



LICENSING COMMITTEE
02 February 2015 at 6.00 pm
Conference Room, Argyle Road, Sevenoaks

AGENDA

Membership:

Chairman: Cllr. Mrs. Morris Vice-Chairman: Cllr. Clark
Cllrs. Abraham, Ayres, Mrs. Ayres, Bosley, Cooke, Mrs. George, Orridge, Mrs. Parkin, Pett, Raikes and Lindsay

	<u>Pages</u>	<u>Contact</u>
Apologies for Absence		
1. Minutes To agree the Minutes of the meeting of the Committee held on 30 September 2014, as a correct record	(Pages 1 - 2)	
2. Declarations of interest Any interests not already registered		
3. Actions from the previous meeting		
4. Hackney Carriage and Private Hire Licensing: Licence Fees 2015/16	(Pages 3 - 8)	Claire Perry Tel: 01732 227325
5. Gambling Act 2005 and Local Government (Miscellaneous Provisions) Act 1982: Licence Fees 2015/16	(Pages 9 - 14)	Claire Perry Tel: 01732 227325
6. Licensing - Draft Statement of Licensing Act 2003 Policy	(Pages 15 - 58)	Leeann Leeds Tel: 01732 227270
7. Hackney Carriage Licensing: Proposed Fare Charge Increase	(Pages 59 - 64)	Leeann Leeds Tel: 01732 227270

EXEMPT ITEMS

(At the time of preparing this agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public.)

To assist in the speedy and efficient despatch of business, Members wishing to obtain factual information on items included on the Agenda are asked to enquire of the appropriate

Contact Officer named on a report prior to the day of the meeting.

Should you require a copy of this agenda or any of the reports listed on it in another format please do not hesitate to contact the Democratic Services Team as set out below.

For any other queries concerning this agenda or the meeting please contact:

The Democratic Services Team (01732 227241)

LICENSING COMMITTEE

Minutes of the meeting held on 30 September 2014 commencing at 6.00 pm

Present: Cllr. Mrs. Morris (Chairman)

Cllr. Clark (Vice Chairman)

Cllrs. Abraham, Bosley, Cooke, Clark, Mrs. George, Orridge and Mrs. Parkin

An apology for absence was received from Cllr. Pett

7. Minutes

Resolved: That the Minutes of the meeting of the Licensing Committee held on 26 June 2014 and of the Sub-Committees held on 23 June 2014, 11 August 2014 and 1 September 2014 be approved and signed by the Chairman as a correct record.

8. Declarations of interest

No additional declarations of interest were made.

9. Actions from the previous meeting

The action from the previous meeting was for the Licensing Partnership Manager to contact the Police regarding establishing any intelligence or a pattern regarding previous events and to follow up on the installation of the barrier. The Licensing Partnership Manager reported that she had contacted the Police Licensing Officer, there did not appear to be any future dates that they were aware of therefore she had requested that previous years be looked at to see if there was any pattern. The main horse fair had been held the weekend of 13 September 2014. The local PCSO had liaised with the DPS prior to the event but nothing appeared to have happened or at least reported. As there was uncertainty on the future of the working mens club it appeared they were delaying on the promise of a new barrier, but this would be pursued.

10. Licensing Partnership Update Report

The Licensing Partnership Manager presented an update report on the Licensing Partnership. She was required to produce two updates a year for Tunbridge Wells and one for Maidstone Borough Councils. It was a report for information and apprised Members of the 2013/14 performance outturn and highlighted the many challenges facing the partnership and the staff working within the Licensing Partnership. The operation of the partnership was progressing, developing and improving and embracing innovative techniques to seek efficiency savings.

The Licensing Partnership Manager advised that the Deregulation Bill published earlier in the year proposed to stop the need for renewal of personal licences to sell alcohol which had been introduced in 2005 with a 10 year renewal date. The Bill was in the committee

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Licensing Committee - Tuesday, 30 September 2014

stages of the House of Lords and the change in legislation may not be in place before the first renewals from 2005 were due. In response to a question she advised that only the courts had the power to review or remove a personal licence.

The Committee congratulated the Licensing Partnership Manager and her team for their excellent performance resulting in the tightened targets for the following year.

Resolved: That the report be noted.

11. Statement of Licensing Policy Consultation Report

The Licensing Partnership Manager presented a report which provided Members with information and guidance on a brand new Statement of Licensing Policy required under the Licensing Act 2003 which required approval for public consultation. The Council's current Policy Statement took effect from 7 January 2011 and at that time the legislation required the Statement of Licensing Policy to be published every three years. Section 122 of the Police Reform and Social Responsibility Act 2011 had changed this from every 3 years to every 5 years. It had been hoped to delay reviewing the policy until the change to locally set fees came out, however the policy was too out of date to wait any longer. A mini review could be carried out when they did come out. The previous policy had been based on a Kent template, in drafting this new policy account had been taken of recent case law and it was more in line with practices and how decisions were made here. It was also more user friendly.

The consultation period was 12 weeks and the responses would be brought back to Committee before being submitted to Full Council.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That the draft Statement of Licensing Policy be approved for public consultation.

The Committee expressed their thanks to all staff involved in drafting the new policy.

THE MEETING WAS CONCLUDED AT 6.25 PM

CHAIRMAN

HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING: LICENCE FEES 2015/2016

Licensing Committee – 02 February 2015

Report of Chief Officer Environmental and Operational Services

Status: For Decision

Key Decision: No

This report supports the Key Aim of safer communities

Portfolio Holder Cllr. Ms Lowe (Housing and Community Safety)

Contact Officer(s) Mrs. Claire Perry 7325 / 07970 731616

Recommendation to Licensing Committee:

That the Licensing Committee recommend that the fee levels as set out in paragraph 7 of the report are appropriate for consultation with the taxi trade.

Reason for recommendation:

To ensure that the Council complies with its statutory duty and ensure that the 'Taxi Licensing' service remains self-financing, in accordance with the Council's Service and Budget Plan.

Introduction and Background

- 1 This taxi licensing service is required to be self-financing and the proposed increases to fees will ensure this is maintained.
- 2 The licence fees and associated costs of 'taxi' licensing are proposed to be increased in line with the 3.5% inflation rate in accordance with the Council's Service and Budget Plan. All other increases in cost of providing the service have been absorbed by efficiency savings as a result of the Licensing Partnership.
- 3 Careful monitoring of income and expenditure has been carried out over the current financial year and the income from licence fees and associated costs, together with expenditure has been in accordance with the objectives laid out in the budget plan.
- 4 The Driving Standards Agency (DSA) fee for its 'taxi driver test', that new applicants are required to take in accordance with the Council's 'Taxi Licensing Policy', is currently £79.66 payable (weekday fee) directly to the DSA by the applicant.

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- 5 The Cedars Surgery at Swanley is the current approved Centre for medical examinations with respect to Driver Licence applications in accordance with the Taxi Licensing Policy. Cedars Surgery won the tender early in 2012 with a reduced fee payable by the applicant of £50, previously the cost was £55. The medical testing contract is due to be renewed in 2015.
- 6 The fee for the Disclosure Barring Service (DBS) Enhanced Search remains the same at £44. However, applicants can now register online when they apply for a DBS search. The registration lasts for one year and costs £13 per year. This would save an applicant £5 over three years. It allows applicants to take their search certificate from one job to the next and removes the need for an enhanced search to be carried out upon renewal.
- 7 The three costs mentioned in the two preceding paragraphs, which a new applicant has to pay, means, that in addition to the licence fee set by Members, a new applicant for a driver licence will have to pay, if the recommended licence fee increase is approved, a total of £342.66 from 1 April 2015 whilst an applicant for a renewal of a licence will pay a total of £216 from the same date.

	New applicant for driver licence	Renewal of a drivers licence
Application	£169.00	£122.00
DBS enhanced search	£44.00	£44.00
Medical	£50.00	£50.00
DSA driving test	£79.66	Not applicable
Total	£342.66	£216.00

	Existing Fees	New Fees for 2014/15
Hackney Carriage Driver Licence		
On initial application	£169 for three years	£169 for three years
Disclosure Barring Service search fee	£44 every three years or £13 per year if they sign up to the DBS online service	£44 every three years or £13 per year if they sign up to the DBS online service
Total (including DBS fee)	£213 for three years	£213 for three years
On renewal	£122 for three years	£122 for three years

Disclosure Barring Service search fee	£44 every three years or £13 per year if they sign up to the DBS online service	£44 every three years or £13 per year if they sign up to the DBS online service
Total (including DBS fee)	£213 for three years	£213 for three years
Hackney Carriage Vehicle Licence	£300 for one year	£300 for one year
Private Hire Operator Licence		
On initial application	£300 for three years	£300 for three years
On renewal	£100 for three years	£100 for three years
Private Hire Driver Licence		
On initial application	£169	£169
Disclosure Barring Service search fee	£44 every three years or £13 per year if they sign up to the DBS online service	£44 every three years or £13 per year if they sign up to the DBS online service
On renewal	£122 for three years	£122 for three years
Disclosure Barring Service search fee	£44 every three years or £13 per year if they sign up to the DBS online service	£44 every three years or £13 per year if they sign up to the DBS online service
Total (including DBS fee)	£213 for three years	£213 for three years
Private Hire Vehicle Licence	£300 for one year	£300 for one year
Additional Costs		
Change from Hackney Carriage to Private Hire	£70	£70
Change from Private Hire to Hackney Carriage	£90	£90
Replace vehicle plate	£23	£23
Replace driver badge	£9	£9.50
Vehicle re-test	£54.85	£54.85
Vehicle partial re-test	£27.43	£27.43

Agenda Item 4

Change of ownership of licensed vehicle	£69	£69
Attempting “Knowledge Test” after one failure	£50	£50
Failure to attend in time for the vehicle test (10 minutes prior to the test start time)	£27.43	£27.43
Failure to attend with correct documentation	£27.43	£27.43
Copy of existing paper licence	£11	£12
Change of address details for a replacement licence	£11	£12
Change of name for a vehicle or operator licence	£11	£12
Change of name and address for a driver badge	£20	£21
Medical fee for a new and renewal driver licence for Hackney Carriage and Private Hire payable directly to The Cedars Surgery	£50 for three years payable directly to the surgery	£50 for three years payable directly to the surgery
Replacement Vehicles		
If a licensed vehicle is replaced during the valid licence period then the cost of licensing the replacement vehicle will be £290. However, if the vehicle is replaced within six months of the issue of the licence then the fee will be reduced by £60.		
If a licensed vehicle is replaced temporarily for up to 2 months because of damage to it then the fee will be £99 to test and licence the replacement vehicle and a further £99 to test and re-lodge the original vehicle.		

- 8 It should be noted that there are only small increases in the fees for some of the administrative process; this is due to the increase in cost of paper. All other increases in costs have been met from the accruals of the driver licence fees in previous years. It was an earlier practice to carry forward the driver licence income in thirds as the licence fee is for a three year period. However, recent analysis of the renewal dates for driver licences has identified that the driver licences renew almost equally over the three years. Therefore, it has been possible to use the

accrued income to offset the required increase in income thereby negating the need for the Council to increase the fees and charges to the taxi trade.

- 9 The Licensing Partnership will email those Hackney Carriage Proprietors, Private Hire Operators and Drivers where we have their email addressed after this Licensing Committee meeting to give them the opportunity to make comment. A Notice will also be available on the Council's website.

Other Options Considered and/or Rejected

- 10 If the Licensing Committee were minded not to approve these fees the Council would not be able to meet the Council's Service and Budget Plan or ensure the Taxi Licensing Service was self-financing.

Key Implications

Financial

- 11 The cost of licence fees takes into account the need to maintain a 'self financing' position for the service. The proposals contained in this report will achieve this.

Legal Implications and Risk Assessment Statement.

- 12 Should parts of industry believe the authority's fees are at a level which is greater than the costs of the statutory functions then it would be open to them to undertake a judicial review proceeding. Should this arise, the authority would need to evidence how it arrived at the fee levels to demonstrate that they have been calculated on a cost recovery basis only.

Equality Impacts

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

Appendices

Background Papers: None

Richard Wilson Chief Officer Environmental and Operational Services

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GAMBLING ACT 2005 AND LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982: LICENCE FEES 2015/2016

Licensing Committee – 2 February 2015

Report of the: Chief Officer Environmental and Operational Services

Status: For Decision

Also considered by: Council – 17 February 2015

Key Decision: No

This report supports the Key Aim of Safe Communities to aid in the reduction of crime within the District.

Portfolio Holder Cllr. Ms Lowe (Housing and Community Safety)

Contact Officer(s) Claire Perry Ext: 7325 / 07970 731616

Recommendation to the Licensing Committee: That Full Council is recommended to approve the appropriate fee levels as set out in appendix A.

Recommendation to Council: That subject to the comments of the Licensing Committee, the fees set out in appendix A are approved.

Reason for recommendation: to ensure that the Council complies with its statutory duty and ensure that the Gambling licensing service remains self-financing, in accordance with the Council's Service and Budget Plan. The Gambling Act fees were first set at the Licensing Committee on 30 May 2007, (with the same fee model being used to work out the proposed fee for the forthcoming year using a 3.5% inflation factor in accordance with the Council's Budget Plan with rounding to "5" and "0" for the respective fee).

Introduction and background to Gambling Fees

1. The Gambling Act 2005 Section 212 gives the Secretary of State power to make regulations prescribing the fees payable to the Licensing Authority. It also gives the power to devolve to Licensing Authorities in England and Wales the freedom to set fees for premises licence applications, subject to any constraints the Secretary of State may prescribe which includes a maximum fee level. The government has decided that for England and Wales, Licensing Authorities will determine their own fees for gambling premises licences but that the Secretary of State will prescribe the maximum fee payable for each category of licence.
2. The maximum levels have been included in Appendix A in brackets for comparison purposes. The previous years fees are printed in italics for your information. Those cells that are shaded in the body of the table are where we have reached the maximum fee level that may be set.

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3. There is an initial fee to cover the cost of application and an annual “maintenance” fee.
4. Licensing Authorities have been asked to set fees to ensure full cost recovery and that the fee levels represent fairness and value for money for the gambling industry. All Licensing Authorities must set their fees upon a cost recovery basis only and will be required to review their fee levels on an annual basis to ensure this.
5. Fees must be set for all types of premises licences and Temporary Use Notices (TUN's).

Premises type

- Casinos
 - Bingo
 - Betting (off-course)
 - Tracks (on-course betting)
 - Adult Gaming Centres
 - Family Entertainment Centres
6. Fees must be set by each Licensing Authority for the following:
 - Application for a (new) premises licence
 - Application to vary a premises licence
 - Application to transfer the licence
 - Application for re-instatement of the premises licence
 - Application for a provisional statement
 - Application for a premises licence for a premises which already has a provisional statement
 - Fee to accompany a request for a copy of the premises licence
 - Fee to accompany a notification of change of circumstances (only relevant change is that of address)
 - Fee to accompany a temporary use notice
 7. The District currently has seven betting premises that will be affected by the proposed fee increases. There are no other gambling premises currently operating in the District. The betting premises are:

- a. William Hill – Swanley
- b. Betfred – Swanley
- c. Ladbrokes – Swanley
- d. Coral – Sevenoaks
- e. Coral – Sevenoaks
- f. Coral – Sevenoaks
- g. Coral - Edenbridge

Sexual Entertainment Venue Fees

8. The fees have been calculated by examining the 'time' it takes to carry out the various tasks and who in the authority is likely to carry them out. The hourly rates of staff are fed in to a spread sheet (originally produced by LACORS to calculate the Gambling Act fees) to calculate costs for each type of activity. For each application the processes involved are identified and the costs of each process are calculated and entered in to the spread sheet, which produces an average cost for each type of application and an annual fee.
9. The type of tasks involved in premises application for example, include, assistance to applicant, the checking of an application for completeness when received, checking all required documents are attached, processing the application fee, check, process, bank and reconcile payments, entering the information into our computer system (including scanning), contacting the applicant to clarify application or chase missing information if required, assess representations for relevance, undertake informal mediation, undertaking site visits where necessary. Once processed determining the licence or arranging a hearing, holding a hearing, notification of the decision, prepare and issue the licence, update the records/register, appeal preparation and holding an appeal hearing.
10. The costs associated with appeals and hearings have been estimated and an estimation has been made as to the likelihood of these events occurring is entered into the final calculations. The risk of appeals and hearings occurring has been based on the experience of our partners within the Licensing Partnership.
11. The result of the calculations is that it is recommended a fee of £3,000 is set for an initial application, a transfer or a renewal application. This Authority has not been increased since 2010. The existing fee is £2,960.

Other Options Considered and/or Rejected

12. If the Licensing Committee were minded not to approve these fees the Council would not be able to meet the Council's Service and Budget Plan or ensure the licensing of Gambling and Sexual Entertainment Venue premises was self-financing.

Key Implications

Financial

The cost of licence fees takes into account the need to maintain a 'self financing' position for the service. The proposals contained in this report will achieve this.

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The current number of premises that will be subject to Gambling Act 2005 fees is seven betting shops, whose annual fees will generate £3,780. There are no Sexual Entertainment Venues within the District.

Legal, Human Rights etc.

Should parts of industry believe the authority's fees are at a level which is greater than the costs of the statutory functions then it would be open to them to undertake a judicial review proceeding. Should this arise, the authority would need to evidence how it arrived at the fee levels to demonstrate that they have been calculated on a cost recovery basis only.

Equality Impacts

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

Appendices

Appendix A – Gambling Act Fees

Background Papers:

None

Mr Richard Wilson
Chief Officer Environmental and Operational Services

Appendix A

**SEVENOAKS DISTRICT COUNCIL'S
GAMBLING ACT 2005 - FEES
1 April 2015 – 31 March 2016**

Premises Type	New Application			Annual Fee		
	£			£		
Existing Casinos	n/a			n/a		
New Small Casino	7510	(8,000)	7260	4170	(5000)	4025
New Large Casino	8630	(10,000)	8340	6730	(10000)	6500
Bingo Club	2750	(3500)	2660	770	(1000)	745
Betting Premises (excluding Tracks)	2750	(3000)	2660	540	(600)	520
Tracks	1670	(2500)	1615	770	(1000)	745
Family Entertainment Centres	1670	(2000)	1615	630	(750)	610
Adult Gaming Centre	1670	(2000)	1615	770	(750)	745
Temporary Use Notice	220	(500)	210	N/A		

	Application to Vary	Application to Transfer	Application for Re-Instatement	Application for Provisional Statement	Licence Application (provisional Statement holders)	Copy Licence	Notification of Change
	£	£	£	£	£	£	£
Existing Casinos	n/a	n/a	n/a	n/a	n/a	n/a	n/a
New Small Casino	3570 (4000) 3450	1580 (1800) 1530	1580 (1800) 1530	7570 (8000) 7310	2700 (3000) 2610	12 (25) 11	28 (50) 27
New Large Casino	4100 (5000) 4100	2010 (2150) 1940	2010 (2150) 1940	8655 (10000) 8360	3965 (5000) 3830	12 (25) 11	28 (50) 27
Bingo Club	1605 (1750) 1550	1200 (1200) 1200	1200 (1200) 1200	2755 (3500) 2660	1200 (1200) 1200	12 (25) 11	28 (50) 27
Betting Premises (excluding tracks)	1500 (1500) 1480	1200 (1200) 1200	1200 (1200) 1200	1645 (3000) 1590	1200 (1200) 1200	12 (25) 11	28 (50) 27
Tracks	1250 (1250) 1250	950 (950) 950	950 (950) 950	1670 (2500) 1615	950 (950) 950	12 (25) 11	28 (50) 27
Family Entertainment Centres	1000 (1000) 1000	950 (950) 950	950 (950) 950	1635 (2000) 1580	950 (950) 950	12 (25) 11	28 (50) 27
Adult Gaming Centre	1000 (1000) 1000	1200 (1200) 1200	1200 (1200) 1200	1670 (2000) 1615	1200 (1200) 1200	12 (25) 11	28 (50) 27

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Appendix A

**SEVENOAKS DISTRICT COUNCIL'S
GAMBLING ACT 2005 - FEES
1 April 2015 – 31 March 2016**

Temporary Use Notice	n/a	n/a	n/a	n/a	n/a	12 (25) 11	28 (50) 27
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The proposed new fees as shown in bold type in the table above. For ease of reference the maximum fees identified by DCMS that could be charged are shown in brackets and last year's fees are in italics. Those cells that are shaded in the body of the table are where we have reached the maximum level of fee that can be set.

LICENSING – DRAFT STATEMENT OF LICENSING ACT 2003 POLICY

Licensing Committee – 2 February 2015

Report of Chief Officer Environmental & Operational Services – Mr Richard Wilson

Status: For Decision

Also considered by: Full Council – 17 February 2015

Key Decision: No

Executive Summary:

The Licensing Act 2003 requires that the Council publish a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act.

The Council's current Policy Statement took effect from 7 January 2011 and at that time the legislation required the Statement of Licensing Policy to be published every three years. Section 122 of the Police Reform and Social Responsibility Act 2011 changed this from every 3 years to every 5 years.

This Policy Statement will be presented to Full Council on the 17 February 2015, and will take effect from 18 February 2015 remaining in force for a period of five years. It can be subject to regular review by the Council.

This report supports the Key Aim of Safer Communities

Portfolio Holder Cllr. Mrs Lowe (Housing and Community Safety)

Contact Officer(s) Leeann Leeds Ext.7270

Recommendation to Licensing Committee: recommend the approval of the Statement of Licensing Policy including amendments identified in Appendix B for adoption by full Council.

Recommendation to Council: that subject to the comments of the Licensing Committee, the Statement of Licensing Policy be approved.

Reason for recommendation:

To enable the Council to make decisions for licensing premises applications with an up to date Statement of Licensing Policy.

Agenda Item 6

Introduction and Background

1. Sevenoaks District Council is a Licensing Authority under the Licensing Act 2003 and is responsible for granting Premises Licences, Club Premises Certificates, Temporary Event Notices and Personal Licences in the District in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment.
2. 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.
3. 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 (as revised). 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 County.
4. The current 'Statement of Licensing Policy', which came into force on 7 January 2011 has been reviewed early due to a range of legislative changes within the Act.
5. The draft 'Statement of Licensing Policy' is detailed in full in Appendix A.

Responses to the consultation

6. The draft 'Statement of Licensing Policy' was sent to various recipients including breweries, responsible authorities, parish councils and District Councillors. Four responses to the draft 'Statement of Licensing Policy' have been received these are detailed in full in Appendix B

Key Implications

Financial

7. The failure of the Authority to review, consult and publish the Statement of Licensing Policy every five years may result in a judicial review being brought against the Council.

Legal Implications and Risk Assessment Statement.

8. Should parts of the industry believe the authority's 'Statement of Licensing Policy' is not sound it would be open to them to undertake judicial review proceedings.

9. This policy has been written in consultation with legal services to ensure we are compliant with the Licensing Act 2003
10. Sevenoaks District Council as the licensing authority must use this 'Statement of Licensing Policy' in the day-to-day operation of processing and granting of all licences and notices under the Licensing Act 2003.

Equality Assessment

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

Conclusions

12. Sevenoaks District Council as the licensing authority must use this 'Statement of Licensing Policy' in the day-to-day operation of processing and granting of all licences and notices under the Licensing Act 2003.
13. Any changes or amendments between 18 February 2015 and 17 February 2020 will be subject to further consultation and approval by Full Council.

Appendices Appendix A – Draft 'Statement of Licensing Policy'

Appendix B – Feedback from Draft 'Statement of Licensing Policy' consultation

Background Section 182 Guidance -

Papers: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/209526/1167-A_Licensing_Act_2003_2.pdf.

Mr Richard Wilson

Chief Officer Environmental & Operational Services

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STATEMENT OF LICENSING POLICY

Add in date from until

Licensing Act 2003

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

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STATEMENT OF LICENSING POLICY

INTRODUCTION

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



This Statement of Licensing Policy commences on the *** 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;



Agenda Item 6

- (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.

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 Act. Amendments required due to a change in legislation that do not impact on the aims and objectives of the Policy or the promotion of the Licencing Objectives will be made with the approval of the Licensing Manager in order for the policy to remain legislatively current.

1.2 Proper weight, in accordance with the Guidance, has been given to the views of all those consulted. Those consulted in the preparation of this Policy included:

- the Chief Officer of Police for Kent
- the Superintendent of Police for Sevenoaks District Council area
- 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 & 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 (revised), the Police Reform and Social Responsibility Act 2012 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 Sevenoaks District 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
- Provision of late night refreshment

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

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

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

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

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

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

3 LICENSING AUTHORITY GENERAL POLICY CONSIDERATIONS

- 3.1 The Licensing Authority encourages the development of premises which are not alcohol-led and which are aimed at different sectors of the population, including 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 Pre application advice is available from licensing officers upon request and where appropriate. The Licensing Authority expects that applicants will have in advance researched and understood the relevant Law in relation to their application and their particular business plans as well as this Policy. It is not for licensing officers to determine the business needs and capabilities of an applicant but advice can be offered in relation to the licensing objectives. In addition guidance notes are available on the licensing pages of Council's website – www.sevenoaks.gov.uk/business/licence-and-permits
- 3.5 Licensing officers will also provide advice to other parties on the licensing process where needed in relation to objecting to or supporting applications that may affect them.
- 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 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 are already appear under the influence of alcohol when attempting to make purchases.
- 3.9 The Licensing Authority expects adequate checks to be made and all reasonable steps taken to ensure alcohol delivered by way of online shopping services (as provided by most large supermarket chains) is not delivered to minors to prevent a risk of underage consumption.
- 3.10 Where self-pay till points are made available in stores selling alcohol, provision must be included for alcohol sales to be identified and approved prior to completion of the purchase.

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- 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 *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.
- 3.15 The Licensing Authority expects that where unregulated live music is proposed at licensed premises, all due care and consideration is taken to prevent disturbance. 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.
- 3.16 *Deregulated Entertainment.* Where the further deregulation of schedule 1 of the Licensing Act has reduced the regulatory controls on some regulated entertainment activities, the Licensing Authority will expect licensees 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. (Awaiting final confirmation of the deregulation plans)
- 3.17 *Late Night Levy (LNL).* Whilst it is acknowledged that the provisions for implementing a late night levy arise from the Police Reform and Social Responsibility Act 2011, any levy will potentially have a direct impact on all licensed premises within the district. The Licensing Authority has considered the options around the imposition of a LNL and has no plans at the time of drafting this policy to consider an imposition of the levy. Should evidence arise to support implementing a levy the statutory consultation process will be followed and the authority will very carefully use its discretion in relation to design and impact of a levy.
- 3.18 In advance of any decision to implement a LNL, this authority will enter into discussions with the Police to agree the allocation of the Police share of the levy to support the policing of the night time economy within this district .
- 3.19 *Early Morning Alcohol Restriction Order (EMARO).* The Licensing Authority has considered the options around the imposition of an early morning alcohol restriction order and has no plans at the time of developing this policy to consider 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 district. Should evidence arise to support implementing an EMARO, the statutory consultation process will be followed and the matter referred to the Full Council for determination.

3.20 *Licensing and planning permission.* The use of a licensed premises or place may be subject to planning controls. This is a separate regulatory regime outside the scope of the Licensing Act 2003. The Licensing Authority recognises that there is no legal basis for refusing a licence application in the absence of any planning permission for the business to which the licence application relates.

3.21 *Need for licensed premises and Cumulative Impact.* ‘Need’ concerns the commercial demand for particular licensed premises such as a pub, club or hotel. This is a ‘market forces’ matter and is not of concern to the Licensing Authority. ‘Cumulative Impact’ means the potential impact on the promotion of the licensing objectives by a significant or excessive number of licensed premises concentrated in one locality. This is a matter for consideration by the Licensing Authority.

3.22 The Licensing Authority acknowledges that a concentration of some types of licensed premises in a locality can result in increased footfall, congregation of the public in the streets and potential for increased crime and disorder, litter and anti-social behaviour, as well as noise nuisance to local residents. This would be a result of the presence of the number of premises and not attributable to individual businesses.

3.23 The Licensing Authority, having regard to the evidence available, considers that currently there is no particular part of the district where there is a 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.

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

4 RESPONSIBLE AUTHORITIES AND OTHER PERSONS

- 4.1 Responsible authorities are public bodies that are statutory consultees that must be notified of applications by the applicant. The full list and contact details can be found at Appendix A and are contained on the Sevenoaks District 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.

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- 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 is now included on the list of Responsible Authorities. 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 and the Data Protection Act 1998 in its exchange of information. Where a protocol is established to set out the mechanism for exchange of information with other regulatory bodies, any such protocol will be made publicly available.

6 HUMAN RIGHTS AND EQUAL OPPORTUNITIES

- 6.1 The Human Rights Act 1998 makes it unlawful for a local authority to act in a way which is incompatible with the European Convention on Human Rights. In making decisions and determining appropriate action the council will have due regard to the Convention. The Licensing Authority will interpret the 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.

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 The Licensing Authority has an approved Licensing Enforcement Policy which complies with the Regulatory Compliance Code.

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- 7.4 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.
- 7.5 The authority acknowledges that where annual fee payments for premises licences and club premises certificates are not made it must serve 2 working days' notice on the licensee to suspend the licence or certificate and inform the Police Authority of the suspension.
- 7.6 Where licences are suspended, the premises or club will be visited and enforcement action taken where licensable activities are being provided unlawfully while a licence is suspended.



CONSIDERATION OF APPLICATIONS

8 NEW PREMISES LICENCES

- 8.1 This Licensing Authority is aware that in making decisions about applications for licences it will have regard to:
- its Statement of Licensing Policy made under section 5 of the Licensing Act 2003
 - the Statutory Guidance issued under section 182 of the Licensing Act 2003, and that decisions made are reasonably consistent with the four licensing objectives.
 - Licensing Objectives.
 - Relevant Representations.
- 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 the licensing team.
- 8.3 Licensing officers will routinely check that the Public Notices at the premises and the Public Notices in newspapers are displayed in accordance with the regulations as part of the validation process.
- 8.4 Licensing officers will also 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 about an application the licence will be automatically granted after 28 days under the terms and conditions applied for. Licensing officers will interpret the detail of the operating schedule and convert that 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 agree that a hearing is not necessary. Where applications result in the need for a hearing the process at section 16 of this policy will apply.
- 8.7 Annual fees and suspension of licences for non-payment.- The Licensing Authority is required under section 55A of the Licensing Act to suspend premises licenses where the annual fee has not been paid. The Licensing Authority will invoice each licensee when the annual fee is due setting out the fee that is due and the consequences for non-payment. Where the fee has not been paid or there has been no claim of administrative error by the end of 21 days of the due date, the Licensing Authority will serve the required 2 working day notice to suspend the licence.
- 8.8 Where a licence 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 will conduct compliance visits to premises where a licence has been suspended and will take the appropriate action in accordance with the council's enforcement policy.

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- 8.9 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 carry out enforcement pending payment of the overdue fee.

9 VARIATIONS 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 longer and later trading hours. However where a variation is so substantial that it significantly changes the nature of the business and layout of the premises it is likely that a new premises licence application will be required rather than a variation.
- 9.2 The relevant parts of this Policy to be applied to significant variation applications is the same as for new premises licence applications at section 8 above.
- 9.3 Where applications are made for minor variations officers will consider whether there are any impacts on any of the Licensing Objectives. Where the variation proposed creates a significant impact on any of the Licensing Objectives the application will be rejected and the applicant advised to seek a standard variation.
- 9.4 Where minor impact or no impact is considered Officers will consult with the relevant (if any) responsible authorities.

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

- 10.1 The Licensing Authority expects 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 add the appropriate weight to relevant representations received from the Police about a proposed DPS. Applications that receive relevant representations will be referred for a hearing at which point the Sub Committee may approve or reject the application.

11 TRANSFERS OF PREMISES LICENCES

- 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.

- 11.2 It is acknowledged that in some cases licensees leave premises and do not provide any forwarding contact details, or there has been a death or incapacity of the licence holder. In such cases where a licensee cannot be contacted to give approval, a licence will be transferred in accordance with the requirements of the Act.
- 11.3 Where a relevant Police objection to the transfer is received the application will be determined through the hearings process.

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

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

14 REVIEW OF A PREMISES LICENCE OR CLUB PREMISES CERTIFICATE

- 14.1 The Licensing Authority acknowledges that matters can arise at premises that raise concern as to the continued promotion of the licensing objectives at licensed premises.
- 14.2 The Act allows a licence to be reviewed where such matters arise. It is expected that most reviews will be applied for by Responsible Authorities.
- 14.3 Although this Licensing Authority is also a Responsible Authority and 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 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 the 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.

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- 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 officers will consider, on a case by case basis, all applications to remove the mandatory condition and will ask such questions or seek the necessary evidence to confirm the suitability of the management committee to collectively authorise the 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 3 suitably trained members of the Licensing Committee. No members will serve on a sub-committee involving an application for a licence within their own ward. The sub-committee will be advised on the law by a member of the Council’s Legal Services Team. That legal team member will not be involved in the application process to prevent a conflict of interest by ensuring a clear separation of roles.
- 16.3 This Policy will play a key role in achieving consistency in decision.
- 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 determination¹. The sub-committee may still determine 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

¹ Not applicable to applications for a review of a Premises Licence or a Club Premises Certificate

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).
- 17.3 Applicants will be expected to include appropriate steps within their operating schedule which will be 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 licensee's 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

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circumstances, the council may therefore, where necessary, attach conditions to premises licenses for the promotion of the licensing objectives.

17.9 Conditions to promote the Prevention of Crime and Disorder.

Under the Act the Licensing Authority has a duty to promote the licensing objectives, and, a further duty under the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the borough.

- 17.10 The applicant will be expected to detail in their operating schedule how they will prevent crime and disorder on and close to the premises. Such detail should reflect the licensable activities on offer, location and character of the area, the nature of the premises use and the range of customers likely to use the premises.

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

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

- 17.11 In busier premises the Licensing Authority would 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.

- 17.12 Where the Licensing Authority determines after consultation with the police that a premises is one that warrants additional security and monitoring it would expect applicants to include the provision of SIA – Security Industry Authority approved door staff at the premises at appropriate times. Relevant premises are usually those used mainly for drinking alcohol, have later opening hours and are situated within the Town Centre night time economy area. Applicants w

- 17.13

- 17.14 ill be expected to seek advice from the Police and the Licensing Authority will give appropriate weight to requests by the Police for premises to be protected by SIA registered door staff subject to the provision of relevant evidence.

17.15 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.

17.16 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. Licensees will be expected to fully comply with the requirements of the Information Commissioners Office and the Data Protection Act 1998 in respect of any surveillance equipment installed at a premises.

17.17 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.

17.18 Conditions to promote Public Safety.

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.

17.19 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.

17.20 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.

17.21 Conditions to promote the Prevention of Public Nuisance.

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.

17.22 The applicant will be expected to demonstrate that they have considered the following and included steps to prevent public nuisance:

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- (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 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

17.23 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.

17.24 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.

17.25 Conditions to promote The Protection of Children from Harm.

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.

17.26 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.

17.27 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.

17.28 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

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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 and to reduce the likelihood of objections being made.
- 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. 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 valid representations are received from the Police or EH in respect of a late TEN, the TEN will be rejected and proposed activities will be unauthorised. A refund of the fee will not be made.

19.11 The Licensing Authority will take the appropriate action where there is evidence that licensable activities have been provided without the authorisation of a TEN.

19.12 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 OTHER RELEVANT MATTERS

20.1 **Adult entertainment.** The Licensing Authority has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and premises offering regular entertainment of a sexual nature must be licensed as a sex establishment under those provisions.

20.2 The Licensing Authority acknowledges that exemptions under the above legislation do allow sexual entertainment to be provided at premises licensed under the Licensing Act 2003, as long as it is provided on no more than 11 occasions within 12 months and with at least 1 month between each occasion. Those infrequent events will be regulated by the licence granted under the Licensing Act 2003 where that licence authorises performances of dance and where the original.

20.3 **Gaming machines in licensed premises - Automatic entitlement.** There is provision in the Gambling Act 2005 (GA2005) for premises licensed to sell alcohol for consumption on the premises to automatically have two gaming machines of category C and/or D. The premises licence holder merely needs to notify this Licensing Authority and pay the prescribed fee.

20.4 This authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives (under the GA2005);
- gaming has taken place on the premises that breaches a condition of section 282 of the GA2005 (for example, the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines);
- the premises are mainly used for gaming; or
- an offence under the GA2005 has been committed on the premises.

20.4 **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.

20.5 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

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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.

- 20.6 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 who 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.
- 20.7 **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.
- 20.8 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 or this Licensing Authority before providing any forms of gambling at alcohol licensed premises.
- 20.9 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.

21 INFORMATION

- 21.1 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 Sevenoaks District Council website www.sevenoaks.gov.uk or by contacting the licensing team by email (licensing@sevenoaks.gov.uk), or by telephone on 01732 227004.

Appendix A



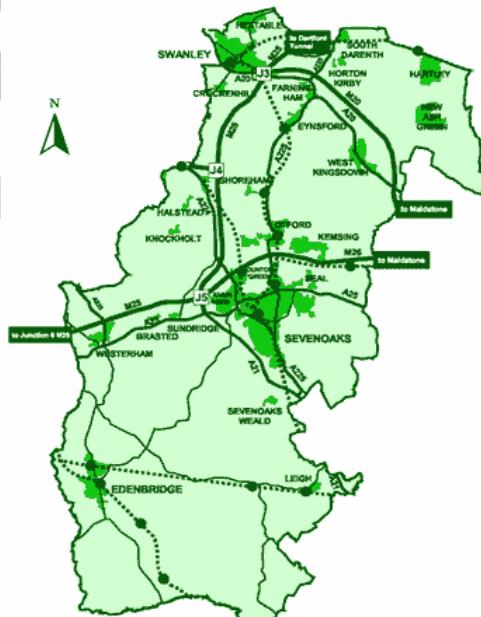
Sevenoaks District is in West Kent, bordering Greater London, Surrey and Sussex and covers an area of 142 square miles.

The main towns are Edenbridge, Westerham, Sevenoaks and Swanley and there are many other small villages and settlements, of which the largest are Hartley, Hextable, New Ash Green, and West Kingsdown.

The M25, M20 and M26 motorways are easily accessible as they cross the District. Gatwick and Heathrow airports and the Channel Ports and Channel Tunnel Rail Link are all within easy reach.

93% of Sevenoaks District is within the Green Belt, with 60% designated as Area of Outstanding Natural Beauty. Much of the District is rural in character and it includes many picturesque villages and hamlets and large areas of beautiful countryside.

At the 2011 census the total population of the District was 114,893 with 47,020 households.



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Contact details of Local Authority Licensing Department

Claire Perry Licensing Partnership Manager Email: claire.perry@sevenoaks.gov.uk Telephone: 01732 227325	Leeann Leeds Licensing Officer Email: leeann.leeds@sevenoaks.gov.uk Telephone: 01732 227270
Jessica Bolton Licensing Officer Email: jessica.bolton@sevenoaks.gov.uk Telephone: 01732 227480	Licensing Partnership Sevenoaks District Council Council Offices PO Box 182 Argyle Road Sevenoaks Kent TN13 1GP

Web: www.sevenoaks.gov.uk/business/licencesandpermits
Email: licensing@sevenoaks.gov.uk
Telephone: 01732 227004

See the Sevenoaks District Council Website www.sevenoaks.gov.uk for details of the Town and Parish Councils within the District. Details of your local Councillors may also be obtained from the website.

Information on licensing applications being processed is available on the licensing pages of Sevenoaks District Council's website.

Appendix C**Responsible authorities**

West Kent Fire Safety Office 424 Vale Road Tonbridge Kent TN9 1SW Email: tonbridge.firesafety@kent.fire-uk.org Tel: 01732 369429	Police Licensing and Drugs Officer PC Mark Beresford Licensing Coordinator Community Safety Unit Tonbridge and Malling Borough Council Gibson Drive Kingshill West Malling. ME19 4LZ Email: west.division.licensing@kent.pnn.police.uk Tel: 01732 379375 Mobile: 07980 683610
Trading Standards Kent County Council 1 st Floor, Invicta House County Hall Maidstone Kent. ME14 1XX Tel: 03000 412000 Tswest@kent.gov.uk	Kent Child Protection Committee Children's and Families KCC Social Service The Willows Hilda May Avenue Swanley Kent BR8 7BT Website: www.kcpc.org.uk kscb@kent.gov.uk
Local Planning Authority Sevenoaks District Council Council Offices PO Box 182 Argyle Road Sevenoaks Kent TN13 1GP Tel: 01732 227200 DCSouth@sevenoaks.gov.uk	Public Health Kent Kent Public Health Department Room 3.45, Sessions House, County Hall, County Road Maidstone, Kent ME14 1XQ Tel: 0300 333 6379 Gillian.Montgomery@kent.gov.uk
Environmental Protection Environmental Health Partnership Civic Centre Home Gardens Dartford Kent. DA1 1DR Tel:: 01322 343231 Email: eh.support@dartford.gov.uk	Health and Safety Environmental Health Partnership Civic Centre Home Gardens Dartford Kent. DA1 1DR Tel: 01322 343231 Email: eh.support@dartford.gov.uk

Appendix D

References to guides of best practice

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

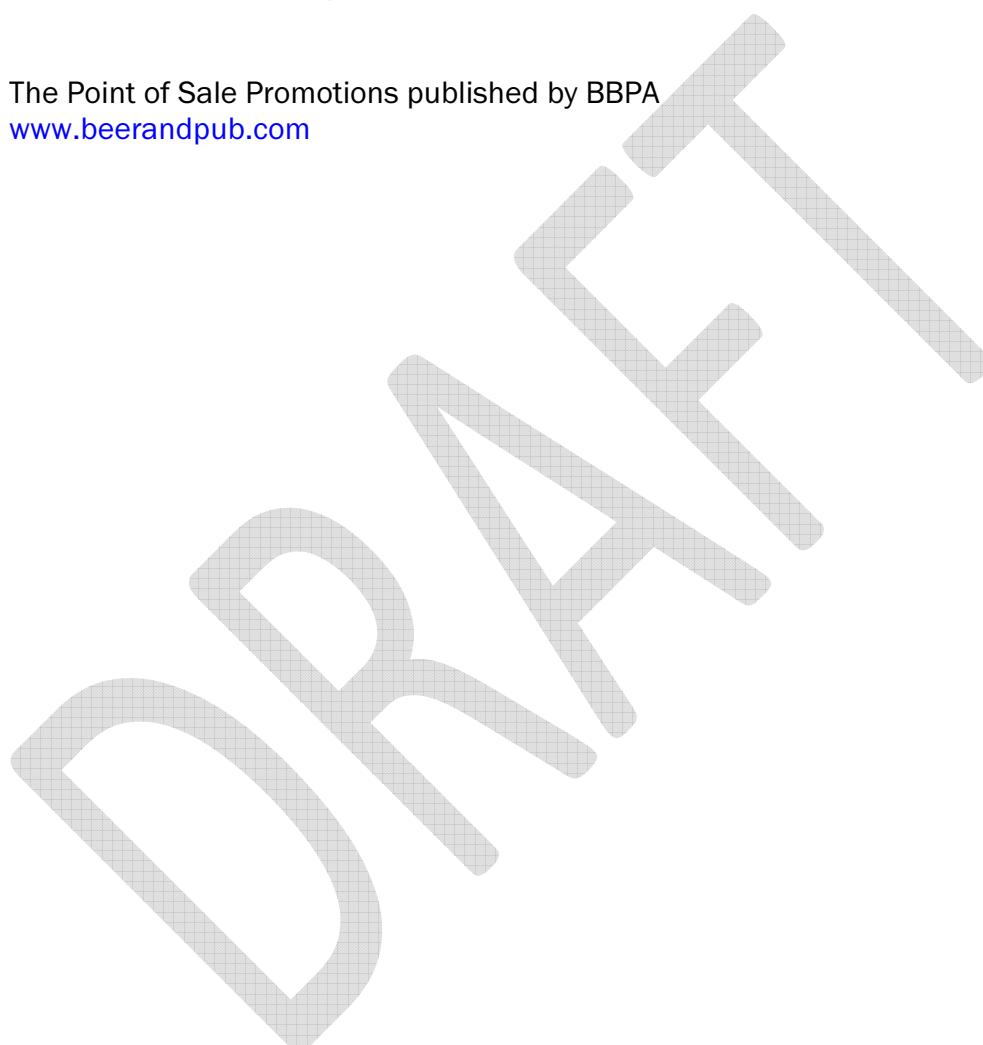
www.ioa.org.uk

The National Alcohol Harm Reduction Strategy Toolkit

www.alcoholconcern.org.uk

The Point of Sale Promotions published by BBPA

www.beerandpub.com



Appendix E

Contact details and useful addresses (e.g. Chamber of Trade, BBPA, BII, SIA etc.)

Sevenoaks and District Chamber of Commerce 54 High Street Sevenoaks, Kent. TN13 1YD Tel: 01732 455188	Swanley & District Chamber of Commerce Imperial House 46 High Street Swanley Kent. BR8 8BQ
Edenbridge Chamber of Commerce c/o 53 High Street Edenbridge, Kent. TN8 5AL	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 Ground Floor Brewers' Hall Aldermanbury Square London EC2V 7HR Tel: 020 7627 9191 Fax: 020 7627 9123 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 www.bii.org Email: reception@bii.org
SIA PO Box 49768 London. WC1 V6WY Website: www.the-sia.org.uk Tel: 0844 892 1025 Fax: 0844 892 0975	

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Appendix F - Recommended delegation of functions

MATTER TO BE DEALT WITH	FULL COUNCIL	LICENSING COMMITTEE	SUB COMMITTEE	OFFICERS
Approval and adoption of Statement of Licensing Policy	X	X		
Application for personal licence			If a Police objection	If no objection made
Application for personal licence with unspent convictions			If an objection is made by the Police and not disregarded by the officers	If no objection is made by the Police
Application for premises licence/club premises certificate			If a relevant representation is made	If no relevant representation is made
Application for provisional statement			If a relevant representation is made	If no relevant representation is made
Application to vary premises licence/club premises certificate			If a relevant representation is made	If no relevant representation is 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 an objection to a temporary event notice			All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition			If Police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application				All cases
Determination of minor variation application				All cases
Decision on whether to make a representation about a premises licence or club premises certificate application or major variation or call for a review of a licence/club premises certificate				Officer graded at a level above the grade of the case officer

Appendix B
Feedback from the “Statement of Licensing Policy” (Licensing Act)

Contact	Comment	Name	Ref	Include in final version for Full Council	Recommendation by Licensing Committee on 02 02 15
G H A Barnes Shepherd Neame	<p>11.12.14</p> <p>Thank you for forwarding the draft statement. I am writing on behalf of Shepherd Neame, who operate a number of public houses in the Sevenoaks area. In general we welcome this statement and in particular sections 3.17, 3.19 and 3.23, concerning the lack of need for Late Night Levy, EMRP or designation of Cumulative Impact Area. We particularly welcome the observation that alcohol related crime and disorder is reducing.</p> <p>We have a few observations which we would wish you to consider as below:</p> <p>3.2 We would question whether it is the role of the Licensing Authority to seek to direct the style of operation of licensed premises. Many pubs are of a size and layout that precludes a significant</p>	Shepherd Neame Ltd	Page 7 3.2, 3.8	We would not seek to impose any style of operation on a premises, this is just a suggestion.	

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	<p>catering operation. Many wet led community based pubs provide an important social role.</p> <p>3.8 We would question whether licensees are qualified to make judgement concerning the health of customers.</p> <p>3.11 We would query specific responsibility of the DPS for the receipt of alcohol. In practice, this is often carried out by a member of staff.</p> <p>3.12 We do not consider physical presence on site to be a requirement under the Licensing Act 2003.</p> <p>3.13 We do not think that the Licensing Act 2003 restricts a DPS to having responsibility for one site only</p> <p>17.10 For the reason stated above in connection with item 3.2, we would query the final bullet point</p> <p>20.9 We do not think a ban on smoking within licensed</p>			<p>We would expect the licensee to exercise common sense and to adhere to the rules surrounding serving alcohol to persons already intoxicated.</p> <p>Agreed</p> <p>Although this is not a requirement we feel that this is best practice.</p> <p>This is dependent on where the premises are located and any feedback received for the Police Licensing Officer</p> <p>Disagree; this can only serve to promote responsible drinking.</p> <p>Smoking areas often draw large crowds of</p>	
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	<p>pavement areas is appropriate. In many cases, such areas may be the most appropriate location for the provision of smoking facilities.</p>			<p>people, it is not ideal for large crowds to be on the pavement area, especially near busy roads. This also can lead to noise issues for neighbouring residents.</p>	
Mr David Lagzdins Mr Les Roberts - Legal Dept	<p>Various formatting (e.g. titles of appendices on wrong page) and cross-reference issues (e.g. para. 8.6 and 9.2).</p> <p>Para. 8.1 – Would the authority also consider the licensing objectives and any relevant representations?</p> <p>Appendix D – Reference to the Magistrates' Licensing Good Practice Guide from 1999, which predates the LA2003. Are there more relevant and more recent documents that could be referred to?</p> <p>Appendix D - Reference to Public Places Charter, which predates the smoking ban. Nor is this document referred to anywhere else in the policy.</p> <p>Appendix F – These are not the “recommended” delegations as they were</p>	Sevenoaks District Council	<p>Page 2 Section 13</p> <p>Page 13 8.1, 8.6</p> <p>Page 30 Appendix D</p> <p>Removed</p> <p>Removed</p>	<p>Amendment made</p> <p>Yes, these points have been included.</p> <p>Removed</p> <p>Updated delegations and amended appendix F</p>	

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	<p>adopted almost 10 years ago. However, this list also omits some of the more recent hearing-types such as the interim summary review.</p> <p>I have a couple of small additional points.</p> <p>Page 2 Section 13 the L is missing from CLUB, and</p> <p>3.20. The final sentence is at odds with what is said earlier. This is chicken and egg one has to come first. I see no good reason to require a planning permission to be in place before an application can be made you may wish to reconsider this.</p>			<p>Amendment made</p> <p>Final sentence has been removed.</p>	
Angela Howells Town Clerk	Westerham Town Council has no comments to make on the policy. However on page 27 WTC would like Westerham to be known as a Town rather than a village.	Westerham Town Council	Page 27	Amendment made	
Mrs Palmer Parish Council	Licensees should also carefully consider sales to customers who have or	Shoreham Parish Council	Page 8	Amendment made	

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	<p>appear to have alcohol related health issues, whether those customers are already appear under the influence of alcohol when attempting to make purchases. (Delete are?)</p> <p>Para 3.16 The Licensing Authority will consider using alternative powers as per para. 6.14 (This paragraph does not exist: para 6.4?)</p> <p>Para.3.19 There is currently evidence of low levels of alcohol related crime and disorder, nuisance and anti-social behaviour within the district which is decreasing. (Implies district is decreasing.)</p> <p>Para.16.5 The sub-committee may still determine that the addition of appropriate licence conditions at the determination stage. (Doesn't make sense. Delete that?)</p> <p>Para.17.12 SIA is not defined.</p>		Page 8	Amendment made
			Page 18	Amendment made

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Appendix B

	<p>Unless a parish council is informed of a Temporary Events Notice, it will be impossible to make representations were they to be needed. Whilst it is appreciated that the policy is flexible enough to enable community events to take place, when nuisance is caused to those living nearby it is to the parish council that the community turns. Applications for a TEN should be notified therefore in the same way as other applications.</p> <p>Enforcement Policy: Assurance is given that an enforcement policy exists which complies with Regulatory Compliance Code. This policy is not easily accessible. It is important that parish councils and the general public have access to an emergency number to obtain help if conditions are not being adhered to. We have had many successful events in the village that have greatly benefitted the community. We have also had events which have caused considerable nuisance to residents and it</p>		<p>There is no provision within the Act for Parish Councils to be notified when a TEN has been received. However all TENs are available online and can be viewed on public access. Parish Councils cannot make representation in respect to TENs. Only Environmental Protection and the Police can object to the notice. A full response has been sent to Mrs Palmer.</p> <p>Enforcement policy to be advertised on webpages with a clear link. All Licensing webpages are currently being reviewed. Unfortunately Licensing does not operate an out of hours service (although night time compliance visits take place) therefore where a premises is not complying with the conditions a telephone call to the Licensing</p>	
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Appendix B

	has been impossible to obtain immediate help to curtail these activities. It is important that any policy gives reassurance that such help would be forthcoming.		department on the next working day with prompt investigations into the alleged breach of conditions.	
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HACKNEY CARRIAGE LICENSING: PROPOSED FARE CHARGE INCREASE

Licensing Committee – 2 February 2015

Report of	Chief Officer Environmental & Operational Services – Mr Richard Wilson
Status:	For Decision
Key Decision:	No

Executive Summary:

This report considers the appropriate Hackney Carriage permitted maximum fare increase to adopt from 1st March 2015 following consultation with the Hackney Carriage proprietors.

After receiving a request for an increase from a Hackney Carriage Driver, all the Hackney Carriage drivers, licensed by this Licensing Authority, were balloted on the option in addition to an option of no change to the current fares.

This report supports the Key Aim of safer communities

Portfolio Holder Cllr. Mrs Lowe (Housing and Community Safety)

Contact Officer(s) Leeann Leeds Ext.7270

Recommendation: recommends that Licensing Committee determines this application for an increase in the maximum hackney carriage fare tariffs and that, should the Committee approve the application, the Chief Officer Environmental and Operational Services be authorised to publicise the proposed fare increase and that if no unresolved objections are received, the proposed fares take effect on 1 March 2015.

Introduction and Background

1. The Council exercises a discretionary power to set the maximum fares for Hackney Carriages within the District. The Council has no power to control the fares charged by private hire vehicle operators.
2. Please note that the fare set will be the maximum fare that can be charged and Hackney carriage drivers have the right to charge a lower amount should they wish to do so.
3. The current fare tariffs which have been in operation since 1 May 2011 is displayed in the table below along with the proposed fare increase:

Agenda Item 7

Tariff	Current fare	Proposal
(A) Distance - First 1,287.2 metres <u>(8/10 mile)</u>	<u>£3.80</u>	<u>£3.80 for first (1158 metres) – reduction in initial distance</u>
Each additional 160.9 metres (1/10 mile)	<u>21p</u>	21p every 152 metres – <i>reduction in distance</i>
(B) Waiting time (standard rate) for each period of 1 minute	<u>35p</u>	40p
(C) Waiting time (with indicated extra charges applied as below) For each period of 1 minute (ii) (iii) (iv)	<u>50p</u> <u>50p</u> <u>65p</u>	55p 55p 70p
(D) Extra charges		
(i) Additional Passengers (For each person in excess of four persons)	<u>25% of prescribed fare</u>	
(ii) For hiring begun between 23:00 and 07:00 hours (except all bank & public holidays)	<u>£1.80 per fare</u>	£2.00 per fare
(iii) For hiring on bank & public holidays (other than Christmas & New Year holidays)	<u>£2.00 per fare</u>	£2.20 per fare
(iv) For hiring on Christmas & New Year holidays (commencing 18:00 hours Christmas Eve to 18:00 hours 27th December and 18:00 hours New Year's Eve until 06:00 hours 2nd January)	<u>100% of prescribed fare</u>	

(v) For carriage of pets (other than dogs for registered disabled people)	<u>£3.00 per fare</u>	£3.30 per fare
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Responses to the consultation

4. A total of 377 letters were sent to all the Hackney carriage drivers. 18 responses were received in total, 14 in favour of a fare increase and 4 against a fare increase, some feedback from the trade was also received which is attached to this report as Appendix A.

Key Implications

Financial

5. The change in fare tariff agreed by the Committee will be formally advertised on Sevenoaks District Council's website and in a local newspaper.

Legal Implications and Risk Assessment Statement.

6. The Council is following the appropriate process for determining applications for increases in the maximum fares chargeable by hackney carriage proprietors. Any changes to the fare tariffs must be publicised for 14 days. Any unresolved objections to the proposal will be reported to a future meeting of this Committee.
7. No risk management issues have been identified.

Equality Assessment

8. Hackney Carriage vehicles are an important part of the public transport service. The Council, having decided to exercise its discretion to set the maximum fares that can be charged must balance the need of ensuring access to the service and its profitability.

Appendices Appendix A – Feedback form for increase in fare charts

Background Papers: [Sevenoaks District Council Hackney Carriage and Private Hire Policy.](#)

Mr Richard Wilson
Chief Officer Environmental & Operational Services

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Feedback from the “Statement of Licensing Policy” (Licensing Act)

Comments received
I am against the proposed fare increase for the following reasons: a) the timing for the increase is unfortunate - we currently have the lowest fuel prices since 2010 and our clients <u>will not understand how a fare increase can be justified at this time.</u> b) the reduction in initial distance, the increase in waiting time charge, and increases in fares at night time and bank and public holidays is not transparent to the client. <u>I see these proposals as fare increases by stealth</u> - the clients will not see any change showing on the meter but the fare for the journey will be higher than before! c) <u>the route taken on short journeys will become critical</u> if the client is not to be penalised with a higher fare. [We have many alternative route options from say ASDA Swanley to Northview estate or Hart Dyke Road area all of which currently come within the minimum fare of £3.80 but with the reduction in initial distance a number of these route options will cost more. Many drivers take different routes to avoid traffic or sleeping-policemen etc. but I can foresee a number of arguments and rows starting with our clients if one route now costs more than another!]. d) any fare increase will require taxi meters to be recalibrated at the drivers expense. I hope that other drivers in the District realise the implications of the fare increases that have been proposed.
Does not want a fare increase, would be happy with the waiting time to be increase.
Regarding the tariff change, It would not be good idea to hide the change. But to show it on the meter. It could cause conflict between driver and passengers over the final figure on the fare, because starting at £3.80 and finishing at a different finishing price could cause all sorts of problems. i.e.: if customer has been drinking.
The tariff that we feel would be preferred by the drivers is, Start at £ 4.10 /4.50 for 7/10 ths mileage there after at£0.28

Waiting time 0.45

Waiting time extra 0.70 / 0.70/0.90

The 23.00 hrs to 07.00 to change to 22.30 to 06.00 Monday to thursday £2.00 more than the fare when set.

Weekends from 22.00 to 07.00 hrs e.g. (Friday sat Sunday eve to Monday 06.00)

Weather (snowing £2.50 on the fare when set?)

Bank hols £2.50 on the fare when set

Christmas and new year same 100%

But to start at 16.00/17.00 hrs and end same time jan2

And all the meters go calendar.

I hope the council will register this complaint, and on another occasion veto requests from taxi firms to impose higher fares that are prompted only by the desire to cash in on passengers' needs to travel at particular times.