

13 July 2016 at 6.00 pm

Conference Room, Argyle Road, Sevenoaks
Despatched: 05.07.16



Licensing Committee

Membership:

Chairman, Cllr. Mrs. Morris; Vice-Chairman, Cllr. Clark
Cllrs. Abraham, Mrs. Bosley, Dr. Canet, Cooke, Esler, Kelly, Lake, McArthur,
Parkin, Pett and Scholey

Agenda

	Pages	Contact
Apologies for Absence		
1. Minutes To agree the Minutes of the meeting of the Committee held on 17 May 2016 and of the Licensing Hearing held on 23 May 2016, as a correct record	(Pages 1 - 20)	
2. Declarations of interest Any interests not already registered		
3. Actions from the previous meeting (if any)		
4. Demonstration of the Online Knowledge Test for Taxi Drivers	(Pages 21 - 22)	Claire Perry Tel: 01732 227325
5. Compliance & Enforcement Policy for Licensing	(Pages 23 - 34)	Nicola O'Shea Tel: 01732 227270
6. Charity Collection Policy	(Pages 35 - 56)	Nicola O'Shea Tel: 01732 227270

EXEMPT INFORMATION

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.

If you wish to obtain further factual information on any of the agenda items listed above, please contact the named officer prior to the day of the meeting.

Should you need this agenda or any of the reports in a different format, or have any other queries concerning this agenda or the meeting please contact Democratic Services on 01732 227247 or democratic.services@sevenoaks.gov.uk.

LICENSING COMMITTEE

Minutes of the meeting held on 17 May 2016 commencing at 6.00 pm

Present: Cllr. Mrs. Morris (Chairman)

Cllr. Clark (Vice Chairman)

Cllrs. Abraham, Mrs. Bosley, Dr. Canet, Cooke, Esler, Kelly, Lake, Parkin, Pett and Scholey

An apology for absence was received from Cllr. McArthur

RULING BY THE CHAIRMAN REGARDING URGENT MATTERS

In accordance with Section 100B(4) of the Local Government Act 1972, the Chairman advised the Committee she had agreed to accept an urgent matter - 'Appointments to Licensing Hearing Sub-Committees.'

Due to agenda publication preceding the meeting of Annual Council held on 10 May 2016, which confirmed the new membership of the Licensing Committee, it had not been possible to write the report. However Licensing Sub-Committees must be confirmed to ensure compliance with Part 8 of the constitution.

1. Minutes

Resolved: That the Minutes of the meeting of the Licensing Committee held on 17 March 2016, be approved and signed as the Chairman as correct record.

2. Declarations of interest

No additional declarations of interest were made.

3. Actions from the previous meeting

There were none.

CHANGE IN AGENDA ITEM ORDER

With the agreement of the Committee, the Chairman brought forward consideration of agenda item 5 (Minute 4).

4. Licensing Partnership Update Report 2016

The Licensing Partnership Manager presented a report which updated Members on the performance of the Licensing Partnership in 2015/16, progress against service plan objectives and service objectives and planned service improvements for

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2016/17. She described it as an outstanding year and highlighted that the lowest value performance target was 98.18% against a target of 90% and many were achieving 100%. The aim for 2016/17 was to reach the Partnership's targets. The introduction of the London Borough of Bexley as a new Partner would make it difficult to achieve similar levels of performance. Significant work was needed to incorporate them into the Partnership. The Licensing Partnership Manager considered the Team as one of the Council's leading services for digital transformation, with the introduction of many online forms and in April 2016 they began to send renewal notices to taxi drivers electronically.

In response to a question, the Licensing Partnership Manager confirmed that she had received an email from a Council expressing interest in becoming the fifth member of the Licensing Partnership. She noted that current savings from a fifth partner would be less than the savings from a fourth partner. The Partnership Board had already agreed that structural changes would be required, which could include the appointment of an Assistant Partnership Manager and these changes could make the Partnership better prepared for future expansion.

A Member asked about the progress of the dementia training to taxi drivers. She confirmed training had been rolled out together with the safeguarding training. There had not been a great take up, though some firms had taken a great interest. It was to be revisited later in the year and parts incorporated into the new online knowledge test that was being developed.

The Committee congratulated the Licensing Partnership on their digital transformation.

Public Sector Equality Duty

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

Resolved: That the report be noted, and an Annual report continue to be provided.

5. Amendment to the Taxi and Private Hire Licensing Policy

The Senior Licensing Officer and Administration Team Leader presented a report which sought to amend the Hackney Carriage and Private Hire Licensing Policy which had come into effect 17 February 2016. The authority was required regularly to review its Taxi Licensing Policy and ensure it complied with the legislation.

The report sought an amendment to the policy to ensure that it reflected the legislation effectively. It was proposed to remove the second section of paragraph 7.2 to clarify that legislation did not strictly permit a Hackney Carriage driver to leave their vehicle unattended on a rank or stand. As the amendment was minor in nature and was proposed to align with the legislation more effectively, there was no requirement for consultation.

The Committee discussed the concerns of the Portfolio Holder for Legal & Democratic Services, reported by the Chairman, that deletion would reduce clarity.

Members noted the proposal was a response to concerns raised by the Parking Team and that deletion would still allow the Parking Team to use discretion when deciding when to enforce parking restrictions.

Public Sector Equality Duty

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

Resolved: That Council be recommended to approve the amendment to paragraph 7.2, by the deletion of the second paragraph, in the Taxi and Private Hire Licensing Policy.

6. Adoption of Section 76 of the Public Health Act 1925 to regulate public vehicles at railway stations

The Senior Licensing Officer and Administration Team Leader presented a report which sought the adoption of section 76 of the Public Health Act 1925. The authority had a duty of care to enforce the adopted policies by the Council and the legislation and byelaws associated with taxi licensing. Extending this to private land, the railway stations, would enable officers to undertake the delegated functions to ensure compliance from the trade.

Officers sought approval to begin the process of adoption. In order to adopt this section of the legislation, a notice must be placed in a local newspaper for two consecutive weeks, be served to affected Town and Parish Councils, and a resolution passed by full Council adopting section 76 of the Act. The Licensing Partnership Manager clarified that although there were only two Hackney Carriage stands at railway stations in the District, adoption would allow there to be no ambiguity over other railway land.

Public Sector Equality Duty

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

Resolved: It be recommended to Council to approve seeking adoption of Section 76 of The Public Health Act 1925 and agree for the legislative adoption process to commence.

7. Appointments to Licensing Hearing Sub-Committees

The Committee considered a report setting out the proposed memberships for the Sub-Committees for Licensing Hearings.

Resolved: That

- a) the following memberships of the Licensing Sub-Committees, be approved

Sub-Committee A - Cllrs. Clark, Esler and Kelly

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Sub-Committee B - Cllrs. Mrs. Bosley, McArthur and Pett

Sub-Committee C - Cllrs. Lake, Mrs Parkin and Scholey

Sub-Committee D - Cllrs. Abraham, Dr. Canet and Cooke

Cllr. Mrs Morris a floating Member; and

- b) it be noted that any member of the Licensing Committee may act as a substitute on any of the Licensing Sub-Committees.

THE MEETING WAS CONCLUDED AT 6.50 PM

CHAIRMAN

LICENSING HEARING

Minutes of the meeting held on 23 May 2016 commencing at 10.30 am

Present: Cllrs. Abraham, Clark and Kelly

Also present	Mr. L. Denny	- Applicant's Representative (Event Director)
	Mr. J. Bramley	- Applicant's Representative
	Mr. P. Distin	- Applicant's Representative
	Mr. J. Adkins	- Objector
	Mrs. J. Adkins	- Objector
	Mrs. C. M. Boyle	- Objector
	Dr. T. Boyle	- Objector
	Mr. B. Campbell-Johnstone	- Objector
	Mrs. C. Cole	- Objector (representing Hever Parish Council)
	Cllr. Lake	- Objector (representing Chiddingstone Parish Council)
	Mr. A. Maurice	- Objector (representing Hever Residents Association)
	Mr. G. Ryan	- Objector
	Cllr. Cooke	- Observer
	Cllr. Dickins	- Observer
	Mr. C. Alden	- Senior Environmental Health Officer
	Mr. N. Chapman	- Environmental Protection Officer
	Miss. N. O'Shea	- Senior Licensing Officer
	Mr. R. Hanstock	- Legal Advisor
	Mr. D. Lagzdins	- Democratic Services Officer

1. Appointment of Chairman

Resolved: That Cllr. Clark be appointed Chairman of the meeting.

2. Declarations of interest

Cllr. Clark declared that he knew Mr. G. Ryan as a former Councillor and Cllr. Lake as a serving Councillor for Sevenoaks District Council, but that they would be considered no differently to any other participant.

Cllr. Abraham declared that he knew Mr. G. Ryan as a former Councillor and Cllr. Lake as a serving Councillor for Sevenoaks District Council but that this would not influence his decision.

Cllr. Kelly declared that he knew Cllr. Lake as a serving Councillor for Sevenoaks District Council but that this would not affect his decision.

3. Report To Licensing Sub-Committee Following Receipt Of Representations In Relation To An Application Made Under The Licensing Act 2003 For Leppards Wilderness Farm

The Hearing gave consideration to a report by the Chief Officer Environmental and Operational Services giving details of an application for a new premises licence under the Licensing Act 2003. It was noted that objections had been received and that accordingly the application had been referred to the Sub-Committee for determination.

The Chairman set out the matters which the Sub-Committee could consider under the Licensing Act 2003. The Hearing heard from the applicant's Event Director representative, who explained the aim of the festival and how they intended to address the four licensing objectives.

In response to questions the applicant's representatives confirmed that the festival's policy was not to serve intoxicated guests and a record of refusals would be kept. There would be a zero tolerance drug policy with the first priority medical, followed by referral to the police. Security would work closely with the welfare team and security would peak from 10-11pm, with 40 security staff across the site and 24-hour security response teams. Guests would have to prove with government approved ID that they were 17 or over to attend without a guardian. To prevent traffic on arrival backing onto the narrow country lanes, the main exit could be used as an alternative entrance, also providing an additional 350m for vehicles to queue. Staff would discourage drinking in the car park. Vehicles within the licensable area would be searched for contraband items and attendees would be searched upon entry to the licensable area.

The Hearing heard from the objectors who raised concerns about noise creating a public nuisance to local facilities during the day and to residents until 5am when the local ambient noise was low. There were concerns that the nearest police station was 30 minutes away, which would pose a risk if there were crime or disorder. Guests would be leaving on the Sunday morning, possibly only a few hours after having been drinking alcohol the previous night. Children would be exposed to continuous loud noise and were in close proximity to alcohol. There was a risk to public safety due to the previous contamination of the site.

In response to questions from the objectors, the applicant's representative advised that volunteer staff would not replace the trained security staff and that all those working with children would be DBS checked. There would be security on the public footpath through the site to ensure there was no unauthorised entry and there would be security on the perimeter in case of those walking nearby. There was independent soil testing and water testing and access to the lagoons would be security guarded and would be fenced.

Representatives from the Environmental Health Partnership advised that the Noise Council Code of Practice for Concerts was approved by bodies including the Chartered Institute for Environmental Health. It struck a balance between various interests. The ambient background noise between midnight and 4am was 23-26dB(A). They advised that 10dB above the ambient background noise would be significant. A map of cumulative noise and an independent consultant could have

helped to reassure the Officers. They advised that concerns about contamination could be resolved through the Health and Safety at Work, etc Act 1974. In response to a question they confirmed the recordings of ambient noise were taken on a Monday and Tuesday. Representatives of the applicants invited the Committee instead to adopt the WHO Guidelines for Community Noise, adopted by a number of Councils and events, which set 45dB(A) limit at the outside of a building at night time.

The Chairman noted that the agenda had been circulated to objectors on 9 May 2016, after the statutory publication date, and that further documents had been submitted to the Council by the applicants and despatched on 20 May 2016. Objectors were asked whether they had been compromised by these facts. Some concern was raised at the lack of time to consider the further documents submitted, while another objector advised further time was unlikely to lead to a solution.

At 13.12 hours the Hearing Members withdrew to consider the issues raised and to allow discussion between applicants and objector, with the Council's Legal Advisor and Democratic Services Officer in attendance.

At 14.15 hours the Hearing Members, Council's Legal Advisor and Democratic Services Officer returned to the Council Chamber.

The applicant's representative offered that a limit of 35dB(A) be applied after 2am or 1am if necessary, with only light entertainment and acoustic music playing. Sound would be controlled by an independent engineer. He did not feel that such a limit would be achievable from 11pm. He noted other nearby premises were licensed until 2am.

The Chairman advised that the Sub-Committee did not consider that there had been significant prejudice from the late despatch or submission of documents.

At 14.30 hours the Hearing Members withdrew to consider the issues raised, with the Council's Legal Advisor and Democratic Services Officer in attendance.

At 14.47 hours the Hearing Members, Council's Legal Advisor and Democratic Services Officer returned to the Council Chamber.

The Chairman informed the Hearing that the Sub-Committee intended to approve the licence subject to an additional condition that noise be limited to 35dB(A) after 11pm at the nearest dwelling that had not agreed to a higher level. Sound was to be controlled by an independent engineer. A further condition was to require public announcements and notices in the car park to warn against drink driving should guests have been drinking the previous evening. The Sub-Committee was satisfied that granting the application subject to these amended conditions would be in accordance with the relevant licensing objectives.

It was therefore

Resolved: That a Premises Licence in respect of Phizzwizzards Ltd for Leppards Wilderness Farm, Wilderness Lane, Kent TN8 7LP, subject to

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mandatory conditions and additional conditions contained in the notice of determination attached as an appendix to these minutes, be granted.

THE MEETING WAS CONCLUDED AT 2.50 pm

Chairman

LICENSING ACT 2003 - Section 23

Notice of determination for application premises licence

To: Phizzwizzards Ltd

of: Shakespeare Martineau, Chancery House, 199 Silbury Boulevard, Milton Keynes MK9 1JL

Ref: 16/00847/LAPRE

Sevenoaks District Council being the licensing authority on 24 March 2016 received an application for a premises licence in respect of premises known as Leppards Wilderness Farm, Wilderness Lane, Edenbridge TN8 7LP.

On 23 May 2016, there being valid representations which were received and which had not been withdrawn, a hearing was held to consider these representations and having considered them the Licensing Sub-Committee determined as follows:

To grant the Premises Licence:

Section A: Performance of Plays both indoors and outdoors

28 July 14:00 to 23:59 hours
29 July 00:00 to 03:00 and 09:00 to 23:59 hours
30 July 00:00 to 05:00 and 09:00 to 23:59 hours
31 July 00:00 to 05:00 hours

Section B: Exhibition of films both indoors and outdoors

28 July 14:00 to 23:59 hours
29 July 00:00 to 03:00 and 09:00 to 23:59 hours
30 July 00:00 to 05:00 and 09:00 to 23:59 hours
31 July 00:00 to 05:00 hours

Section E: Live music both indoors and outdoors

28 July 14:00 to 23:59 hours
29 July 00:00 to 03:00 and 09:00 to 23:59 hours
30 July 00:00 to 05:00 and 09:00 to 23:59 hours
31 July 00:00 to 05:00 hours

Section F: Recorded music both indoors and outdoors

28 July 14:00 to 23:59 hours
29 July 00:00 to 03:00 and 09:00 to 23:59 hours
30 July 00:00 to 05:00 and 09:00 to 23:59 hours
31 July 00:00 to 05:00 hours

Section G: Performance of dance both indoors and outdoors

28 July 14:00 to 23:59 hours
29 July 00:00 to 03:00 and 09:00 to 23:59 hours
30 July 00:00 to 05:00 and 09:00 to 23:59 hours
31 July 00:00 to 05:00 hours

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Section H: Anything of a similar description to live music, recorded music and performance of dance that would not be classified as such both indoors and outdoors

28 July 14:00 to 23:59 hours

29 July 00:00 to 03:00 and 09:00 to 23:59 hours

30 July 00:00 to 05:00 and 09:00 to 23:59 hours

31 July 00:00 to 05:00 hours

Section L: Late night refreshment both indoors and outdoors

28 July 23:00 to 23:59 hours

29 July 00:00 to 05:00 and 23:00 to 23:59 hours

30 July 00:00 to 05:00 and 23:00 to 23:59 hours

31 July 00:00 to 05:00 hours

Section M: Sale of Alcohol both on and off the premises

28 July 14:00 to 23:59 hours

29 July 00:00 to 03:00 and 10:00 to 23:59 hours

30 July 00:00 to 05:00 and 10:00 to 23:59 hours

31 July 00:00 to 05:00 hours

To add the conditions on the Licence as follows:

Conditions Imposed by the Licensing Authority

1. Between 23:00 hours and 05:00 hours music volume within the licensed premises shall be such that a noise limit of 35 dB(A) is not exceeded over a 15 minute period at the nearest residential premises in respect of which the occupier has not agreed to a higher limit.
2. The management of the noise levels to secure compliance with these conditions shall be undertaken by an engineer who is independent of the applicant and who shall have independent control of the sound system in the event that the limits are exceeded. The engineer shall keep records of readings made at least hourly during the period that amplified music is being played and the licensee shall make these records available to the Licensing Authority.
3. Notices shall be erected in the car park and announcements made over the public address system towards the end of the event with the aim of discouraging people from driving whilst under the influence of alcohol.

Conditions Consistent with the Operating Schedule

Licence to apply from 28 July 2016 to 31 July 2016 only.

4. The event will operate in accordance with all aspects of:

Campsite management Plan V3 20 May 2016

Event management plan V3 17 May 2016

Noise management plan V3 16 May 2016 (except as overridden by

conditions following a hearing)
Event medical plan V3 15 May 2016
Traffic management plan V3 15 May 2016
Security management plan V3 10 May 2016
Drug handling Policy V1.3
Ejection Policy V2.0
Evidence gathering camera Policy V1.2
Front stage pit barrier management Policy V2.2
Crowd management plan V1
Unpermitted entry Policy V1.1
Drugs and NPS Policy V1.1

including specifically the following aspects of the event management plan as submitted to the Licensing Authority:

5. The maximum capacity will be 4999 persons including staff at any one time.
6. SIA licensed security will be used in any positions where searching, refusal of entry, patrolling or intervention may be required and at the sites of all licensable activities.
7. Stewards and volunteers will be used to assist with general information and monitoring of activity around the site; this team will not replace or replicate the provisions of the SIA licensed security team.
8. The publicly available control point will be the security wristband check area marked on the site map. This will provide 24hr assistance to attendees and a point of contact to the organisers for public attendees.
9. All attendees, staff and performers must be issued with a cloth wristband upon entry for identification purposes. Production passes shall be via lanyards, which shall be signed out at the beginning of the week. Adult wristbands will only be given to those aged 18 and over.
10. It shall be a condition of entry that each attendee will be searched upon entry to the event site. Any contraband material found during searches will be confiscated and appropriate action will be taken by the security team.
11. Contraband material is classed as drugs, weapons, glass bottles, fireworks, sparklers, excess alcohol, alcohol carried by under 18s, large sound systems, large gas canisters.
12. The premises shall operate a 'Challenge 25' policy at the entrance to the event and at the points of sale of alcoholic drinks.
13. The accepted forms of identification shall be photographic ID such as a valid passport, driving licence or a photo card bearing the PASS hologram. Anybody without valid identification will be refused an adult wristband. A further challenge will be made at the point of sale if there is any doubt about the attendee's age.
14. If any drugs are detected they will be confiscated, the offending patron

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detained and the police informed.

15. If any weapons are found they will be confiscated and the police called.
16. A licensed security team will be available for easy deployment to any incident on or off site.
17. The security system will provide loud hailer for use during any partial or full evacuation.
18. If a customer is required to be escorted off site in non operational hours, the police will be called to discuss the incident.
19. Children aged 16 and under must be accompanied by an adult aged 21 years or over at all times during the festival. Parents will not be allowed to drop children off and leave them for the day, they must remain with their children at all times. Those aged 17 and over may attend of their own accord.
20. Lost persons can report to the welfare team as can reports of missing persons. The production manager must be informed. If the lost person is deemed to be vulnerable then only persons with a valid DBS clearance will be allowed to handle the issue.
21. Key staff shall be issued with a radio; this includes key staff at the site of each licensable activity and the security team.
22. All staff shall be provided a contact sheet prior to the event stating the frequencies each team will be using on the radio and a list of mobile numbers in the event of radio failure.
23. Anti-climb heras fencing will be used to enclose the site erected in line with the site map to act as screening between the event site and non event space. This will be patrolled by SIA accredited security at all times.
24. Walkways must be marked by stakes and rope. Safety barriers must be used in front of stages and to cordon off non public areas.
25. Site lighting must be positioned around the event site. Two sets of lighting shall be maintained, one for general use and another for emergency use in the instance that the generator, electrical systems or general use lighting fail or have to be switched off.
26. Toilets and showers, Production area, Campsites, Emergency Exits and Security Positions will be lit at all times after sundown.
27. There will be clear and legible signage a minimum size of 3m x1m to be erected at a minimum height of 16 foot to direct patrons to the Emergency Services Rendezvous Point.
28. All emergency exits will be clearly denoted using the standard form of white lettering on a green background and illuminated and displayed at height visible above the crowd. The main entrance, first aid point, water taps and control point will also be signposted. Safety advice shall also be delivered.
29. Posters will be displayed at the main exit asking attendees to leave quietly, stewards will amplify this message verbally.
30. Vehicle routes will be created and kept clear to provide the best possible

access to emergency vehicles in the event of an emergency, these are the areas marked on the site map in red.

31. Generators shall run on diesel or from renewable sources such as solar power. No petrol generators will be permitted and no other generators will be permitted on site. Generators must be inaccessible to attendees.
32. All concessions attending must carry one 2kg dry powder extinguisher and one fire blanket at part of their setup. Any deep fat frying units shall carry one additional 9L wet chemical extinguisher and proof of training.
33. In the event of a fire any member of staff or security will communicate this to the production office via radio. The production office will dispatch fully briefed security response teams to deal with the incident, telephone the fire brigade and begin a partial or full evacuation in accordance with the risk assessment supplied to the Authority.
34. Information and emergency directions will be broadcast to the public using the PA systems available in each venue.
35. Noise between 9:00 and 23:00 must be maintained at all times at a maximum limit of 65dB (A) over a 15 minute period at the nearest noise sensitive premises and at every nearby noise sensitive premises.
36. The music noise level arising from the event shall not exceed a C-weighted limit of up to 70db in either of the 63Hz or 125Hz Octave frequency band at 2km and beyond.
37. Noise between 23:00 and 09:00 has been considered in detail by Licensing Sub-Committee and the limits set by this Committee are reproduced in this authorisation. These limits must be maintained as a maximum at all times between 23:00 and 09:00.
38. The sound engineer will be responsible for ensuring compliance with all noise related conditions and in ensuring compliance with the noise management plan.
39. The noise management engineer must be provided with direct communication with all relevant parties through the use of site radios.
40. A direct telephone line must be made available in order to receive any noise complaints from members of the public. The line must be manned for the duration of the event with details provided to the public of event hours. The complaint contact number must be provided to the public at least 5 days prior to the event.
41. A complaints log must be kept detailing the details of the complaints received and action must be taken in accordance with the assessment as outlined in the event plan.
42. Should a noise complaint be received a noise measurement will be taken from the location of the complaint by the noise management engineer. If any noise limit is found to be exceeded, immediate action will be taken to reduce the noise level. Instructions will be transmitted by radio to the sound engineers at the mixing desk positions to reduce the level onsite until a satisfactory offsite reading is achieved.

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43. All vehicles on site will abide by a strict 5mph speed limit.
44. All plant vehicles will be escorted by a banksman at all times.
45. No dogs will be permitted on site.
46. No unaccompanied children will be allowed on the site, if this occurs, the production works must cease.
47. Headlights of amber rotating beacons will be required to be on in all areas except the public car park for moving vehicles.
48. All staff are required to wear the correct Personal protective equipment (PPE) for the activities they are undertaking at all times. All PPE must be in a clean and useable state.
49. Fuel will be locked and only available to the authorised people.
50. No fuel can be brought onto the site other than that authorised.
51. Public car parking will be managed through experienced traffic management staff that shall be fully visible and identifiable during the duration of the event.

Licensing Act 2003

52. Where a premises licence authorises the supply of alcohol, the licence must include the following conditions:-

No supply of alcohol may be made under the premises licence -

- (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

The Licensing Act 2003 (Mandatory Conditions) Order 2014

53. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
54. For the purposes of the condition set out in paragraph 1—
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - (b) “permitted price” is the price found by applying the formula $P = D + (D \times V)$ where—
 - (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the

alcohol, and

- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
55. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
56. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010

57. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is

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- authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
58. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
59. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
- (a) a holographic mark, or
 - (b) an ultraviolet feature.
60. The responsible person must ensure that—
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;

- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Exhibition of films

61. Where the film classification body is specified in the licence, unless subsection (b) applies, admission of children must be restricted in accordance with any recommendation made by that body.

Where -

- (a) the film classification body is not specified in the licence, or
- (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,

admission of children must be restricted in accordance with any recommendation made by that licensing authority.

In this section -

"children" means person aged under 18; and

"film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

Door supervision

62. Any premises which includes a condition that door supervisors must be at the premises to carry out a security activity, shall ensure that each such person is licensed to conduct such activities by the Security Industry Authority.

For the following reasons:

Prevention of Crime and Disorder

The members of the Sub-Committee noted the written and oral representations made regarding the potential for increased crime and disorder off the licensed premises but were of the opinion that there were no additional measures that could be taken by the licensee to supplement the role of other statutory bodies. The Sub-Committee had particular regard to the absence of relevant representations from the police, especially as the Sub-Committee heard that the licensee had met with the police to discuss the proposed event.

The members of the Sub-Committee noted the measures to be carried out by the licensee within the licensed premises and were of the opinion that these would be sufficient to manage any crime and disorder during the event.

Prevention of Public Nuisance

The members of the Sub-Committee took note of the advice from the

Agenda Item 1

Environmental Health Officers that the applicant's predicted noise levels at noise-sensitive locations, including nearby residential properties, the Hever Festival Theatre and local wedding venues during the hours of 09:00 - 22:59, were in accordance with the relevant Code of Practice and not sufficiently high to constitute a public nuisance.

The members of the Sub-Committee noted the request from the Applicants to disapply The Noise Council's Code of Practice on Environmental Noise Control at Concerts and the concerns at applying it. They were informed by and gave greater weight to the Environmental Health Officers' submissions that (a) this Code of Practice is considered by the authority to describe current best practice notwithstanding criticisms made by the Applicant and within the industry, and (b) the ambient noise level in this rural location during the hours of 23:00 - 05:00 was in the region of 23 - 26 dB(A) and it was stated that, notwithstanding the WHO guidelines, a noise level at residential properties, with open windows, of more than 10 dB(A) above this level would be likely to be significant or material and/or constitute a public nuisance.

The Sub-Committee also noted that the nearby theatre had represented that a level not exceeding 50dB (A) would be acceptable during its performances, and evidence that nearby wedding venues were likely to be most sensitive to noise between the hours of 12 noon and 4pm.

The members of the Sub-Committee noted the written and oral representations made regarding potential litter on and around the site as a result of the event. The Sub-Committee believed the Event Management Plan adequately dealt with the concerns.

Concerns were raised through representations at the impact of traffic from the event. The Sub-Committee considered that, to the extent these related to the Licensing Objectives, all reasonable steps had been agreed to be taken in the Traffic Management Plan.

Public Safety

Written and oral representations regarding the possible contamination of the land and water in the licensed premises were noted by the members of the Sub-Committee but they considered that although the existence of alternative statutory controls to mitigate these risks did not preclude their relevance to the licensing objectives, in the circumstances of this application these issues would be more properly be dealt with under environmental protection legislation before the start of the period covered by the premises license.

Some oral representations expressed concern about the possibility of customers driving vehicles off the site at the close of the event whilst still under the influence of alcohol if bars had been open until 05:00 hours that morning. The members of the Sub-Committee did not consider this had been adequately addressed in the Event Management Plan.

Protection of Children from Harm

The members of the Sub-Committee noted the measures to be taken by the licensee to prevent children from entering areas of the site where there was entertainment unsuitable for children and they considered that these would be adequate to mitigate the potential risk.

Written and oral representations about the possibility of harm to children because of excessive noise or sleep deprivation were noted but the members of the Sub-Committee believed that supervision by parents or guardians would be adequate to ensure that no harm was likely to occur, noting that the Applicant would make ear defenders available upon request to children for a small refundable deposit.

This licence granted at the Hearing is effective from 23 May 2016

Dated: 26/05/2016

Signed

Chair - Licensing Hearing

Signed

Designation -

Please address any communications to:

Licensing Partnership

Sevenoaks District Council

Council Offices

PO Box 182

Argyle Road

Sevenoaks

Kent TN13 1GP

Note: Pursuant to Part 1 of Schedule 5 of the Licensing Act 2003 as amended, any party eligible to appeal must appeal to a magistrates' court within 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

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DEMONSTRATION OF A PROPOSED ONLINE KNOWLEDGE TEST

Licensing Committee - 13 July 2016

Report of Chief Officer, Environmental and Operational Services

Status: For Information

Key Decision: No

Executive Summary: This report introduces a demonstration of the proposed online Knowledge Test for new Hackney Carriage and Private Hire drivers looking to work within the District of Sevenoaks.

A further report will be brought before the Licensing Committee to outline the new process and any changes that may be required to the Hackney Carriage and Private Hire Policy.

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

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

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

Recommendation to Licensing Committee:

That the report be noted.

Introduction and Background

- 1 Sevenoaks District Council as the Licensing Authority has responsibility for licensing Hackney Carriage and Private Hire drivers in the interests of public safety and protection.
- 2 In accordance with our aim to reduce paper and streamline our processes, this Authority in conjunction with the Smarter Digital Services based at Tunbridge Wells, has developed an online Knowledge Test for drivers. It is proposed that this test will replace the practical Knowledge Test that is currently undertaken with a Licensing Officer.
- 3 Members are invited to view the proposed test and make suggested improvements. The test will be developed further and will be tested with existing drivers prior to implementation.

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- 4 A further report will be brought before the Licensing Committee on 20th September 2016 to outline the new process and any changes that may be required to the Hackney Carriage and Private Hire Policy.

Key Implications

Financial

- 5 There are no financial implications to consider at this time.

Legal Implications and Risk Assessment Statement

- 6 There are no legal implications to consider at this time as this is a demonstration only.

Equalities Assessment

- 7 Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups. There is no decision required with this report as it is for information only.

Appendices None

Background Papers None

Richard Wilson
Chief Officer, Environmental and Operational Services

REVISED COMPLIANCE AND ENFORCMENT POLICY

Licensing Committee - 13 July 2016

Report of Chief Officer, Environmental and Operational Services

Status: For Decision

Also Considered by: Council 21 July 2016

Key Decision: No

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

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

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

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

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

Contact Officer(s) Miss Nicola O'Shea 7270

Mrs. Claire Perry 7325/07970 731616

Recommendation to Licensing Committee:

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

Recommendation to Council:

To approve the adoption of the Compliance and Enforcement Policy

Reason for recommendation:

It is essential that this Authority implements best practice. Providing an updated Compliance and Enforcement Policy will provide prospective applicants, existing

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

Introduction and Background

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

(f) scrap metal dealers and collectors.

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

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

Other Options Considered and/or Rejected

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

Key Implications

Financial

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

Legal Implications and Risk Assessment Statement

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

**Sevenoaks District Council Licensing
Compliance and Enforcement
Policy**

CONTENTS

1. Introduction
2. Aim of this Policy
3. Implementation of Policy
4. Principles of Operation
5. Liaison arrangements
6. Effective practice
7. Risk rating of licensed premises
8. Compliance
9. Enforcement
10. Review

Appendix A Legislation considered within this Policy

1. INTRODUCTION

Sevenoaks District Council (SDC) is responsible for licensing and registering a range of functions within its district in the interests of public safety and protection. This policy sets out how we as the Licensing Authority achieve compliance and enforcement.

We define compliance as how licence holders meet the standards required of them and define enforcement as meaning taking action in relation to unlicensed activities.

These functions include:

- (a) hackney carriage and private hire drivers and vehicles and private hire operators;
- (b) alcohol, entertainment and late night refreshment;
- (c) charity collections;
- (d) sex establishments;
- (e) gambling premises, permits and lottery registrations;
- (f) scrap metal dealers and collectors.

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

Sevenoaks District Council as the Licensing Authority put into effect and ensures compliance with a range of legislation in the public interest. Furthermore, the Council has a duty to uphold and achieve compliance relating to the policies adopted by the Licensing Authority and conditions and requirements that may be implemented on licence holders or those that engage in licensable activities for the benefit of public safety. The Licensing Authority support the corporate vision that the district should remain a prosperous, safe and healthy place where people want and are able to live

Agenda Item 5

and work, and whereby culture, tourism, employment and self sufficiency of local communities is encouraged.

Compliance and enforcement is important to maintain integrity and confidence in the various licensing regimes, and to prevent anyone obtaining an unfair advantage through unlicensed activities.

The Licensing Authority seek to uphold the legislation and prevent offences occurring under the various Acts. The seriousness of these offences is reflected in the maximum penalty on conviction in the Magistrates' Court for some offences may result in imprisonment and/or an unlimited fine.

In developing this policy, the Licensing Authority have had regard to the Human Rights Act 1998, the statutory Regulators' Code issued under the Regulatory and Effective Sanctions Act 2008, the Code for Crown Prosecutors and the Equalities Act 2010.

2. AIM OF THIS POLICY

This policy is intended to reinforce the aims and uphold the objectives of the published guidance to all relevant legislation (as shown in appendix A) by promoting effective practice and the Regulators Code ensuring proportionate, consistent and targeted regulator activity, whilst developing a transparent and effective dialogue and understanding between regulators and those we regulate.

This policy is intended to protect individuals, organisations, the community and the environment from harm and to assist as practically possible in preventing further crime and disorder and to change the behaviour of perpetrators. This policy also aims to eradicate any financial gain or benefit which may be the consequence of non-compliance and to protect those affected by non-compliance. The Licensing Authority in adopting this Policy aims to be responsive and consider what is appropriate in the circumstances, be proportionate to the nature of the offence and the harm caused and to deter future non-compliance.

3. IMPLEMENTATION OF POLICY

All enforcement powers are delegated to the Chief Officer of Environmental Operations who may instruct the Solicitor to the Council to commence legal proceedings where appropriate. However, Officers have delegated Authority to determine Licences and undertake investigations as may be appropriate under the various Acts. Officers may where appropriate present a case to the Licensing Sub-Committee to determine enforcement action.

Any appeal to an Officers decision or Licensing Sub-committee decision may be to the local Magistrates Court.

This policy was adopted by the Licensing Committee and by Full Council on 21 July 2016. It will be reviewed in 2021, unless legislative or other changes make it appropriate to do so before this period. Policies and procedures may change from time to time as they may be reviewed on a regular basis in the light of changes in legislation, case-law or best practice.

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Councillors will receive basic training about the policy and will be kept informed about Licensing decisions and cases as required.

The Licensing Authority has a duty under the Crime and Disorder Act 1998 to take all reasonable measures to prevent crime and disorder within the District. Subsequently, Licensing will share information where relevant about applicants, licence-holders and unlicensed people or organisations with other agencies as appropriate. For example, the Council's Fraud team, the police, HM Revenue and Customs, Home Office Immigration Enforcement, Trading Standards or the Department for Work and Pensions.

This list may be revised from time to time and we may share information with other agencies as required with due regard to data protection legislation.

All enforcement decisions will be fair, independent and objective. They will not be influenced by any of the protected characteristics under the Equalities Act 2010 for example, age, ethnicity, national origin, gender, religious or political belief, disabilities or sexual orientation.

Due regard will be taken when dealing with juveniles or other vulnerable people. Each case will be determined on its own merits taking into consideration the requirements of the governing legislation, Council Policies and relevant sources of evidence. Such Policies the Council will consider within its decision making process may include the Statement of Licensing Policy- Licensing Act 2003, Statement of Gambling Policy, Statement of Hackney Carriage and Private Hire Policy and Convictions Policy and Charitable Collections Policy. This list is not exhaustive and may change from time to time given legislative or procedural changes.

In some cases where we do not have powers to intervene ourselves as the Licensing Authority, we may refer the intelligence or complaint to the appropriate organisation. Where the Council do have powers to intervene, our first approach wherever possible will be to attempt an informal resolution. Officers will use the resources at their disposal, intelligence and evidence presented and gathered to determine objectively using their discretion whether an informal resolution is possible. Informal resolutions will unlikely be adopted for repeat offenders. This will involve clearly identifying the nature of any actual or potential legislative breach and giving the perpetrator the opportunity to remedy it.

Decisions will be consistent, proportionate and will aim to uphold public confidence. They will balance the rights of licence holders, applicants and perpetrators with maintaining public confidence and safety. We will also make clear the difference between statutory requirements or advice, or guidance about what is desirable or good practice which is not compulsory.

We may publicise the results of prosecutions when it is in the public interest to do so, or in the interests of the Authority.

We will maintain the confidentiality of complaints and sources of complaints as far as reasonably possible. Should a prosecution be pursued, the Court or other relevant parties may be required to be provided with these details. We will only release personal information in accordance with legal requirements or the Data Protection Act 1998.

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4. PRINCIPLES OF OPERATION

The Licensing Authority aims to continue to promote the spirit of co-operation that exists between the relevant agencies and to recognise the benefits to be derived from developing close working relationships.

The Licensing Authority will seek to enhance the understanding of the advantages and opportunities which joint activity can bring to effective enforcement and community safety and promote the legitimate exchange of information and operational cooperation.

5. LIAISON ARRANGEMENTS

There will be regular contact and liaison between the responsible authorities and other government bodies or individuals or organisations where appropriate to:

- Provide access to appropriate sources of information;
- Provide a consistent approach to communication, operations and investigations;
- Encourage early contact and liaison in specific cases;
- Allow for advice or guidance to be given in relation to a specific case;
- Ensure that any national or regional campaigns or investigations are considered;
- Enable relevant officers to be kept informed of the progress of cases that are being investigated;
- Ensure that information and intelligence being passed between the agencies is in accordance with the Information Sharing Agreement between the Licensing Authority and other Council and Police departments.

Officers will seek to:

- Ensure the effective exchange of information between the agencies;
- Consider the need for joint visits;
- Implement co-ordinated actions as necessary;
- Co-ordinate the supply of evidence and information to any other agency taking formal action;
- Work together where practicable, to promote stated objectives;
- Discuss and liaise in the event of uncertainty over lead roles.

6. EFFECTIVE PRACTICE

The Council will ensure that they will carry out the work undertaken in accordance with the legislation, government guidance and all reasonable aspects of effective practice. In doing so the Council will:

- Focus primarily on premises/activities that are determined by consultation between the parties to be a high risk of contravening the legislation and the objectives of the legislation;
- Ensure all guidance and information is in a clear, accessible and concise format, using media appropriate to the business;

Agenda Item 5

- Ensure that service delivery is provided in a non-discriminatory manner;
- Highlight those matters that are legal requirements to separate them from matters that are recommendations or good practice;
- Provide information in a timely manner and where required, advise recipients of their legal rights in such matters;
- Ensure, wherever possible, that responsible persons do not undertake work that is unnecessary in terms of duplication with other legislation and has regard to cost/benefit; available technology; consistency in application with enforcement action proportionate to risk in each case;
- Deal with the public, licensees and businesses in a fair and honest way;
- Provide a courteous, efficient responsive and helpful service, responding promptly and appropriately to service requests and complaints;
- Attend court in support of partner agencies where it is agreed that evidence/information will be of mutual assistance having due regard to liability.

7. RISK RATING OF LICENSED PREMISES

All licensed premises will be risk assessed. This assessment takes into consideration the type of premises, range of licensable activities, history of complaints, competency of the current management and other factors which may change from time to time. The Licensing Authority will base their regulatory activity on risk, prioritising high risk and problem premises and activities.

All premises will be scheduled for inspections based upon their level of risk. This schedule may change from time to time subject to management changes or complaints arising from premises.

8. COMPLIANCE

In respect of licensed premises such as those under the Licensing Act 2003, Scrap Metal Dealers Act 2013, Operator licences under the Local Government Miscellaneous Provisions Act 1976, routine visits/inspections may be made on the basis of risk assessments, as well as intelligence led operations.

In respect of licensed vehicles, six monthly compliance tests are required to be passed and vehicles will be inspected as a result of complaints or intelligence received. The Authority has the right to inspect a licensed private hire or hackney carriage vehicle whenever they deem it appropriate to do so. A sample of vehicles will be tested monthly. Checks will also be carried out on drivers of licensed vehicles each month and as a result of complaints or intelligence from other authorities.

When inspecting premises, the Authority will draw the appropriate authority's attention to any contraventions of any relevant legislation which are found to exist and Licensing will record the information gathered from all visits and act upon it in order to achieve compliance.

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Non compliance with the relevant legislation may lead to the appropriate proportionate enforcement action, taking into consideration the frequency of the breach, a risk to public safety or whether it is in the public interest to do so amongst other factors.

9. ENFORCEMENT

Enforcement action must be proportionate to the offence and the circumstance of the offence and balanced against risks, costs and resources available to the Authority. Proportionate action concerns judging the extent to which perpetrators have gone to in order to comply with the law and the extent to which the breach was intended for instance deliberate misuse of licensed activities or premises and vehicles and so forth. Also assessed is the extent to which the breach could have been avoided, for instance previous knowledge of the requirements through advice or warnings.

Circumstances may include (but not exclusively) the following:

- Previous licensing history/character;
- Previous interventions from Licensing and other agencies;
- Change of premises ownership/management;
- Seriousness of the offence and impact on risk to public safety.

An informal warning for example is unlikely to be a suitable disposal for a significant infringement that led to or could have potentially led to serious injury. Likewise, a prosecution is generally unsuitable for a minor administrative type of breach or technical oversight.

Enforcement action may include the following:

- No further action;
- Verbal warning;
- Written warning;
- Simple caution;
- Prosecution;
- Other legal action.

The Authority may undertake informal advisory visits and meetings, mediation where possible, education, awareness-raising and advice. The Authority may also use direct observations, test purchasing, joint investigations with other agencies and roadside vehicle checks for licensed vehicles and scrap metal dealers. The Authority will also conduct proactive and reactive visits.

The Authority, where possible, will give an early indication to all relevant parties of our progress and our intended course of action. We will liaise with those parties as necessary to ensure a co-ordinated and thorough approach. The Authority will consider other actions as required bearing in mind alternative approaches to dealing with the situation that have been previously attempted and/or deemed to be inappropriate.

The Authority will explain the need for enforcement action in writing and verbally as far as reasonably practicable and why the action is necessary and when it must be carried out by. The Authority recognises that it may not be always possible to liaise

Agenda Item 5

with the relevant parties immediately if action is needed urgently to protect public health, safety or the environment or preserve evidence.

If the Authority receives information that may lead to formal enforcement action it will notify the source of the complaint as soon as practicably possible of any intended enforcement action, unless this will impede an investigation or pose a safety risk.

The Authority have the right to request to interview those whom they suspect of unlicensed activity, or breaches under the various licensing legislations. These interviews may be informal, formal recorded interviews or interviews conducted under the police and Criminal Evidence Act (PACE). Whilst attendance may not be compulsory, it would be in the interests of the individual or organisation being investigated to attend. Actions may be considered should they abstain from attending.

10. REVIEW OF THIS POLICY

Sevenoaks District Council shall periodically review this Policy, at least once every five years, to ensure that it maintains a suitably responsive and practical arrangement for all licensing functions and that enforcement and compliance measures remain reasonable and proportionate to the matters to which it pertains, and in line with the resources at the Council's disposal.

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Appendix A

Relevant legislation

The following list, though not exhaustive, details the legislation which falls under the remit of this enforcement policy.

For alcohol, regulated entertainment and late night refreshment:

Licensing Act 2003
Criminal Justice and Police Act 2001
Policing and Crime Act 2009
Crime and Security Act 2010
Police Reform and Social Responsibility Act 2011
Live Music Act 2012

For gambling:

Gambling Act 2005 (as amended)

For sex establishments and sexual entertainment venues:

Local Government (Miscellaneous Provisions) Act 1982
Policing and Crime Act 2009

For scrap metal dealers and motor salvage operators:

Scrap Metal Act 2013

For Private Hire and Hackney Carriage Licensing:

Town Police Clauses Act 1847
Local Government (Miscellaneous Provisions) act 1976
Road Safety Act 2006
Transport Act 1985
Road Vehicles (Construction and Use) Regulations 1986
Various Road Traffic Acts

For street collections and house to house collections:

Police, Factories etc. (Miscellaneous Provisions) Act 1916
House to House Collection Act 1939
House to House Regulations 1947
Local Government (Miscellaneous Provisions) Act 1982
Public Health Act 1936

Other Acts:

Zoo Licensing Act 1981
Crime and Disorder Act 198
Human Rights Act 1998
The Anti-Social Behaviour Act 2003
The Equalities Act 2010
Data Protection Act 1998
Immigration Act 2016
Freedom of Information Act 2000

CHARITABLE COLLECTIONS POLICY FOR STREET AND HOUSE TO HOUSE COLLECTIONS

Licensing Committee - 13 July 2016

Report of Chief Officer, Environmental and Operational Services

Status: For Decision

Also Considered by: Council 21 July 2016

Key Decision: No

Executive Summary: This report seeks Committee to approve the Charitable Collections Policy and recommend to Full Council adoption of the policy.

It is best practice that the Authority revises the regulations and guidelines on charitable collections to ensure the most current information and guidance is made available to applicants. The regulations and guidelines have been combined into a Policy to ensure consistency and transparency for those involved in this sector.

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

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

Contact Officer(s) Miss Nicola O'Shea 7270

Mrs. Claire Perry 7325/07970 731616

Recommendation to Licensing Committee:

To recommend to full Council adoption of the Charitable Collections Policy.

Recommendation to Council:

To approve adoption of the Charitable Collections Policy.

Reason for recommendation:

It is essential that this Authority implements best practice. The other authorities within the Licensing Partnership have implemented similar policies and it is a Service Objective that we seek harmonisation of our policies. This will ensure that the requirements upon applicants and permit holders keep track with developments

in legislation and associated guidance.

Introduction and Background

- 1 Sevenoaks District Council has responsibility for licensing charitable collections within the District of Sevenoaks. Charitable collections consist of two categories namely, street collections and house to house collections.
- 2 Charitable collections licensing is regulated by two acts of Parliament. These are the 'Police, Factories, etc., (Miscellaneous Provisions) Act 1916' which regulates collections of money or sales of articles for charitable purposes in streets and public places and 'The House to House Collections Act 1939' which regulates collections of money or other articles made by means of going from house to house.
- 3 Both of the acts of Parliament, outlined in paragraph 2 above, give Councils powers to write regulations and Policy to control charitable collections. The proposed Policy, which includes minor revisions to the regulations, has been made with due regard to the legislation.
- 4 As the Licensing Authority, Sevenoaks District Council has a duty to put into effect the legislation and enforce regulations and policies that enable us to do so. The legislation requires any collection undertaken in a street of public place to have a street collection permit.
- 5 Adoption of the policy encourages transparency and consistency in considering and granting street and house to house collections applications. It also provides clarity and guidance for Officers, Councillors, prospective applicants, organisations, permit holders and licence holders.
- 6 The revised policy and guidance seeks to harmonise Officers approaches to processing and deciding applications for street and house to house collections in a manner consistent with other Partners within the Licensing Partnership.

Other Options Considered and/or Rejected

- 7 The Council could choose to continue with the current regulations and guidance however the decision making process would not be as consistent with the other Partners within the Licensing Partnership. In revising the policy, Officers decisions would be less challengeable having regard to updated guidance within the Policy, therefore choosing to maintain current working practice is not a course of action that is recommended.

Key Implications

Financial

- 8 Whilst statutory regulations do not permit charging for functions relating to charitable collections, the revised regulations and implemented Policy would not adversely affect the budgets.

Legal Implications and Risk Assessment Statement

- 9 The implementation of the policy and revised regulations will ensure consistency in decision making within the Licensing Authority at Sevenoaks District Council and any decision made by Officers will be less challengeable, more informed and transparent.

Equalities Assessment

- 10 Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups. The decisions recommended through this paper fall in line with the legislation and do not pose a risk to issues surrounding equality.

Conclusions

- 11 Subject to agreement by Full Council on 21 July 2016 the Charitable Collections Policy will be implemented in order to harmonise the way in which applications for street and house to house collections are considered and processed within the Licensing Partnership whilst upholding the Councils responsibility to ensure updated guidance to applicants.

Appendix

Appendix - Charitable Collections Policy

Background Papers

Relevant legislation

Richard Wilson

Chief Officer, Environmental and Operational Services

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Charitable Collections Policy (proposed)

SEVENOAKS DISTRICT COUNCIL

JOINT GUIDANCE AND POLICIES
FOR CHARITABLE COLLECTIONS

STREET COLLECTIONS
AND HOUSE TO HOUSE COLLECTIONS

Contents

- 1 INTRODUCTION & OVERVIEW
- 2 GUIDANCE FOR STREET COLLECTIONS
- 3 CHECKS AND CONSULTATIONS ON APPLICATIONS
- 4 DETERMINATION OF THE APPLICATION
- 5 STREET COLLECTIONS POLICY
- 6 STREET COLLECTIONS REGULATIONS
- 7 GUIDANCE FOR HOUSE TO HOUSE COLLECTIONS
- 8 HOUSE TO HOUSE COLLECTIONS POLICY
- 9 HOUSE TO HOUSE COLLECTIONS REGULATIONS
- 10 ENFORCEMENT

1.0 INTRODUCTION AND OVERVIEW

1.1 Sevenoaks District Council (“the Council/the Authority”) is responsible for licensing charitable collections within the District of Sevenoaks. Charitable collections fall into two categories: House to house collections for money or property and Street collections, which include collections for cash or the sale of articles in the street.

1.2 Statutory Powers

The licensing of charitable collections is regulated by two separate Acts of Parliament:

The ‘Police, Factories, etc., (Miscellaneous Provisions) Act 1916’ which regulates collections of money or sales of articles for charitable purposes in streets and public

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places and 'The House to House Collections Act 1939' which regulates collections of money or other articles made by means of going from house to house.

Both Acts give District Councils powers to write regulations and policies to control charitable collections. In accordance with its powers, the Council has made regulations under this legislation for the control of street collections in the area of Sevenoaks District Council in respect of the places where and the conditions under which persons may be permitted in any street or public place to collect money or sell articles for the benefit of charitable or other purposes.

The legislation and regulations stipulate that any collection to be undertaken in a street or public place requires a Street Collection Permit. It is a criminal offence to conduct a street collection in any street or public place within the District of Sevenoaks without first obtaining such a permit from the Council.

1.3 This policy document forms the Council's Charitable Collections Policy ("local policy") that will apply to Street and House to House Collection activities in the Sevenoaks District area to ensure consistency in decision making.

1.4 The aim of the policy is to give detailed guidance on the application of the law relating to charitable collections, provide a clear idea of the requirements that charitable organisations, promoters and collectors must meet before, during and after collections take place. It also sets out the administrative procedures involved in obtaining a permit/licence.

2.0 GUIDANCE FOR STREET COLLECTIONS

2.1 An application for a Street Collection Permit must be made to the Council in writing on the prescribed application form no less than one month before the proposed collection date.

Street Collection Permit Application forms and a copy of the street collection regulations may be submitted and downloaded from the Partnership website www.sevenoaks.gov.uk and following the links to licences and permits.

Alternatively, these documents can be obtained from the Licensing Partnership's administration team located at Sevenoaks District Council at the following address:

Licensing Partnership
P.O Box 182
Sevenoaks
Kent TN13 1GP

Email: licensing@sevenoaks.gov.uk
Tel No: 01732 227004;

2.2 The application form must be fully and correctly completed and accompanied where appropriate by any necessary information. Before the Council can grant a street collection permit, it needs to have as much information as possible about the charity, its promoters and collectors and may from time to time request additional

information to the application form. It the collection will include a procession or walks, details of the proposed route must be provided with the application to the licensing team.

2.3 If the Charity has not previously applied for a permit to conduct a collection within the Sevenoaks District, the following must accompany the application:

- i) The aims and objectives of the organisation including any supporting documents, e.g. constitution and/or articles of association;
- ii) details of street collection permits approved or refused (other than within the Sevenoaks District Council area);
- iii) a copy of the organisation's most recently audited accounts;
- iv) and any other relevant information requested by the Council.

2.4 Applications will be considered on receipt and where appropriate, additional information may be requested from the applicant. Failure to provide adequate information in the application form or upon request will result in a refusal or a delay in consideration until any outstanding information has been provided.

3.0 CHECKS AND CONSULTATIONS ON THE APPLICATION

3.1 The Council reserves the right to make more detailed enquiries about an applicant and the proposed collection in certain circumstances.

For example:

- i. A new collector not previously known to the Council or a collector previously known but where concerns have been raised;
- ii. An organisation's / individual's past conduct;
- iii. Concerns about the integrity of the collection activity (e.g. suspected bogus charity collection);
- iv. Complaints from local residents, businesses or other charity organisations;
- v. Where the activity raises safety or nuisance/harassment concerns; etc.

3.2 Enquiries may be made to the local police and/or the Charity Commission or any other relevant body that may change from time to time, for comment/investigation prior to consideration.

3.3 The Council may also consult with other council departments responsible for highways, parking or planning. For example, where the application for a street collection permit includes a street procession or placing a structure or vehicle on the street/highway.

3.4 If a store/shop gives permission for a collection for a charity, that person must be inside the store/shop. The forecourt of a shop is considered a public right of way in respect of street collections.

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3.5 Any application where it is proposed to use any structure, table, 'A' board etc., in conjunction with a Street Collection must be supported by Public Liability Insurance and written permission of the Landowner and or Highways Authority as applicable.

4.0 DETERMINATION OF THE APPLICATION

4.1 Delegated Officers within the Authority are authorised to consider and determine applications for street collection permits, subject to the criteria set out in the regulations and in this policy document, including any objections/observations/comments received from the Police, Charity Commission, other Local Authorities and persons/organisations consulted with.

4.2 Each case will be assessed on its merits and individual circumstances.

4.3 The legislation does not include statutory criteria for the approval or rejection of a permit request. This is a matter for the Council's discretion. This policy reflects the wide discretion given to the Council enabling it to grant/decline/ limit permits on various grounds that are not specific within the legislation and regulations.

4.4 For the purposes of clarification, determination of applications will be considered by authorised Officers with reference to the following:

- i. Information provided by the applicant in the application or such further information provided upon request;
- ii. Any comments received from the Police, the Charity Commission, other local authorities, etc.;
- iii. The organisation's past conduct and the integrity of its collection activities etc., where known, when undertaking collections in the District or in other Districts;
- iv. Whether the person applying for the licence is a 'fit and proper' person to hold a licence;
- v. Whether the organisation or its objectives may be considered to be charitable in character;
- vi. Whether a particular collection is considered to be in the public interest;
- vii. The organisation's connection to the local community;
- viii. How the organisation's work meets the Council's objectives for the District;
- ix. The Council's street collection policy and regulations; and
- x. Any other relevant considerations

Once this information has been considered, the Council will determine the application by either;

- Issuing a permit specifying the requested date and location; or

- Refuse to issue a permit on certain grounds, the grounds of which will be made clear in the refusal letter which will be issued within 10 working days.

5.0 STREET COLLECTIONS POLICY

5.1 Introduction

5.2 This part of the document sets out how the Council will deal with charitable organisations that wish to collect monies or sell articles for charitable or other purposes in streets and public places.

5.3 Definition of “charity”, “charitable purpose” and “promoters”

Meaning of “charity”

For the purposes of the law of England and Wales, “charity” means an institution which

- a) is established for charitable purposes only, and
- b) falls to be subject to the control of the High Court in the exercise of its jurisdiction with respect to charities.

Meaning of “charitable purpose”

- c) the prevention of relief of poverty;
- d) the advancement of education;
- e) the advancement of health or the saving of lives;
- f) the advancement of citizenship or community development;
- g) the advancement of the arts, culture, heritage or science;
- h) the advancement of amateur sport;
- i) the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity;
- j) the advancement of environmental protection or improvement;
- k) the relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage;
- l) the advancement of animal welfare;
- m) the promotion of the efficiency of the armed forces of the Crown, or of the efficiency of the police, fire and rescue services or ambulance services;

Meaning of “promoters”

For the purposes of this guidance, means a person or organisation who causes/organises others to act as collectors.

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5.4 Policy Statement

The Council will use the Charity Commissions objectives as a basis for decision-making:

- i. The public confidence objective.
- ii. The public benefit objective.
- iii. The compliance objective.
- iv. The charitable resources objective.
- v. The accountability objective.

5.5 This section outlines the policies the Council will apply when making decisions on applications for permits. In particular, it explains how the street collection regulations are to be applied; and where and how often an organisation may make a street collection in Sevenoaks District:

5.5.1 Authorisation for the collection

The promoter of a street collection shall have written authorisation from the organisation that is to benefit from the collection. Such authorisation shall include contact details for the benefiting organisation.

In cases where the benefiting organisation is collecting on behalf of themselves the application shall include details of the promoter's role within the said organisation.

Exceptions to the requirements for authorisation may be made with regards to Sports Relief, Comic Relief, Children in Need, Poppy appeal and other similar national appeals where authorisation is not easily obtained. Persons collecting on behalf of these organisations will however be required to carry proof that they are legitimately hired on behalf of said organisation for the purposes of collecting within the District. The Authority requests that exempt collectors notify the Council as to when and where they intend to collect within the District. The Authority may then, as far as practicably possible, try to avoid other authorised collectors being permitted within the area on these days. Should an authorisation have been already granted, in the interests of fairness, the Authority shall not rescind an authorisation on this basis without prior agreement of the applicant.

5.5.2 Allocation of street collection days

More than one collector in any part of the Parish/District on the same day will not be permitted.

The Council operates a diary booking system on a "first come first served" basis for the allocation of street collection dates in order to ensure that all charities have equal access to their preferred collection dates.

No guarantee will be given that a charitable organisation's preferred date(s) will be allocated to that organisation. Where an organisation's preferred date(s) cannot be

granted, alternative dates as close to the requested date as possible, dependant upon availability, may be suggested where practicable.

A charity may be permitted to apply for the whole District and a number of permits may be issued for this purpose across the District. The timings of each collection however will not normally be split across the day.

A charity may only be permitted to collect within the District once every three months.

A charity may only be authorised to collect on a total of two Saturdays in a year.

A collection may not exceed 7 consecutive days.

5.5.3 Transitory collections, i.e. those whose collections pass through the District, will be given permits subject to their route not coinciding with a permit already granted. These events are normally sponsored walks, street processions, bed pushes or cycle rides etc.

5.6 Consultation on Applications made

The Council will take into account any decision by another Local Authority to refuse permission for the individual or organisation in question to hold a street or house to house collection, and the reasons for it.

The Council will take into account information or advice supplied by the Police or other relevant bodies in deciding whether to grant a permit.

5.7 Emergency Charitable Collections

Special consideration may be given to emergency disasters, which result in unexpected fundraising activities.

The Council may consider issuing more than 1 organisation a permit on any one day where the collections are in relation to a particular emergency disaster. However, Street Collection permits for emergency disasters would not normally be allocated a date and location where a permit has already been authorised for another non-related collection, unless express permission has been received from the organisation granted the original permit.

Emergencies can include international, national and local incidents. If the emergency has been classified as such (by Central Government, for example) the collection will be normally decided by the Licensing Partnership Manager.

5.8 Applicants suitability to conduct charitable collections

5.8.1 The Council will not issue permits to an individual or organisation that has held an unlawful street or house to house collection within its area, or that of another Local Authority.

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5.8.2 The Council will not issue further permits to an individual or organisation that has broken the Street Collections Regulations or the Policy set by this Council or those of another Local Authority within the last five years.

5.8.3 The Council will not issue permits to an individual or organisation if it is not satisfied that the applicants are 'fit and proper' persons to hold such street collection permits. This will include persons convicted of any offence involving dishonesty, fraud, and offences against the person, indecency or offences involving the conduct of collections.

5.8.4 The Council will not issue permits to an individual or organisation whose aims do not appear to be charitable or of a closely allied nature. Where there is any doubt about the aims of the collecting body, it may be asked to provide further evidence to clarify that doubt.

5.8.5 Whilst it is not the Council's policy to require an organisation applying for a permit to collect to be a registered charity, where an application is received that is considered in the Council's judgment not to fulfil the Council's aims, the Licensing Officer for Sevenoaks District Council may refuse the application.

5.8.6 The Council will only issue permits to an individual or organisation which provides adequate information so that the application can be considered properly. This may include any information, which might lawfully be requested by the Council in addition to that given on the application form.

5.9 Face-to-Face Direct Debit (DD) Charitable Street Collections

5.9.1 The Council does not control collections where pledges are collected for direct debit donations (clipboard collectors or 'chuggers') because they do not collect actual money and there are no legal provisions for collections of this type at present.

5.9.2 The Council entered into an agreement with The Public Fundraising Regulatory Association (PFRA) to provide voluntary controls on the activities of Face-to-face Direct Debit (DD) Charitable Street Collectors.

Under the agreement, the PFRA is responsible for booking all collections in the designated area and dealing with all complaints received in respect of direct debit collections.

5.10 Approval of the Application – Issue of a Street Collection Permit

5.10.1 On approving the application, a Street Collection Permit will be issued to the applicant along with:

- i. A link to the Council's Policy/Regulations for a street collection which must be adhered to during and after collections;
- ii. A copy of the street collections Form of Statement/Returns Form which must be completed not later than one month from the collection date or a link to form which will be available on the Council's website – www.sevenoaks.gov.uk/business/licences-and-permits;

- iii. Details of the date, time or frequency of the collection;
- iv. Details of the area within which the collection is to take place;
- v. Details of the form of collection boxes, other containers and any other articles to be used; and
- vi. Any other restriction relating to the circumstances and conduct of the collection.

5.11 Submission of Statement of income and expenditure

5.11.1 Attention is drawn to section 6.22 of the regulations which sets out the procedure for submission of a statement of income and expenditure (certified by the applicant and either an accountant or an independent person of good standing acceptable to the Council) etc. All items required under this regulation must be submitted within one month of the date of collection and it is essential that this time scale be adhered to. Failure to comply may prejudice any future applications.

5.12 Duration of Permit

5.12.1 The permission to carry out a street collection is valid only for the period of collection specified in the permit. There are no provisions in the legislation for renewal of permits. Therefore, in all cases where a street collection permit has expired, a new application will have to be made for future collections.

5.13 Refusal/Revocation of Application/Licence

5.13.1 There are no statutory grounds for refusing an application for a street collections permit. However, there is an implied power to refuse if the Council considers that the collections:

- i. Are not for “charitable or other purposes”
- ii. Contravene the provisions of the Street Collection legislation and regulations.

5.13.2 In addition, the Council can refuse any application that is inconsistent with its general policy requirements for the issue of permits in the District. Some of these reasons may include:

- i. To limit the number of collections
- ii. If too high a proportion of the proceeds are likely to be spent on expenses
- iii. If inaccurate information was provided on the licence application
- iv. If the promoter or any other person involved has been convicted of certain criminal offences, in particular offences of dishonesty e.g. theft, blackmail or fraud etc.

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v. Once issued, a licence may be revoked if it is believed the objectives are or could be compromised.

5.14 Appeals

5.14.1 Any person/organisation who is dissatisfied with the refusal of an application for a street collection permit may request that the application be considered formally by a sub-committee of the Licensing Committee. This must be made in writing within 21 days of the date of refusal letter.

5.14.2 The Act does not make provision for legal appeals against the decision of the Council in relation to the refusal of Street Collection Permits. Should a person aggrieved by a decision of the Council feel it necessary, they may seek a Judicial Review of the decision.

6.0 STREET COLLECTION REGULATIONS

Police, Factories and (Miscellaneous Provisions) Act 1916, Local Government Act 1972 (S.251), Statutory Instrument 140/1974, as amended by: Criminal Law Act 1977 and Criminal Justice Act 1982

6.1 In these Regulations, unless the context otherwise requires:-

“collection” means a collection of money or a sale of articles for the benefit of charitable or other purposes; and the word:-

“collector” shall be construed accordingly;

“promoter” means a person who causes others to act as collectors;

“the Local Authority” means the Sevenoaks District Council;

“ the Licensing Authority” means the Licensing Department within Sevenoaks District Council;

“permit” means a permit for a collection;

“contributor” means a person who contributes to a collection and includes a purchaser of articles for sale for the benefit of charitable or other purposes;

“collecting box” means a box or other receptacle for the reception of money from contributors.

6.2 No collection, other than a collection taken at a meeting in the open air, shall be made in any street or public place within Sevenoaks District unless a promoter shall have obtained from the licensing authority, a permit.

6.3 Application for a permit shall be made in writing not later than one month before the date on which it is proposed to make the collection.

6.4 Provided that the Local Authority may reduce the period of one month if satisfied that there are special reasons for so doing.

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6.5 No collection shall be made except upon the day and between the hours stated in the permit already agreed between the promoter and the Licensing Authority of Sevenoaks District Council.

6.6 The Local Authority may, in granting a permit, limit the collection to such streets or public places or such parts thereof as it thinks fit.

6.7 No person may assist or take part in any collection without the written authority of a promoter.

6.8 Any person authorised under paragraph 6.7 shall produce such written authority forthwith for inspection in being requested to do so by a duly authorised officer of the Local Authority or any constable.

6.9 No collection shall be made in any part of the carriageway of any street which has a footway.

The Authority may however, if it thinks fit, allow a collection to take place on the said carriageway where such collection has been authorised to be held in connection with a procession.

6.10 The following terms must be adhered to at all times whilst in accordance with a collectors permit:

- i) No collection shall be made in a manner likely to inconvenience or annoy any person.
- ii) No collector shall importune any person to the annoyance of such person.
- iii) While collecting –
 - (a) a collector shall remain stationary; and
 - (b) a collector or two collectors together should be not less than 25 metres apart from the nearest collector at all times,

The Authority may however, if it thinks fit, waive the requirements of the regulations under paragraph 6.10 in respect of a collection which has been authorised to be held in connection with a procession.

6.11 No promoter, collector or person who is otherwise connected with a collection shall permit a person under the age of sixteen years to act as a collector.

6.12 Every collector shall carry a collecting box.

6.13 All collecting boxes shall be numbered consecutively and shall be securely closed and sealed in such a way as to prevent them being opened without the seal being broken.

6.14 All money received by a collector from contributions shall immediately be placed in a collecting box.

6.15 Every collector shall deliver, unopened, all collecting boxes in their possession to a promoter.

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6.16 A collector shall not carry or use any collecting box, receptacle or tray in which the name of the charity or fund of which it is to benefit is not clearly and prominently displayed on the exterior of the collection box, nor will a collector be permitted to carry any collection box which is not duly numbered.

6.17 Subject to paragraph 6.18 below a collecting box shall be opened in the presence of a promoter and another responsible person.

6.18 Where a collecting box is delivered, unopened, to a bank, it may be opened by an official of the bank.

6.19 As soon as a collecting box has been opened, the person opening it shall count the contents and shall enter the amount with the number of the collecting box on a list which shall be certified by that person.

6.20 No payment shall be made to any collector.

6.21 No payment shall be made out of the proceeds of a collection, either directly or indirectly, to any other person connected with the promotion or conduct of such collection for, or in respect of, services connected therewith, except such payments as may have been approved by the Licensing Authority with regard to reasonable expenses.

6.22 Within one month after the date of any collection the person to whom a permit has been granted shall forward to the Licensing Authority –

a) a form of statement issued by Sevenoaks District Council, or in a form to the like effect, showing the amount received and the expenses and payments incurred in connection with such collection, and certified by that person and a qualified accountant:

b) a list of the collectors.

c) a list of the amounts contained in each collecting box; and shall, if required by the licensing authority, satisfy it as to the proper application of the proceeds of the collection.

6.23 The said person shall also, within the same period, at the expense of that person and after a qualified accountant has given his certificate under paragraph 6.22 (a) above, publish in such newspaper or newspapers within Sevenoaks, a statement showing the name of the person to whom the permit has been granted, the area to which the permit relates, the name of the charity or fund to benefit, the date of the collection, the amount collected, and the amount of the expenses and payments incurred in connection with such collection.

6.24 The Local Authority may, if satisfied there are special reasons for so doing, extend the period of one month referred to in paragraph 6.22 above.

6.25 For the purposes of this Regulation “a qualified accountant” means a member of one or more of the following bodies:-

- the Institute of Chartered Accountants in England and Wales;
- the Institute of Chartered Accountants of Scotland;
- the Association of Certified Accountants;
- the Institute of Chartered Accountants in Ireland.

6.26 These regulations shall not apply -

- i) in respect of a collection taken at a meeting in the open air; or
- ii) to the selling of articles in any street or public place when the articles are sold in the ordinary course of trade.

6.27 Any person who acts in contravention of any of the foregoing regulations shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

7 GUIDANCE FOR HOUSE TO HOUSE COLLECTIONS

7.1 An application for a House to House licence must be made to the Council in writing on the prescribed application form no less than one month before the proposed collection date.

7.2 House to House application forms and a copy of the House to House regulations may be submitted and downloaded from the Partnership website www.sevenoaks.gov.uk and following the links to licences and permits.

Alternatively, these documents can be obtained from the Licensing Partnership's administration team located at Sevenoaks District Council at the following address:

Licensing Partnership
P.O Box 182
Sevenoaks
Kent TN13 1GP

Email: licensing@sevenoaks.gov.uk
Tel No: 01732 227004;

The Local Authority cannot grant a licence for a period longer than twelve months and may refuse a licence, or where granted, may revoke it, in circumstances specified in the House to House Collections Act 1939.

7.3 The application form must be fully and correctly completed and accompanied where appropriate by any necessary information. Before the Authority can grant a House to House collection permit, it needs to have as much information as possible about the charity, its promoters and its collectors and may from time to time request additional information to the application form.

7.4 If the Charity has not previously applied for a permit to conduct a collection within Sevenoaks, the following must accompany the application:

- i) The aims and objectives of the organisation including any supporting documents, e.g. constitution and/or articles of association;

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- ii) details of house to house collection licences approved or refused (other than within the Sevenoaks District Council area);
- iii) a copy of the organisation's most recently audited accounts;
- iv) and any other relevant information requested by the Council.

7.5 Applications will be considered on receipt and, where appropriate, additional information may be requested from the applicant. Failure to provide adequate information in the application form or upon request will result in a refusal or a delay in consideration until any outstanding information has been provided.

7.6 There is a right of appeal to the Secretary of State against the refusal or the revocation of a licence. This should be made within fourteen days from the date on which notice is given of the refusal or the revocation.

7.7 Exemptions

7.8 Where the Secretary of State is satisfied that a person pursues a charitable purpose throughout the whole, or a substantial part of England and Wales, and is committed to promoting collections for that purpose, the Secretary of State may by Order direct, in effect, that such person shall be exempt from the requirement to obtain licences from the Licensing Authority, in respect of collections for that purpose in such localities as may be described in the Order.

7.9 If the Chief Constable for the Police Area including the locality in which a collection for a charitable purpose is being, or proposed to be, made is satisfied that the purpose is local in character, and that the collection is likely to be completed within a short period, he may grant to the person who appears to him to be principally concerned in the promotion of the collection a Certificate in the prescribed form; and where a Certificate is so granted, a Licence from the Licensing Authority is not required and the provisions of the Regulations (see paragraph below) shall not apply to a collection made in conformity with this Certificate.

8.0 HOUSE TO HOUSE COLLECTIONS POLICY

8.1 Introduction and Overview

This part of the Policy sets out how the Council will deal with charitable organisations that wish to collect money or other articles by means of going from house to house which includes places of business such as shops and public houses.

8.2 Definitions

“Charitable Purpose” means any charitable, benevolent, or philanthropic purpose.

“Collection” means an appeal to the public, made by means of visits from house to house, to give, whether for consideration or not, money or other property; and

“Collector” means a person who makes the appeal in the course of such visits.

“House” includes a place of business.

“Proceeds” means in relation to a collection, all money and all other property given, whether for consideration or not, in responses to the appeal.

“Promoter” means a person who causes others to act as collectors for the purposes of the collection.

8.3 The promoter of a collection must, within one month of the expiry of the licence, furnish an account of the collection in the form prescribed to the licensing authority or the Secretary of State, as the case may be.

8.4 Data Protection Act 1998: Sevenoaks District Council is registered with the Data Protection Act 1998 for the purpose of processing personal data in the performance of its legitimate business. Any information held by the Council will be processed in compliance with the principles set out in the Act.

If you have concerns about the processing of your personal data by the Council you may contact the Council’s Data Protection Officer: Sevenoaks District Council, Council Offices, Argyle Road, Sevenoaks, Kent, TN13 1HG.

8.5 “Charity”

For the purposes of the law of England and Wales, “charity” means an institution which:

- a) is established for charitable purposes only, and
- b) falls to be subject to the control of the High Court in the exercise of its jurisdiction with respect to charities.

8.6 “Charitable Purpose” may be defined if it meets one of the following objectives:

- a) the prevention of relief of poverty;
- b) the advancement of education;
- c) the advancement of health or the saving of lives;
- d) the advancement of citizenship or community development;
- e) the advancement of the arts, culture, heritage or science;
- f) the advancement of amateur sport;
- g) the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity;
- h) the advancement of environmental protection or improvement;
- i) the relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage;
- j) the advancement of animal welfare;
- k) the promotion of the efficiency of the armed forces of the Crown, or of the efficiency of the police, fire and rescue services or ambulance services;

8.7 House to House Collections, as set out under Section 2 of the House Collections Act 1939 and the House to House Collections Regulations 1947, are required to be licensed and regulated by Local Authorities.

8.8 In accordance with its powers, the Authority made regulations under this legislation for the control of House to House collections in the area of Sevenoaks District Council.

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8.9 The Act and the Regulations made there under contain important provisions for The Regulation of House to House Collections for Charitable Purposes, and prescribe fines and/or imprisonment for offences against the Act or the Regulations.

8.10 No collection for a charitable purpose may be made in any locality of Sevenoaks District Council unless the promoter is licensed by the Council for the area comprising that locality, and the collectors are authorised by the promoter.

8.11 Whilst each application will be decided on merit, at least 75% of the total proceeds of the collection must be given to the charity or cause. No more than 25% of the total proceeds can be deducted by the organisation for expenses/costs relating to the collection.

8.12 Under an Exemption Order, the requirement is only to notify the Local Authority of the charity's intention and to send to the Authority the account forms for our inspection files.

8.13 Under these instructions the Council have in some weeks had a number of collections put forward during the same period of time. Therefore the Authority may defer a collection to a later date if there is too high a concentration of collections in an area over a period of time.

9.0 HOUSE TO HOUSE COLLECTIONS REGULATIONS 1947

9.1. Introduction

Except in the cases specified in Paragraphs 9.1.3 and 9.1.4:-

9.1.1 House to House Collections, as set out under Section 2 of the House Collections Act 1939 and the House to House Collections Regulations 1947, are required to be licensed and regulated by Local Authorities.

9.1.2 No collection in any locality for a charitable purpose may be made unless the promoter is licensed by the Council for the area comprising that locality, and the collectors are authorised by the promoter.

9.1.3 Application for a licence must be made in the prescribed manner. The Council cannot grant a licence for a period longer than twelve months and may refuse a licence, or where granted, may revoke it, in circumstances specified in the Act. There is a right of appeal to the Secretary of State against the refusal or the revocation of a licence, within fourteen days from the date on which notice is given of the refusal or the revocation.

9.1.4 Where the Secretary of State is satisfied that a person pursues a charitable purpose throughout the whole, or a substantial part of England and Wales and is desirous of promoting collections for that purpose, the Secretary of State may by Order direct, in effect, that such a person shall be exempt from the requirement to obtain licences from the Council, as respects all collections for that purpose in such localities as may be described in the Order.

9.1.5 If the Chief Constable for the Police Area comprising a locality in which a collection for a charitable purpose is proposed to be made is satisfied that

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the purpose is local in character and that the collection is likely to be completed within a short period, he may grant to the person who appears to him to be principally concerned in the promotion of the collection a Certificate in the prescribed form; and where a Certificate is so granted, a Licence from the Council is not required, and the provisions of the Regulations (as to which see Paragraph 9.1.6 below) shall not apply to a collection made in conformity with such Certificate.

9.1.6 Regulations have been made by the Secretary of State under the Act. The Regulations include the following, amongst other provisions:

(a) Every promoter of a collection must exercise all due diligence to secure that persons authorised to act as collectors are fit and proper persons; and to secure compliance by collectors with the Regulations.
(b) No promoter of a collection shall permit any person to act as a collector unless he has issued to that person:

(i) a prescribed Certificate of Authority;
(ii) a prescribed badge; and
(iii) if money is to be collected, a 'Collecting Box' marked, or a 'Receipt Book' (with receipts and counterfoils or duplicates consecutively numbered) marked on every receipt, with a general indication of the purpose of the collection, and a distinguishing number.

(c) In the case of a collection in respect of which a licence has been granted, every prescribed Certificate of Authority shall be given on a form obtained from H.M. Stationary Office, and every prescribed Badge shall be so obtained.

(d) No person under the age of 16 years, shall act or be authorised to act as a collector of money.

(e) No collector shall importune any person to the annoyance of such person, or remain in, or at the door of, any house if requested to leave by any occupant thereof.

(f) The promoter of a collection must, within one month of the expiry of the licence, furnish an account of the collection in the form prescribed to the licensing authority or the Secretary of State, as the case may be.

10.0 ENFORCEMENT

10.1 The Council has adopted a statement of Compliance and Enforcement Policy. Any breaches of the legislation or this policy will be considered with reference to the Compliance and Enforcement Policy.

The Council is committed to accord with the principles of good compliance/enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner and will abide by its own Compliance and Enforcement Policy.

10.2 Licensing Officers aim to work closely with other enforcement agencies when investigating unauthorised Collections and Promoters of those collections and persons causing a nuisance, annoyance or harassment to the public.

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10.3 Where licensable activities are conducted without the benefit of a licence/permit, the Council will look to gather evidence and take enforcement action as appropriate.