence and continue to achieve public safety and prevent offences being committed under the various Acts.
- 3 A Compliance and Enforcement Policy enables clarity on the position of licence holders, what is expected of them, steps the Licensing Authority would expect them to take to rectify an issue and steps we make take to resolve an issue in relation to non-compliance and offences under various Acts.
- 4 The Policy will also act as new guidance to members of the Licensing sub-committee when making decisions on status of a licence. The guidance will outline actions that are reasonable and proportionate to ensure decisions are fair, in the public interest and proportionate and that any decision taken will be defensible.
- 5 Compliance and enforcement is important to maintain integrity and confidence in the various licensing regimes, and to prevent anyone obtaining an unfair advantage through unlicensed activities and to ensure the security and safety of the public.
- 6 Some functions in which we have a duty to ensure requirements, regulations and various licensing objectives are upheld include:
  - (a) hackney carriage and private hire drivers and vehicles and private hire operators;
  - (b) alcohol, entertainment and late night refreshment;
  - (c) charity collections;
  - (d) sex establishments;
  - (e) gambling premises, permits and lottery registrations;

(f) scrap metal dealers and collectors.

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

- 7 The proposed revised Policy closely follows that of Kent and Medway Licensing Compliance and Enforcement Protocol which has been used as a guide for Sevenoaks, the Licensing Partnership, partnership authorities and agencies. The revised policy will replace the previous Compliance and Enforcement Policy and harmonise the way in which we regulate licensing functions and ensure consistency and fairness.

### **Other Options Considered and/or Rejected**

- 8 The Council could choose to continue working to its current standards with the existing policy. The current Compliance and Enforcement Policy has not been revised since 2006. Since this time, resources have changed, the legislation has been revised and new legislation has been implemented. Furthermore, the Licensing Partnership has expanded. Therefore there is a need to enforce a wider range of requirements relating to licensable activities in order to achieve public safety. This needs to be reflected in a current policy. Techniques and approaches to achieving compliance and enforcing have adapted. Therefore choosing to maintain current working practice is not a course of action that is recommended.

### **Key Implications**

#### Financial

- 9 Whilst statutory regulations do not permit charging for functions relating to some enforcement, the revised regulations and implemented Policy would not adversely affect the budgets. The revised approach to compliance and enforcement action may outline further steps in a staged approach to dealing with matters in order to achieve compliance. Compliance is permitted to be afforded for within certain fees for example, in taxi licensing.
- 10 The implementation of a concise and staged approach to compliance and enforcement matters will enhance and inform Officers when engaged in any enforcement process. This will lead to more robust and defensible decisions in relation to action concerning breaches of the legislation, conditions and unlicensed traders. This may reduce the risk of costs should a decision be appealed. In adopting a compliance and enforcement policy, the courts will understand the rationale and reason behind Officers actions.

#### Legal Implications and Risk Assessment Statement

- 11 Decisions in relation to a licence holder are likely to amount, amongst other things to consideration of civil rights and obligations under the Human Rights Act 1998. This policy assists in ensuring that these rights are fully considered.

