



ASHFORD  
BOROUGH COUNCIL

# **LICENSING ACT 2003**

## **LICENSING POLICY**

2011 - 2014

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## **PART A: Introduction**

### **Purpose and Scope of Policy**

1. Ashford Borough Council, the Licensing Authority for Borough of Ashford, makes this statement of licensing policy in accordance with section 5 of the Licensing Act 2003.
2. The 2003 Act requires the Licensing Authority to carry out its various licensing functions so as to promote the four licensing objectives. The licensing objectives are:
  - **The prevention of crime and disorder**
  - **Public safety**
  - **The prevention of public nuisance**
  - **The protection of children from harm**
3. This statement of licensing policy sets out the policies the Licensing Authority will generally apply to promote the licensing objectives when undertaking its duties under the 2003 Act.
4. The Licensing Authority is responsible for premises licences, club premises certificates, temporary events notices and personal licences in the Borough in respect of the sale and supply of alcohol, regulated entertainment and late night refreshment.
5. This policy covers a wide variety of premises and activities carried on within them including pubs, nightclubs, restaurants, cinemas, theatres, private members' clubs, village halls, community centres, open spaces, retail units, fast food outlets, etc. For this reason, this policy cannot detail all the factors that influence the achievement of the licensing objectives nor can this policy detail all the control measures that may be appropriate.
6. The licensing process can only seek to control those measures within the control of the licensee, and "in the vicinity" of a premises. The "vicinity" of a premises will be considered on a case by case basis.
7. This statement of licensing policy has been prepared in accordance with the provisions of the 2003 Act and having regard to the Guidance issued under Section 182 of the Act (as revised). Where it is necessary to depart from the Guidance when discharging its functions under the 2003 Act the Licensing Authority will give clear and cogent reasons for doing so. Similarly, the Licensing Authority will have regard to this Statement of Licensing Policy and where it is necessary to depart from it, clear and cogent reasons will be given.
8. This policy will in no way undermine the rights of any individual under the 2003 Act to apply for a variety of permissions or to make representations on

an application. Where relevant representations have been received, **all applications will be considered on their merits**, as well as against the relevant policy and statutory framework. Nor does this policy undermine the right of any person to seek a review of a licence or certificate.

9. In carrying out all its various licensing functions, including formulating this policy, the Licensing Authority is to have regard to the provisions of the Human Rights Act 1998. The Licensing Authority is also to have due regard to its obligations under the Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000. The Licensing Authority should have regard to Section 17 of the Crime and Disorder Act 1998 and, so far as possible, reflect local crime prevention strategies.
10. This policy statement takes effect on 7<sup>th</sup> January 2011 and will remain in force for a period of 3 years. However it will be kept under review throughout the three-year period and such revisions as are considered necessary will be made, following consultation with the appropriate bodies and individuals.

### **Partnership working**

11. The Licensing Authority will seek proper integration with local crime prevention, planning, transport, employment, tourism and cultural strategies. To this end, the Licensing Committee will provide reports to the planning committee on the situation regarding licensed premises in the area and arrangements will be made for the Licensing Committee to receive reports on the needs of the local tourist economy and the cultural strategy for the area to ensure that these are reflected in their considerations.
12. In reviewing this policy the Council is consulting with the public and representative bodies and the views of all of the following will be given appropriate weight when determining this policy:
  - the chief officer of police for the area;
  - the fire and rescue authority for the area;
  - bodies representative of local holders of premises and club premises certificates
  - bodies representative of businesses and residents in its area; and
  - Kent County Council's Trading Standards and the Environmental Health Manager of Ashford Borough Council.
13. The Licensing Authority will endeavour to work with other local authorities, particularly where licensing authority boundaries meet, to ensure a consistent approach is taken to licensing matters while respecting the differing needs of individual communities throughout the county.

### **Relationship to Planning Process**

14. The use of any licensed premises or places may be subject to planning controls. There are several key differences between licensing and planning

control. Licensing is concerned with the fitness of the operator and detailed issues concerning the operation and management of the premises that are not addressed by the planning process, which relates to the use of the premises.

15. There is no legal basis for a licensing authority to refuse a licence application because it does not have the relevant planning permission.

### **Enforcement**

16. The Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services. The Licensing Authority will support the principles of the Government's Enforcement Concordat designed to ensure effective and efficient public protection services and practice by carrying out its regulatory functions in a fair, open and consistent manner.
17. Separate Kent wide enforcement policies and protocols are in place and have been adopted by the Licensing Authority

### **Cumulative Impact**

18. The Licensing Authority will not take 'need' into account when considering an application, as this is a matter for the market. However, it recognises that the cumulative impact of the number, type and density of licensed premises in areas such as the town centres of the Borough, may lead to serious and chronic problems of nuisance, crime and disorder in those areas.
19. In these circumstances, if the Licensing Authority consider that the imposition of conditions on premises is unlikely to address these cumulative problems it may consider the adoption of a *special saturation policy* of refusing new premises licences or club premises certificates because the area is saturated with licensed premises and the granting of any more would undermine one of the licensing objectives.
20. At this time both the Police and Council Officers consider there is insufficient evidence of a serious and chronic problem of nuisance and disorder arising from the number of licensed premises within any area of the Borough that would justify the adoption of a special saturation policy.
21. Also other licensing and non-licensing measures may be utilised, and will be considered where appropriate, to tackle unruly or unlawful behaviour of patrons when beyond the control of premises. Licensing is not the only mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the vicinity of the licensed premises and beyond the direct control of the licensee or others holding authorisations.

Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy.

22. Responsible authorities will continue to gather evidence regarding this issue and review the policy regularly. The Council will keep this area under review. This is of particular important given the planned growth in Ashford over the next ten years.
23. The Licensing Authority will take the following steps when considering whether to adopt a Special Saturation Policy:
  - identification of concern about crime and disorder or public nuisance;
  - consideration of whether it can be demonstrated that serious and chronic crime and disorder and nuisance problems are arising and are caused by the customers of licensed premises, and if so identifying the area from which problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent;
  - consultation with those specified by section 5(3) of the 2003 Act as part of the general consultation required in respect of the whole statement of licensing policy;
  - subject to that consultation, inclusion of a special policy about future premises licence or club premises certificate applications from that area in the statement of licensing policy;
  - publication of the special policy as part of the statement of licensing policy

The Licensing Authority will review any special saturation policies regularly to see whether they have had the effect intended, and whether they are still needed.

24. The onus will generally be on those making representations to provide evidence, including where applicable statistical data, to back up any assertion that the addition of premises in an area would produce the cumulative impact claimed, taking into account that the impact will be different for premises with different styles and characteristics.
25. It should be noted that the absence of a special policy does not prevent any responsible authority or interested party making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

### **Promoting Cultural Life**

26. Licensing is not solely about control but about promoting a diverse and vibrant cultural life for all. A well-regulated, varied evening and night-time economy can benefit both residents and businesses and contribute to the promotion of the licensing objectives. This statement of licensing policy will

therefore also support through integration with other strategies a number of other aims and purposes:

- the use of proportionate regulation to give business greater freedom and flexibility to meet their customers' expectations
  - greater choice for consumers, including tourists, about where, when and how they spend their leisure time;
  - the encouragement of more family friendly premises where younger children can be free to go with the family;
  - the maintenance of a safe and family friendly environment within the Borough, particularly within town centres.
  - the further development within communities of our rich culture of live music, dancing and theatre, and other forms of entertainment both in rural areas and in our towns;
  - the regeneration of areas that need the increased investment and employment opportunities that a thriving and safe night-time economy can bring; and
  - the necessary protection of local residents, whose lives can be blighted by disturbance and anti-social behaviour associated with the behaviour of some people visiting places of entertainment.
27. This policy will seek to reflect local requirements and recognise the need to encourage and promote live music, dancing and theatre and other forms of entertainment for the wider cultural benefit of communities generally. The potential for limited disturbance in neighbourhoods will be carefully balanced with these wider benefits, particularly for children. Through consultation the Licensing Authority will monitor the impact of licensing on the provision of regulated entertainment, and particularly live music and dancing.

### **Amusement with prizes machines**

28. The Gambling Act 2005 gives an automatic entitlement to two gaming machines for category C or D to the holders of premises that are licensed for the sale of alcohol for consumption on the premises at a bar. This automatic entitlement may be rescinded under certain circumstances. Notification must be given to the Licensing Authority together with the appropriate fee. This notification will fail when the premises licence is transferred to another person or ceases to have effect. Under these circumstances a new notification must be given to the Licensing Authority and a fee paid.
29. Where the intention is to make more than two machines available for use application must be made to the Licensing Authority. The Licensing Authority may restrict the number of machines on a premises if it appears that the licensing objectives under the Licensing Act 2003 or Gambling Act 2005 are not being promoted. An application fee and annual fee will need to be paid however this permit may be transferred with the premises licence.

## Minor Variations

30. In order to assist the holders of premises licence and club premises certificates to make variations to licences and certificates new regulations have been brought into effect. The test as to whether such a minor variation is appropriate is “could this variation taken singly, or on its own, adversely affect the licensing objectives?” If in the view of the Licensing Authority this is the case a full variation or a new premises application would be required.
31. A minor variation may be appropriate in cases:
  - Where there is a minor change to the layout of a premises that would not effect public safety or nuisance
  - A reduction in the hours of operation of a premise
  - The removal of conditions that have become obsolete due to changes in legislation
  - The addition of voluntary conditions
32. Minor variations are not permitted if the hours for the sale or supply of alcohol are increased or if the effect of the variation is to move the hours of alcohol to allow the licensable activity to be carried out between the hours of 23:00 and 07:00 on any day (notwithstanding that there is no increase in hours).
33. The Licensing Authority may consult with such responsible authorities as its thinks appropriate and must consider any representation made by an interested party.
34. When determining any application for a minor variation the Licensing Authority may receive valid representation if made within 10 days of the application. The Authority must make its determination within 15 days of the application. Should the Authority fail to determine the application within this time its will have deemed to have failed. The decision as to whether to allow a minor variation rests with the Licensing Authority and may only be challenged by way of judicial review.

## Mandatory Conditions

35. Alcohol-related violent crime, nuisance and disorder remain a serious problem in many areas in England and Wales. Those who retail or supply alcohol also have a responsibility to protect their customers, members, the public and communities.
36. The Policing and Crime Act 2009 allowed the Government to impose mandatory conditions with regard to the responsible retailing of alcohol. These conditions must be intended to support and actively promote the licensing objectives. The aim of the mandatory conditions is to ensure that those businesses, both small and large, who are selling alcohol

irresponsibly, act more responsibly to help tackle alcohol-related crime and disorder.

37. Many of the proposed conditions involve restrictions on irresponsible practices or promotions and hence will not have any impact on those businesses that do not currently operate these types of practices or promotions. However, it is likely that some businesses are operating them and hence will be affected by these conditions. There are also some conditions which require premises to adhere to particular good practice and these may also have an impact on some small businesses. The supply of alcohol by member's clubs and miner's welfare institutes is also included in the conditions.
38. For the purposes of this policy a responsible will be considered to be:
- Premises licence holder
  - Designated premises supervisor
  - A person aged 18 or over who is authorised to allow the sale or supply of alcohol by an under 18
  - A member or officer of a club present on the club premises who can oversee the supply of alcohol
39. A responsible person should be able to prove that they have taken reasonable steps to be complaint with the mandatory conditions.
40. In particular the code requires that the responsible person shall :
- make free tap water available to customers on request
  - ensure that a proof of age policy is in place and operated in respect of persons who appear to be under the age of 18 years that includes a photograph, date of birth and holographic mark
  - where alcoholic drinks are sold for consumption on the premises (other than those sold in sealed containers) make such alcohol available 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; and

and is required to inform customers of the availability of such measures.

41. The definition as to what is an irresponsible drinks promotion is given within the mandatory conditions as:

*Any activity carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children*

Examples of this would be:

(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, 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 (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(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;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on–

(i) the outcome of a race, competition or other event or process, or

(ii) the likelihood of anything occurring or not occurring;

(e) 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

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

42. Whilst any prosecution will be assessed on its individual merit and in light of the Statutory Code of Practice for Regulators breaches of the mandatory code will always be viewed as serious and likely to be subject to enforcement action.

### **Early Morning Alcohol Orders**

43. The Crime and Security Act 2010 has amended the Licensing Act 2003 in that a licensing authority may make an order providing:

(a) premises licences and club premises certificates granted by the authority, and temporary event notices given to the authority, shall not have effect to the extent that they authorise the sale of alcohol between 3am and 6am, and

(b) club premises certificates granted by the authority shall not have effect to the extent that they authorise the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club between 3am and 6am.

44. It is immaterial for the purposes of an order under this section whether a premises licence or club premises certificate is granted, or a temporary event notice is given, before or after the order is made. The effects of this provision is that where such an order is made it becomes enforceable on all premises where a premises licence, club premises certificate or temporary events notice is in force notwithstanding that the permitted hours were granted prior to the order being made.
45. The Licensing Authority has considered that a primary objective of the Licensing Act 2003 is to allow for a phased closure of licensed premises at the end of an evening thus reducing the crime and disorder and nuisance associated with a number of premises closing at the same time. It is the intention of this Licensing Authority to make orders under this section only where it is shown to be necessary in order that the licensing objectives, and in particular those relating to crime and disorder and public nuisance, will be promoted.
46. Where it is intended to make such an order the Licensing Authority will advertise the intention in a local newspaper and, where relevant representations are made by:
- (i) an affected person,
  - (ii) an interested party, or
  - (iii) a responsible authority,

Hold a hearing to consider any relevant representations that are made.

47. Ashford Borough Council has no plans at present to bring in an order

### **Removal of the requirement for a Designated Premises Supervisor in a Community Premises**

48. In July 2009 further Regulations were passed to allow the removal of the requirement for a Designated Premises Supervisor in a Community Premises. The Management Committee of a Community Premises such as a church hall, chapel hall, village hall, parish hall, community hall or other similar building can now 'opt out' of the requirement to have a Designated Premises Supervisor when they either apply for a new Premises Licence or for the variation of an existing Premises Licence to include the sale/supply of alcohol.
49. Also a Management Committee of a Community Premises with an existing Premises Licence that already includes the sale/supply of alcohol can apply to vary the Premises Licence to remove the requirement for a Designated Premises Supervisor without altering anything else.

50. There is the need to complete an additional form as well as the application form for a new or variation of a Premises licence, requesting that instead of a Designated Premises Supervisor 'the alternative licence condition' is granted. There is no additional fee for this.
51. Where a Community Premises already has a Premises Licence that includes the supply/sale of alcohol and the Management Committee only wants to remove the requirement for a Designated Premises Supervisor and no other changes, only the new form needs to be completed to vary the Licence to have 'the alternative licence condition' granted. The appropriate fee must accompany the form.

## **PART B: Premises Licences**

### **Operating Schedules**

52. Each premises licence application must be accompanied by an operating schedule. An operating schedule should include the information that is necessary to enable any responsible authority or interested party to assess whether the steps to be taken to promote licensing objectives are satisfactory. With respect to variation applications the operating schedule need only address the impact of the variation and any additional measures that may be necessary as a result of the variation.
53. Applicants for premises licences or for variations of such licences are expected to conduct a thorough risk assessment with regard to the licensing objectives when preparing their applications. Whilst the Licensing Authority may not require such risk assessments to be provided or documented, it considers such documentation to be good practice and a useful tool in the instruction and training of staff. It is also a sound basis for review by the licence holder, in the event of an application for variation or a response to changing circumstances/conditions at the premises being required.
54. This risk assessment will usually be translated into the control measures recorded in the operating schedule submitted to the Licensing Authority. It is therefore for the applicant to decide which control measures should be included in their operating schedule. However the following paragraphs offer guidelines for applicants when completing their operating schedules.
55. The Licensing Act 2003 states that the following information must be included on all operating schedules:
  - The relevant licensable activities to be conducted on the premises;
  - The times during which it is proposed that the relevant licensable activities are to take place
  - Any other times when the premises are to be open to the public;
  - Where the licence is required only for a limited period, that period;
  - Where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the designated premises supervisor;
  - Where the licensable activities include the supply of alcohol, whether the alcohol will be supplied for consumption on or off the premises or both.

In addition, for new premises licence and club premises certificate applications, the Licensing Act 2003 states that the operating schedule must include a statement of the steps which it is proposed to take to promote the licensing objectives. For variation applications, the prescribed application form requires the applicant to state any proposed additional steps which he intends to take in order to promote the four licensing objectives if the proposed variation is granted.

The Secretary of State's Guidance also indicates the following further matters that should be addressed in operating schedules:

- A description of the style and character of the business to be conducted on the premises (for example, a supermarket, or a cinema with six screens and a bar, or a restaurant, or a public house with two bars, a dining area and a garden open to customers).
- Where alcohol is being sold for consumption on the premises in public houses, bars and nightclubs, it would also be valuable to know the extent to which seating is to be provided.
- Where dancing is to take place, describe the type of dancing in broad terms and disclose if the dancing involves striptease or lap-dancing.
- Where dancing is to take place, it should be clear whether this would involve dancing by members of the public or by professional performers or both and in what setting.
- If music is to be provided, it is important that clear indication is given of the type of music to be provided.
- In the case of passenger vessels, it will also be valuable for the area within any vessel where licensable activities will be taking place to be described.

The Licensing Authority also expects to see the following matters addressed in operating schedules and applicants should be aware that where these issues are not discussed that representations may be forthcoming from responsible authorities:

- When outlining the hours during which licensable activities take place information may also be included regarding the times during each day of the week, during particular holiday periods and during particular seasons, if it is likely that the times would be different during different parts of the year;
- When describing steps to promote the licensing objectives this should take into account a wide range of matters such as the design of the premises through to the daily operation of the business.
- The Licensing Authority considers the effective and responsible management of the premises, including, training and supervision of staff/volunteers and the adoption of best practice to be amongst the most essential control measures for the achievement of all the licensing objectives. For this reason, the Licensing Authority wishes these elements to be considered, evidenced and addressed within an applicant's operating schedule where appropriate.
- The Licensing Authority will generally expect the issue of occupancy capacity (including staff and performers) to be considered and addressed within an applicant's operating schedule where regulated entertainment is to take place. In other circumstances for example, in high capacity venues serving alcohol, occupancy may also be a factor to be addressed.

56. Annex D of the Guidance issued under s182 of the Licensing Act 2003 (as revised) gives 'pools' of model conditions, addressing a number of common issues. It is recommended to those drawing up operating schedules that they refer to these pools of conditions and include as control measures in their

applications any which their risk assessments show to be necessary in addressing the licensing objectives.

57. Appendix C sets out a number of local issues which are of particular concern within the Borough. Control measures / conditions are identified in this Appendix that the Licensing Authority and responsible authorities would consider best practice in addressing these local issues and would wish relevant applicants and licensees to specifically address these measures in their operating schedules.
58. Additional measures may also be necessary for certain occasions such as when a special event (e.g. popular live band) or promotion (e.g. during major sporting occasions) is planned, which is intended to, or likely to attract larger audiences and/or audiences of a different nature, and which can have a significant impact on the achievement of the licensing objectives. The Licensing Authority recommends that generic reference be made in an applicant's operating schedule, where applicable, to such occasions and the additional measures that are planned in order to achieve the licensing objectives.
59. Temporary events, that exceed the permitted criteria for Temporary Event Notices, will require a premises licence. These events can attract large crowds and the risks to public safety and to crime and disorder as well as public nuisance may be considerable. Early notice of such major events should be given to the Licensing Authority to allow responsible authorities to discuss operating schedules with the organisers well before a formal application is submitted. Many of these events will give rise to special considerations in respect of public safety.
60. Appendix B provides details of various organisations, trade associations and reference literature that an applicant may find useful in preparing an operating schedule and running a safe premises/event.

## **Conditions**

61. In the vast majority of cases the steps and control measures given in the operating schedule will translate into licence conditions. Indeed, unless a relevant representation is made by a responsible authority or interested party the Licensing Authority will have no choice but to grant the licence or certificate subject only to conditions that are consistent with the operating schedule and any mandatory conditions prescribed in the 2003 Act itself.
62. Professional experts in the areas concerned, such as the police, fire and environmental health officers, will consider operating schedules when applications for premises licences and club premises certificates are copied to them by applicants. Similarly, when considering conditions the Licensing Authority will look to the relevant responsible authorities to assist and advise on the appropriate measures to be taken. For example, the police will have a key role in advising on the installation and monitoring of CCTV. Necessary

conditions for licences and certificates will also depend on local knowledge of the premises.

63. The Licensing Authority will also seek to liaise with applicants and/or mediate between applicants and others who may make representations, to achieve a satisfactory outcome for all involved wherever possible and where resources permit. Where an applicant considers that representations may be likely or probable, it is recommended that the applicant discuss his proposal with the Licensing Authority and those from whom they think representations are likely to be made prior to submitting their application. Once an application has been lodged, there are statutory timescales imposed upon the application and determination process, which restrict the opportunity for such discussions, liaison and mediation.
64. It is recognised that there is a need to encourage a varied cultural life within the Borough, including live music, dance and theatre. Therefore, measures that impose costs of a substantial nature on premises will only be imposed where necessary and will generally be avoided.
65. Where a relevant representation has been received from either an interested party or a responsible authority and upheld at a hearing, additional conditions may be imposed on the licence. Conditions imposed on licences will be necessary, reasonable, proportionate and tailored to the individual circumstances and will **only** be imposed where necessary to promote the licensing objectives. All conditions attached to licences will be precise, clear, realistic and within the control of the management of the premises. Where relevant representations have been received, the principles in paragraphs 40-50 apply.
66. Annex D of the Guidance issued under s182 of the Licensing Act 2003 (as revised) gives 'pools' of conditions, addressing a number of common issues, from which the appropriate and proportionate conditions may be drawn for each application dependent on the individual circumstances. However, conditions not listed here may also be imposed if the circumstances make this appropriate to promote the licensing objectives. Under no circumstances will these measures be regarded as standard conditions to be automatically imposed in all cases. They are designed to provide a range of possible conditions drawn from experience relating to differing situations and to offer guidance.
67. The main body of this policy outlines the Licensing Authority's general approach to licensing decisions. However, a number of key local issues have been identified in the Borough. Approaches to these issues including possible conditions are outlined in Appendix C.
68. It should be recognised that this policy covers a wide variety of premises and activities including theatres, cinemas, restaurants, pubs, nightclubs, private members' clubs, village halls and community centres, as well as off-licences, fast food outlets and late night cafes. For this reason, this policy cannot detail all the factors that influence the achievement of the licensing

objectives nor can this policy detail all the control measures / conditions that may be appropriate.

69. The Licensing Authority will primarily focus on the direct impact of the activities taking place at licensed premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the vicinity concerned.
70. The Licensing Authority expects every holder of a licence, certificate or Temporary Event Notice to be responsible for minimising the impact of their activities and anti-social behaviour by their patrons within the vicinity of their premises.
71. When the Licensing Authority is considering any application, it will avoid duplication with other regulatory regimes, (e.g. health and safety at work, Environmental Protection legislation, Gambling legislation, equality legislation, the Regulation Reform (Fire Safety) Order) so far as possible, and it does not intend to use the licensing regime to achieve outcomes that have been or will be achieved by other legislation. Such regulations will not however always cover the unique circumstances that arise in connection with licensable activities, particularly regulated entertainment, at specific premises and tailored conditions may still be necessary.
72. Applicants need to be clear that the responsible authorities may pay particular attention to whether or not to operate stricter conditions with regard to noise control, which may include controls on licensing hours, where licensed premises are in residential areas. Such issues should be considered in Operating Schedules.
73. Fixed trading hours within designated areas will not be set as this could lead to significant movements of people across boundaries at particular times seeking premises opening later, with the attendant concentration of disturbance and noise. This would treat residents in one area less favourably than those in another, as well as causing the peaks of disorder and disturbance the legislation is trying to avoid.
74. In the case of shops, stores and supermarkets selling alcohol, the Licensing Authority will generally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless there are exceptional reasons relating to disturbance or disorder. For example, isolated shops within residential areas may become a focus of disorder and disturbance. In such cases the Licensing Authority may consider a restriction on opening hours, if representations are received.
75. Similarly, the hours during which alcohol may be sold in bingo halls and casinos will normally not be restricted to lesser hours unless it is necessary for the promotion of the licensing objectives.

## **Licensing Objectives**

### **Prevention of Crime & Disorder**

76. The Licensing Authority will seek to promote the licensing objective of preventing crime and disorder. It also has a statutory duty under section 17 of the Crime and Disorder Act 1998 to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.
77. Responsibility is placed on licence holders to become key partners in achieving this objective. Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.
78. When addressing the issue of crime and disorder, the applicant is expected to demonstrate that those factors that impact on crime and disorder have been considered. These may include but are not limited to:
  - Underage drinking
  - Drunkenness on premises
  - Drunkenness in vicinity of premises
  - Drugs
  - Violent behaviour
  - Anti-social behaviour
  - Drinks promotions
  - Drinking from bottles
  - The likelihood of any violence, disorder or policing problems arising if a licence were granted.

### **Public Safety**

79. The public safety objective is concerned with the physical safety of the people using the relevant premises or place and not with public health - which is adequately dealt with in other legislation. Accordingly, conditions will not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene. These are matters for other legislation and voluntary codes of practice and again duplication will be avoided.
80. The Licensing Authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. To this end, applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and events.
81. The 2003 Act covers a wide range of premises and each of these types of premises present a mixture of risks, with many common to most premises

and others unique to specific operations. It is essential that premises are constructed or adapted and operated so as to acknowledge and safeguard occupants against these risks. They will also need to ensure that they obtain the relevant Planning and Building Control permissions.

82. When addressing the issue of public safety the applicant is strongly advised to demonstrate that those factors that impact on public safety have been considered. These may include but are not limited to:
- The age, design and layout of the premises, including means of escape in the event of fire
  - The nature of the licensable activities to be provided
  - Customer profile (e.g. age, disability, customers whose first language is not English)
  - The use of special effects such as lasers, pyrotechnics, smoke machines and foam machines.

### **Occupancy Limits**

83. In accordance with the Secretary of State's guidance, safe capacities should only be imposed where necessary for the promotion of public safety or the prevention of crime and disorder. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it necessary for a new capacity to be attached which would apply at any time when licensable activities take place and may make representations to that effect. The Licensing Authority will attach significant weight to any relevant representations by the Fire Service in such cases.
84. The design and layout of premises are important in determining capacity, as is the availability and size of exits within recommended travel distances. Other factors should also be considered when assessing the appropriate capacity for premises or events. These may include but are not limited to:
- The nature of the premises or event
  - The nature of the licensable activities being provided
  - The provision or removal of such items as temporary structures, such as a stage, or furniture
  - The number of staff available to supervise customers both ordinarily and in the event of an emergency
  - The customer profile
  - Availability of suitable and sufficient sanitary accommodation
  - Nature and provision of facilities for ventilation
85. The setting of a capacity for premises or events should not be interpreted as a requirement in all cases to also provide permanent monitoring arrangements such as door staff, attendance clickers or maintenance of attendance records. The Licensing Authority recognises that the person in charge at the premises can often readily assess the capacity of premises without resort to such measures. However, where the capacity is likely to be reached (such as on known busy evenings) and particularly where a special event or promotion is planned, the applicant will be expected to detail the

additional arrangements that will be put in place to ensure that the capacity of the premises is not exceeded.

### **Prevention of Public Nuisance**

86. Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. The Licensing Authority wishes to proactively maintain and protect the conditions of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide. The benefits of licensable activities will need to be carefully balanced with the impact of such activities on neighbourhoods and the individuals living, working or active within them.
87. Whilst public nuisance is given a narrow interpretation in many pieces of legislation, it is not narrowly defined in the 2003 Act and retains its broad common law meaning for the Act's purposes. The prevention of public nuisance can therefore include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community. It may also include the prevention of the diminution of the living and working conditions and environment of interested parties in the vicinity of licensed premises.
88. When addressing the issue of prevention of public nuisance, the applicant is strongly advised to demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include but are not limited to:
  - The location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship
  - The hours of operation, particularly if between 23.00 and 07.00
  - The nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
  - The design and layout of premises and in particular the presence of noise limiting features
  - The occupancy capacity of the premises
  - The availability of public transport
  - Last admission times
  - Whether routes to and from the premises, on foot or by car or service or delivery vehicles, pass residential premises.
  - Whether taxis and private hire vehicles serving the premises are likely to disturb local residents.
  - Whether the premises would result in increased refuse storage or disposal problems or additional litter in the vicinity of the premise and any measures or proposed measures to deal with this.
  - The history of previous nuisance complaints proved against the premises, particularly where statutory notices have been served on the present licensees.

- Fly-posting activities
- Provision of late night refreshment

### **Protecting Children from Harm**

89. The protection of children from harm includes the protection of children from moral, psychological and physical harm and, in relation to the exhibition of films, or transmission of programmes or videos, this includes the protection of children from exposure to strong language, sexual imagery and sexual expletives. In certain circumstances children are more vulnerable and their needs will require special consideration. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example and their lack of understanding of danger.
90. The Licensing Authority recognises that the promotion of family-friendly environments is a key contributory factor in making a town or village centre welcoming to a variety of people of all ages. The 2003 Act in giving accompanied and unaccompanied children greater access to licensed premises is seen as a positive step, which may bring about a social change in family friendly leisure. Clearly, this relaxation places additional responsibilities upon licence holders. It is also recognised that adults accompanying children also have responsibilities.
91. However the risk of harm to children remains a paramount consideration when determining applications. Whilst the Licensing Authority will not impose restrictive conditions unless there are good reasons to do so, it will consider imposing further limitations where it appears necessary in relation to individual premises to protect children from harm, after receipt of relevant representations.
92. In all cases the admission of children will be a matter of discretion of the individual licensee or club, within the restrictions imposed by the 2003 Act or on the licence or certificate. In addition the 2003 Act outlines a number of offences related to licensing and children.
93. This policy cannot highlight every scenario where restrictions may be necessary but examples of premises where concerns will be raised include:
- Where there are convictions of current members of staff / management for serving alcohol to minors or premises with a reputation for underage drinking
  - Where the requirement for proof of age identification is not the norm
  - Where there is a known association with drug taking or dealing
  - Where there is a strong element of gambling on the premises. The presence of a small number of cash prize gaming machines will not be considered to represent a 'strong element' of gambling.
  - Where entertainment or services of an adult or sexual nature are commonly provided
  - Where the supply of alcohol for consumption of the premises is the exclusive or primary purpose of the services provided

- For premises giving film exhibitions, adequate arrangements for restricting access in line with the age restrictions on films.

When addressing the issue of protection of children from harm, the applicant is strongly advised to demonstrate that factors such as these have been considered where appropriate.

94. With regards to limiting access the following general presumptions are made:
- For any premises with known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there is a strong presumption against permitting any access at all for children under 18 years, when relevant representations have been received. Applicants wishing to allow access for children to premises where these associations may be relevant, when preparing operating schedules or club operating schedules or variations of those schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:
    - a. explain their reasons; and
    - b. outline in detail the steps that they intend to take to protect children from harm on such premises.
  - For any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00pm in the evening, there is a presumption against the presence of children under the age of 12 unaccompanied by adults after that time, when relevant representations have been received. Applicants wishing to allow access when preparing operating schedules or variations of those schedules or club operating schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:
    - a. explain their reasons; and
    - b. outline in detail the steps that they intend to take to protect children from harm on such premises.

## **Censorship**

95. Censorship is no part of the 2003 Act's licensing functions and except where child access may be restricted no conditions will generally be imposed which have the effect of censoring the content of any form of regulated entertainment.
96. It is not considered necessary for any conditions to be attached to licences concerning indecent displays. The Indecent Displays Act 1981 makes provisions prohibiting the public display of indecent matter, subject to certain exceptions.

97. Similarly, while conditions relating to public safety and protection of children in respect of dancing may be necessary in certain circumstances, the laws governing indecency and obscenity are sufficient to control adult entertainment involving striptease and lap-dancing which goes beyond what is lawful. Accordingly, conditions relating to the content of such entertainment could not be justified.

## **PART C: Temporary Event Notices**

98. The Licensing Authority requests that Temporary Event Notices (TEN) be issued to the Licensing Authority at least 28 days prior to the event to enable the Licensing Authority to deal with any issues in a timely manner. Organisers of temporary events are however strongly advised to contact the Licensing Authority's licensing section at the earliest opportunity (up to 12 months in advance) when planning events. However the licensing authority cannot insist that the notification period is any greater than the statutory minimum period of 10 working days.
99. Temporary Events will be closely monitored, particularly as there will be some events covered by a Temporary Event Notice that will not be covered by existing fire and safety legislation. This may be because there is no work activity taking place, for example, events using unpaid volunteers. The safety of members of the public attending such events is therefore not protected under any existing legislation.

## **PART D: Club Premises Certificates**

100. The 2003 Act recognises that premises, to which public access is restricted and where alcohol is supplied other than for profit, give rise to different issues for licensing law than those presented by commercial enterprises selling direct to the public.
101. However, the arrangements for applying for or seeking to vary club premises certificates are similar to those in respect of a premises licence and Club operating schedules, as with operating schedules for premises licences, must include the steps the club intends to take to promote the licensing objectives. These will be translated into conditions included in the certificate, unless the conditions have been modified by the Licensing Authority following consideration of relevant representations by responsible authorities or interested parties.
102. Casinos and bingo clubs are the subject of the Gambling Act 2005 with regard to the licensing of gaming and are required to offer gambling to members and their guests only. In practice this translates into restricted admission to the premises. Where applicants from such premises wish to carry on activities licensable under the 2003 Act, they will need to prepare an operating schedule. In detailing the steps to be taken in promoting the four licensing objectives the applicant may refer to the statutory conditions in respect of his gaming licence where relevant. The Licensing Authority will avoid duplication of these conditions when considering these applications.

## **PART E: Personal Licences**

103. The sale of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than that associated with the provision of regulated entertainment and late night refreshment. This is why a personal licence is required by individuals who may be engaged in authorising such sales.
104. Applicants with unspent convictions for relevant offences are encouraged to first discuss their intended application with the police and licensing officers before making their intended application. The Police and / or Licensing Officers may arrange a joint interview to discuss the circumstances surrounding the conviction.
105. Where an application is received from an applicant with unspent convictions for relevant offences, who has not previously been interviewed, the Police and / or Licensing Officers may interview the applicant should the police be minded to object to the grant of the licence.
106. Where an applicant is found to have an unspent conviction for a relevant or foreign offence, and the police object to the application, the matter will be heard before the Licensing sub-committee. Refusal of the application will be the normal course unless there are exceptional and compelling circumstances which justify granting the application.

### **Designated Premises Supervisors (DPS)**

107. Any premises at which alcohol is sold may employ one or more personal licence holders. For example, there may be one owner or senior manager possessing a personal licence and several junior managers similarly qualified. The main purpose of the “designated premises supervisor” as defined in the 2003 Act is to ensure that there is always one specified individual, among these personal licence holders, who can be readily identified for the premises.
108. The Licensing Authority will normally expect the DPS to have been given the day-to-day responsibility for running the premises by the premises licence holder. In addition to the DPS holding a personal licence, the Licensing Authority may also expect the DPS to have additional training and experience commensurate with the nature and style of the operation of the premises, where appropriate. This requirement may be imposed through conditions placed on the premises licences where relevant representations are made and it is considered necessary to promote the licensing objectives.
109. A joint interview including Police, Licensing Officers, Premises Licence Holder and the DPS, may be arranged where the police are minded to object to the transfer of a designated premises supervisor on the ground that such transfer may undermine the crime prevention objective.

110. Where the police object to the application to transfer, the matter will be heard before the Licensing sub-committee. However, refusal of the application will be the normal course unless there are exceptional and compelling circumstances which justify granting the application.

## **PART F: Representations and Reviews**

111. Where possible and appropriate the Licensing Authority, Kent Police and/or Kent Fire & Rescue Service will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.
112. A responsible authority or an interested party may make representations regarding an application for a new licence or to vary an existing one. At any stage, following the grant of a premises licence, a responsible authority, an interested party or a member of the Local Authority may also ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
113. Reviews will also follow any action by the Police to close down the premises on receipt of the notice of the magistrate's court's determination.
114. The Police may also make representations regarding Temporary Event Notices, transfer of premises licences, personal licences, changes of designated premises supervisor and interim authorities.

### **Irrelevant, frivolous, vexatious and repetitious representations**

115. Representations that in the opinion of the Licensing Authority are irrelevant, frivolous, vexatious or repetitious (in the context of reviews of licences only) will not be considered by the Licensing Authority.
116. In every case, an evidentiary basis for the representations made will need to be laid before the Licensing Authority. This evidence may take a number of forms including noise and incident diaries/logs.
117. A representation would only be "relevant" if it relates to the likely effect of the grant of the licence or variation on the promotion of at least one of the licensing objectives. The Licensing Authority may only review a licence where it is alleged that one or more of the licensing objectives are not being met.
118. It is for the Licensing Authority Officers to determine on its merits whether any representation is frivolous or vexatious. The individual or body making representations may not consider the matter to be vexatious or frivolous but Licensing Authority Officers must determine whether any ordinary and reasonable person would consider the issues raised to be vexatious or frivolous. Where such a determination is made the individual or body making the representation will be given reasons why this decision has been reached.
119. A repetitious representation is one made within the same 12-month period that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in respect of the same premises licence which has already been determined; or
- representations considered by the licensing authority when the premises licence was first granted;
- or representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement.

Such repetitious representations will not be considered except in exceptional and compelling circumstances or where it arises following a closure order

**PART G: Exercise and Delegations of functions**

120. All decisions on licensing matters under the 2003 Act, with the exception of the approval and review of its Statement of Licensing Policy, will be taken in accordance with the following scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making.

<b>Matter to be dealt with</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for grant or renewal personal licence	If Police representation made	If no representation made
Decision whether to revoke personal licence when convictions come to light after grant	All cases	
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If representation made	If no representation made
Application for provisional statement	If representation made	If no representation made
Application to vary premises licence/club premises certificate	If representation made	If no representation made
Application to vary designated premises supervisor	If Police representation made	All other cases
Request to be removed as designated premises supervisor		All cases
Application to transfer premises licences	If Police representation made	All other cases
Applications for Interim Authorities	If Police representation made	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision whether a representation is irrelevant, frivolous, vexatious etc		All cases
Decision to object when local authority is a consultee and not the lead authority	All cases	
Determination of a police representation to a temporary event notice	All cases	
Determination of application for the alternative licence	If police representation made	<i>If no police objection is</i>

condition to be included in the licence instead of the conditions in section 19(2) and (3))		<i>Made</i>
Determination of application by community premises to disapply the mandatory conditions for alcohol on a premises	If police representation made	<i>If no police objection is Made</i>
Determination of application for a review: supply of alcohol from community premises	If police representation made	
Determination of application for expedited reviews	If police representation made	
Determination of application for Interim steps	If police representation made	
Determination of application for a review of premises licence following review notice	If police representation made	
Application for a Minor Variation of a Premises Licence		<i>All cases including if representation is made</i>
Application for a Minor Variation of a Club Premises Certificate		<i>All cases including if representation is made</i>

121. This form of delegations is without prejudice to Officers referring an application to a Sub-Committee, or a Sub-Committee to Full Committee, if considered appropriate by the Licensing Officer or Sub Committee in the circumstances of any particular case and where permitted by legislation.
122. Where Officers have used delegated powers they will provide summary reports to the Licensing Committee via annual information reports.

## APPENDIX A: The Borough of Ashford

Ashford Borough Council is situated in the County of Kent, which contains 12 District Councils and 1 Unitary Authority in total. Each is represented on the Kent & Medway Regulatory Licensing Steering Group whose role includes the identification of issues on which a consistent countywide approach is considered essential and the formulation of recommended policy that establishes a minimum standard on these identified issues.

Ashford is the largest Borough in Kent, covering 224 square miles and containing 39 parishes. It is part of the Weald Police area. The estimated population of the Borough is currently 112,000, having trebled in the last 40 years. The comparatively low population for the size of the Borough gives an indication of Ashford Borough's rural nature.

With the Eurostar rail link providing a gateway to Europe, the introduction of the HighSpeed 1 fast train to London and the M20 motorway, Ashford proudly boasts to be best placed in Britain. The current and projected residential and industrial growth offers huge opportunities for the people of the Borough and also present challenges, including those of balancing licensing control and cultural development, to the Council, residents and businesses.



### Number of Licensed Premises

There are approximately 395 licensed premises in the Borough, of which 372 hold premises licences and 23 hold club premises certificates. In addition the Licensing Authority has granted over 1030 personal licences .

### Consultation details

The Home Office has recently undertaken a consultation exercise on major reforms of the Licensing Act 2003 and when the proposals are put before

Parliament they will undoubtedly result in major changes to the legislative framework.

Due to the likely substantial nature of these changes, it is very likely that Ashford Borough Council's Licensing Policy will require major review in 2011/12. It is therefore proposed to make changes in this policy that reflect only the legislative changes that already in place. It is proposed that a selective and short consultation will take place for these changes to the previous policy. A full scale consultation should take place when the comprehensive review of the policy is undertaken.

Consultation will be undertaken both in hard copy i.e. posting out of policies and requesting written replies and also in electronic format via the Council's website. The following groups will be consulted.

1. *Public*

A press release will be placed in the Kentish Express notifying the public and businesses of the consultation exercise.

2. *Existing licensees*

Holders of premises licences and personal licence holders actively engaged in Ashford's Pubwatch will be invited to request copies of the policy and to submit their comments

3. *Businesses*

Major pub companies and local breweries will be asked to comment,

4. *Responsible Authorities*

Kent Police, Kent Fire and Rescue Service, Kent County Council's Trading Standards and Ashford Borough Council's Environmental Health will be sent copies of the policy and invited to make comments.

5. *Representative Groups*

Groups representing community based premises, such as village halls will be invited to request copies of the policy and to submit their

**APPENDIX B: Contact Details & Useful Addresses**

1. Arts Council England  
14 Great Peter Street  
London  
SW1P 3NQ  
Tel: 0845 300 6200  
Email: [enquiries@artscouncil.org.uk](mailto:enquiries@artscouncil.org.uk)  
Web: [www.artscouncil.org.uk](http://www.artscouncil.org.uk)
2. Arts Council South East  
Sovereign House  
Church Street  
Brighton BN1 1RA  
Tel: 0845 300 6200  
Email: [southeast@artscouncil.org.uk](mailto:southeast@artscouncil.org.uk)  
Web: [www.artscouncil.org.uk](http://www.artscouncil.org.uk)
3. Association of Licensed Multiple Retailers  
3rd Floor International House  
Ealing  
London  
W5 5DB  
Tel: 0208 579 2080  
Email: [info@almr.org.uk](mailto:info@almr.org.uk)
4. British Beer and Pub Association  
Market Towers  
1 Nine Elms Lane  
London  
SW8 5NQ  
Tel: 0207 627 9191  
Email: [web@beerandpub.com](mailto:web@beerandpub.com)  
Web: [www.beerandpub.com](http://www.beerandpub.com)
5. British Board of Film Classification  
3 Soho Square  
London  
W1D 3HD  
Tel: 0207 4401570  
Email: [helpline@bbfc.co.uk](mailto:helpline@bbfc.co.uk)  
Web: [www.bbfc.co.uk](http://www.bbfc.co.uk)
6. British Institute of Innkeeping  
Wessex House  
80 Park Street  
Camberley
- Surrey GU15 3PT  
Tel: 01276 684449  
Email: [reception@bii.org](mailto:reception@bii.org)  
Web: [www.bii.org](http://www.bii.org)
7. Disability Rights Commission  
DRC Helpline  
Freepost MID01264  
Stratford Upon Avon CV37 9BR  
Tel: 08457 622633  
Web: [www.drc-gb.org](http://www.drc-gb.org)
8. Equity  
Guild House  
Upper Martins Lane  
London WC2H 9EG  
Tel: 0207 379 6000  
Email: [info@equity.org.uk](mailto:info@equity.org.uk)  
Web: [www.equity.org.uk](http://www.equity.org.uk)
9. Health and Safety Executive  
Phoenix House  
23-25 Cantelupe Road  
East Grinstead  
West Sussex  
Tel: 01342 334200
10. Institute of Acoustics  
77a St. Peters Street  
St. Albans  
Herts AL1 3BN  
Tel: 01727 848195  
Email: [ioa@ioa.org.uk](mailto:ioa@ioa.org.uk)  
Web: [www.ioa.org.uk](http://www.ioa.org.uk)
11. Kent Ambulance NHS Trust  
Ambulance Headquarters  
Heath Road  
Coxheath  
Maidstone  
Kent ME17 4BG  
Tel: 747010
12. Kent County Council  
Social Services  
Mid Kent Office  
Civic Centre  
Tannery Lane

- Ashford  
Kent  
TN23 1PL  
Tel: 01233 639677
13. Kent County Council - Trading Standards  
1st Floor Invicta House  
County Hall  
Maidstone  
Kent ME14 1XX  
Tel: 01622 221013  
Web:  
[www.tradingstandards.gov.uk/kent](http://www.tradingstandards.gov.uk/kent)
14. Kent Fire and Rescue  
**Henwood**  
**Ashford**  
**Kent**  
**Tel: (01233) 637277**
15. Kent Police  
Police Station  
Tufton Street  
Ashford  
Kent TN23 1BZ  
Tel: 01233 619169
16. Ashford Primary Care Trust  
Templar House  
Tannery Lane, Ashford  
Kent TN23 1PL
- Tel: 01233 618330
17. Musicians Union  
60-62 Clapham Road  
London SW9 0JJ  
Tel:  
[eastsoutheast@musician.org.uk](mailto:eastsoutheast@musician.org.uk)  
Web: [www.musiciansunion.org.uk](http://www.musiciansunion.org.uk)
18. Performing Rights Society Ltd  
29-33 Berners Street  
London W1T 3AB  
Tel: 020 7580 5544  
Web: [www.prs.co.uk](http://www.prs.co.uk)
19. Security Industry Authority  
PO Box 8  
Newcastle Upon Tyne NE2 6YX  
Tel: 08702 430100  
Email: [info@the-sia.org.uk](mailto:info@the-sia.org.uk)  
Web: [www.the-sia.org.uk](http://www.the-sia.org.uk)
20. The Portman Group  
7-10 Chandos Street  
Cavendish Square  
London W1G 9DG  
Tel: 0207 907 3700  
Email: [info@portmangroup.co.uk](mailto:info@portmangroup.co.uk)  
Web: [www.portmangroup.org](http://www.portmangroup.org)

### Useful reference materials

This is not intended to be an exhaustive list of reference guides but is offered for guidance and may be revised. Where an application proposes an activity not covered by the guides listed below every effort should be made to research current best practice guidance.

- a. Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press –ABTT Publications).
- b. The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999) (“The Purple Book”) ISBN 0 7176 2453 6.
- c. Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained through: [www.streetartsnetwork.org.uk/pages/publications.htm](http://www.streetartsnetwork.org.uk/pages/publications.htm)

- d. Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X.
- e. 5 steps to Risk Assessment: Case Studies (HSE 1998) ISBN 0 7176 15804.
- f. The Guide to Safety at Sports Grounds (The Stationery Office, 1997) ("The Green Guide") ISBN 0 11 300095 2.
- g. Good Practice Guide on the Control of Noise from Pubs and Clubs – The Institute of Acoustics.
- h. Licensed Property: Noise Control – British Beer and Pub Association.
- i. Safer Clubbing – [www.drugs.gov.uk](http://www.drugs.gov.uk) ISBN 184027807
- j. The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks.
- k. HSE Guide – The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: safety of Laser products.
- l. Alcohol Harm Reduction Strategy for England – [www.strategy.gov.uk](http://www.strategy.gov.uk)

## APPENDIX C: KEY LOCAL ISSUES

### **ASHFORD TOWN CENTRE**

A range of entertainment facilities within the town centre, including restaurants, street cafés, comedy venues, late night food venues, pubs and nightclubs is vital to ensuring a vibrant and diverse cultural life attracting a broad range of people. Similarly a range of opening hours is to be encouraged.

However, whilst responsible authorities do not at this time consider that Ashford Town Centre requires a special saturation policy (see Cumulative Impact section in Policy), it is recognised that a number of issues arise from the concentration of premises and patrons in the area. The Ashford Town Centre area is considered to be that area described as such in the Local Plan, however given the current developments in the town this area may change over time and shall be reviewed as required.

These issues include:

- Anti-social behaviour
- Crime and disorder
- Noise nuisance
- Litter
- Vandalism

The movement from and between venues, particularly late at night, can be a major problem and can cause disturbance to local residents. Patrons and public on foot can cause problems and concerns, particular with regard to public nuisance, public safety and crime and disorder. Late night bus and train services into and within the Borough are limited and this leaves taxis/private hire as the main method of 'public transport'. This can also lead to a reliance on private vehicles and potential for drink driving, parking and access problems. This lack of transport also disenfranchises people who live in the rural areas from potentially enjoying the entertainments facilities in the urban area.

The following measures are offered for consideration by applicants from licensed premises in the Ashford Town Centre when drawing up their operating schedules. Applicants and licensees should be aware that if the following measures are not considered in operating schedules or problems arise at premises it is likely that relevant representations will be made and the measures will then be imposed as conditions by the Licensing Authority where considered necessary and appropriate:

#### **Prevention of crime & disorder**

- Pubs and clubs licensed to sell alcohol beyond 23.00 in the Ashford Town Centre will be encouraged to become members of the Town Centre Pubwatch radio scheme
- Pubs, clubs and take-aways in the Ashford Town Centre licensed to operate beyond 23.00 will be encouraged to employ registered door supervisors

- Pubs and clubs licensed to sell alcohol beyond 23.00 in the Ashford Town Centre to be encouraged to have opening hours at least 30 minutes longer than the licensed hours i.e. 'drinking up times'
- Consideration to the use of CCTV on the premises, the precise siting of each camera, maintaining cameras in working order, and to retention of recordings for an appropriate period of time.
- Consideration of stricter conditions for known high profile occasions e.g. football tournaments, New Years Eve
- Consideration of limited entry times i.e. no new customers allowed in after certain times to reduce movement of people between premises
- Consideration to provision of cooling off areas, perhaps with hot drinks vending machines, inside the premises to allow patrons to disperse more gradually from the building
- Consideration of dispersal policies
- Use, in conjunction with the police, of an approved crime and disorder audit.
- Consideration of appropriate bottle and glasses 'bans' e.g. not to be taken outside premises or removed from licensed open spaces
- Use of room / area divisions to prevent spread of disturbance and to encourage a mixed range of customers
- Use of sensible drinking information and agreement to comply with codes of practice on drinks promotion
- High Volume Vertical Drinking (premises with exceptionally high capacities, used primarily for the sale and consumption of alcohol, and having little or no seating) establishments where appropriate to adhere to:
  - a. prescribed capacity;
  - b. an appropriate ratio of tables and chairs to customers based on the capacity; and
  - c. use of SIA registered security teams to control entry for the purpose of compliance with the capacity limit.

### **Prevention of public nuisance**

- Consideration by take-aways and fast food outlets licensed to operate beyond 23.00 in the Ashford Town Centre of provision of litter bins in the vicinity of the premises in order to prevent the accumulation of litter
- Undertakings to prevent fly posting to advertise the premises
- Consideration of stricter noise controls as appropriate.
- Consideration of use of door supervisors as taxi marshals in the town centres and pre-payment and booking schemes for patrons involving private hire / taxis and / or bus services.
- Participation in joint consultative initiatives with residents groups and the local authority

## **NIGHTCLUBS**

Ashford urban area has a small number of nightclub type premises (defined as late night premises primarily used for dancing) but this small number has a disproportionate real and also potential impact on all the licensing objectives. The potential for more such premises to be licensed under the Licensing Act 2003 exists.

The following measures are offered for consideration by applicants from nightclubs when drawing up their operating schedules. Applicants should be aware that if the following measures are not considered in operating schedules or problems arise at premises it is likely that relevant representations will be made and the measures will then be imposed as conditions by the Licensing Authority where considered necessary and appropriate:

### **Public Safety**

It is accepted that certain factors exacerbate the risks to the safety of those taking drugs. These include taking combinations of controlled drugs and/or mixing these with alcohol and becoming overheated and exercising to exhaustion. All these factors are commonly found at dance events and nightclubs. It is expected that operating schedules for nightclubs will consider the proposals set out in The Safer Clubbing Strategy. This strategy aims to reduce the potential for harm through better management of dance venues and includes measures such as:

- Requirement to employ experienced and fully trained first aiders
- Provision of free and easily accessible supplies of cold water and ensuring the provision of water is supervised to prevent contamination of water by others. In conjunction with provision of “chill out areas” so that clubbers do not become overly exhausted or dehydrated
- Provision of information, advice and support to clubbers
- Provision of secure deposit boxes for confiscated items (‘sin bins’)
- Use of occupancy monitoring measures and devices

### **Prevention of crime and disorder**

- The Licensing Authority will look to licensees to develop a venue drug policy in accordance with the Safer Clubbing strategy, in consultation with licensing and police officers, including:
  - ensuring that all staff are aware of their responsibilities within the drug policy and that they receive training and support to discharge these fully
  - Sharing intelligence on drug use and drug dealing with police officers and other local venues, partly through Pubwatch
  - Implementing a Search Policy detailing the procedure for searching, seizing and disposing of drugs, as agreed with the local Police
- Considering the provision of safe transport home
- Measures to ensure that all staff are aware of the law and the responsibilities of the club to work within it
- Use of a specified number of door supervisors from a reputable company and with SIA accreditation

- Consideration to the use of CCTV on the premises, the precise siting of each camera, maintaining cameras in working order, and to retention of recordings for an appropriate period of time.
- Sending Designated Premises Supervisors on Drug Training Qualifications and signing up to the Kent Drugs Policy
- Providing safe areas for DJs and bands
- Banning alcoholic drinks on dance floors
- Adopting a dispersal policy
- Use of room / area divisions to prevent spread of disturbance and to encourage a mixed range of customers

**Protection of children from harm**

- Apart from on specially designated under 18 evenings consideration to not permitting any access at all for children under 18 years
- Use of signs so that such restrictions on the admission of children are displayed on or immediately outside the premises so that the consequences of breaches of these conditions would also be clear and to deter those who might seek admission in breach of those conditions.

**Prevention of Public Nuisance**

- Consideration of stricter noise controls as appropriate
- Undertakings to prevent fly posting to advertise the premises
- Consideration to use of door supervisors as taxi marshals and pre-payment and booking schemes for patrons involving private hire / taxis and / or bus services.

## **TENTERDEN TOWN CENTRE**

Tenterden is an important local centre, providing shopping, leisure, tourist and other facilities. It serves a large rural area, provides a variety of jobs in a range of activities and is a focal point for tourist activity in the south and west of the Borough. As a strong tourist attraction, with a number of attractions in the surrounding area, consideration needs to be given to attracting visitors to stay in or around the town in the evenings as well as making day trips.

Tenterden town centre also has an historic environment and character of especially high quality. Policies for Tenterden town centre must seek to preserve its character, whilst recognising that the town centre needs to retain its sense of liveliness and its commercial vitality. The compact and highly residential nature of the Tenterden High Street must also be given weight when considering conditions to be applied to premises to prevent public nuisance.

Tenterden now has a number of premises that are licensed to be open beyond 23:00, with no discernable effect on the character of the town centre. Consideration will continue to be given to those applicants considering late night opening to measures similar to those outlined for Ashford Town centre. If a number of applications are received that would create a more diverse and extended late-night economy in the area, the Licensing Authority will review the situation in Tenterden and look at the policy regarding it in more detail.

## **UNDERAGE DRINKING**

The Police have clearly identified under-age drinking as a problem within some areas of the Borough. Of course, much of this drinking occurs outside of licensed premises and young people may be obtaining much of their alcohol from non-licensed sources including home, older friends and bootleggers. However it is recognised that necessary action should be taken in both premises licensed for off-sales and consumption on the premises, particularly within identified problem areas.

The following are suggested measures to address under-age drinking and associated problems. They may be adopted in operating schedules by any premises as appropriate but will be considered carefully for all premises where a review has been requested on the basis of problems with underage drinking:

- Ensuring sight of approved evidence of age from any person appearing to those engaged in selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol. This would include appropriate signage and staff training, for example, in legal obligations, using the Portman Group 'Saying no to underage drinkers' information and training on spotting fake ID.
- Making the outside of premises less attractive as congregating points for youths e.g. removal of low walls, removing canopies, using appropriate lighting
- Consideration to the appropriate placing /siting of alcohol on the premises, including the need for CCTV coverage and possible security tagging systems.
- Compliance with codes of practice on alcohol promotions.
- If free tastings are set up ensuring these are carefully monitored.
- Consideration of restricted opening hours
- For premises licensed for consumption of alcohol on the premises consideration to:
  - a. limitations on the hours when children may be present;
  - b. exclusion of children under certain ages when particular specified activities are taking place, including drinks promotion nights;
  - c. limitations on the parts of premises to which children might be given access;
  - d. age limitations (below 18);
  - e. requirements for accompanying adults (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
  - f. full exclusion of those people under 18 from the premises when any licensable activities are taking place.

## **PUBLIC SPACES & OUTDOOR PLACES**

The Local Authority has, wherever resources have permitted, licensed public spaces in their own name. These have included North Park and Victoria Park in Ashford, licensed by the Council's Cultural Services section. In addition through working closely with partners, Ashford High Street is now licensed by Ashford Town Partnership and Tenterden public areas have been licensed by Tenterden Chamber of Commerce. Performers and entertainers have no need to obtain a licence or give a Temporary Event Notice themselves to enable them to give a performance in these places. However, they would still require the permission of the Council (or appropriate licence holder), as the premises licence holder and/or land owner, for any licensable activity.

The Licensing Authority will continue to offer advice and guidance to Parish Councils wishing to licence their own land, for example in deciding the roles of Designated Premises Supervisor and Personal Licence holders.

Many of these spaces are open places, which has increased the number of open-air venues licensed for regulated entertainment under the Licensing Act 2003. Whilst each individual case has and will be considered on its own merits, these areas may present common issues for consideration particularly related to noise nuisance and disturbance and public safety.

The following measures / issues are offered for consideration by applicants for authorisations relating to outdoor places when drawing up their operating schedules. Applicants and licensees should be aware that if the following issues are not considered in operating schedules or problems arise at premises it is likely that relevant representations will be made and the measures will then be imposed as conditions by the Licensing Authority were considered appropriate:

### **Prevention of public nuisance**

- Participation of licensees in joint consultative initiatives with residents groups and the local authority
- Consideration to the types of music to be allowed e.g. amplified, non-amplified, live or recorded
- Consideration of frequency of events allowed
- The need to set noise controls to reflect proximity and extent of residential property near to the premises
- The levels of existing and anticipated noise generation and proposed measures for prevention of noise nuisance
- Consideration might be given to conditions that ensure that flashing lights or particularly bright lights outside licensed premises do not cause a nuisance to properties in the vicinity. Any such condition needs to be balanced against the benefits to the prevention of crime and disorder and public safety of bright lighting in certain places.

### **Prevention of crime and disorder**

- Consideration of appropriate bottle and glasses 'bans' e.g. not to be taken outside premises or removed from licensed open spaces
- Use of staff to monitor outdoor areas when in use

### **Public Safety**

- Measures requiring:
  - a. Temporary electrical wiring and distribution systems to not be provided without notification to the licensing authority at least ten days before commencement of the work.
  - b. Temporary electrical wiring and distribution systems to comply with the recommendations of BS 7671 or where applicable BS 7909.
  - c. Temporary electrical wiring and distribution systems to be inspected and certified by a competent qualified person before they are put to use.
- Ensuring that:
  - a. In the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present.
  - b. Fire exit routes are clearly marked
  - c. Provision of emergency lighting is satisfactory