

# KENT & MEDWAY LICENSING ENFORCEMENT PROTOCOL

This agreement formalises the arrangements for licensing enforcement, in respect of Kent Police, the Borough/District/Unitary Authorities and their enforcement partners. In addition it provides guidance regarding the legal requirements and operational procedures.

The Authorities and Agencies listed below have signed and agreed to abide by the terms of this Protocol.

SIGNATORIES TO THIS AGREEMENT INCLUDE: -

**SHERI GREEN**

Dartford Borough Council

**Lee CROXTON**

Gravesham Borough/District Council

**Robin HALES**

Sevenoaks Borough Council

**GARY STEVENSON**

Tunbridge Wells District Council

**DAVID HUGHES**

Tonbridge & Malling Borough Council

**DAVID PETFORD**

Maidstone Borough Council

**JUDITH ARMITT**

Medway Unitary Authority

**MICHAEL HAWKINS**

Swale Borough Council

**COLIN CARMICHAEL**

Canterbury City Council

**RICHARD SAMUEL**

Thanet District Council

**[NAME]**

Dover District Council

**J.A. STEWART**

Shepway District Council

**DAVID HILL**

Ashford Borough Council

**Superintendent Martin HEWITT**

North Kent Police

**Superintendent Jeremy PRICE**

West Kent Police

**Superintendent Mark SALISBURY**

Maidstone & Malling Police

**Superintendent Stella MERCER**

Medway Police

**Superintendent Alistair HOPE**

Swale Police

**Superintendent Joanna YOUNG**

Canterbury Police

**Superintendent Penny MARTIN**

Thanet Police

**Superintendent Paul BRANDON**

South East Kent Police

**A/Superintendent Dan MURPHY**

The Weald Police

**JOHN WILDISH**

Kent Fire and Rescue Service

**CLIVE BAINBRIDGE**

Weights & Measures Authority

**PETER GILROY**

Kent County Council

Signatures are held by the County Licensing Coordinator, Kent Police, Partnership and Crime Reduction Dept.

# **Kent & Medway Enforcement Protocol**

## Contents:

Introduction and purpose  
Aim of the Protocol  
General Principles  
Enforcement Action  
Liaison Arrangements  
Exchange and Handling of Information  
Risk Based Approach  
Guiding Principles for Decision Making  
Provision of Advice and Investigation of Complaints  
Dealing with Underage Sales  
Dealing with Disorderly Premises  
Dealing with Unlicensed Activities  
Responsibility for Prosecutions  
Application for Exclusion Orders  
Media Relations  
Review of this Protocol  
Resolution of Disputes

## APPENDICES:

1. Liaison Contact Details
2. Risk rating scheme
3. Lead Authorities
4. Illustrative Scenarios

## Introduction and purpose

The purpose of this protocol is to facilitate co-operation and co-ordination between enforcement agencies in pursuance of the Licensing Act 2003. It will underpin the mutual operational support required to tackle licensing issues.

Under the Licensing Act 2003, the licensing authority and the responsible authorities, as defined in the Act, are required to promote the following objectives, in relation to premises and people licensed under the Act:

- preventing crime and disorder
- protecting public safety
- preventing nuisance
- protecting children from harm

These objectives will also be used to form the basis of licensing enforcement.

In detecting and prosecuting criminals, law enforcement agencies make a vital contribution to the improvement of society as a whole. In addition, experience indicates that sharing information provides considerable assistance in bringing criminals to justice.

The Government strongly recommends that licensing authorities establish protocols on enforcement issues. The principal relationship that needs to be defined relates to that between Kent Police and the local authority. However, Responsible Authorities have a statutorily defined role, a role that frequently overlaps between agencies. The role of these agencies is also defined within this protocol.

Within this protocol the terms Local Authority and Licensing Authority are very carefully selected as there is a clear distinction in the Licensing Act between the role of the Licensing Authority and that of the Local Authority, which has the responsibility for the enforcement of offences relating to pollution, health and safety and trading standards as appropriate.

Each Borough/District council/ Unitary Authority has adopted the Government's Enforcement Concordat designed to ensure effective and efficient public protection services. Specifically, the Council is committed to accord with the principles of good enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner. This protocol does not serve the purpose of being the local authority's Licensing Enforcement Policy.

The Enforcement Concordat is based on the principles that businesses should:

- receive clear explanations from enforcers of what they need to do and by when;
- have opportunities to resolve differences before enforcement action is taken - unless immediate action is needed;
- receive an explanation of their rights of appeal

Helping businesses to comply with regulations and to meet their legal duties is the goal of the Enforcement Concordat. However, it recognises that enforcers must be able to take immediate action when required (for example, to ensure public health and safety or to protect the environment) and does not restrict enforcers' ability to take appropriate action against those who flout the law or act irresponsibly. This combination of assistance and quick action, when that is needed, will protect the public and preserve fair competition.

More information regarding the Enforcement Concordat can be found at [www.dti.gov.uk/ccp/topics1/enforcement.htm#enforcement](http://www.dti.gov.uk/ccp/topics1/enforcement.htm#enforcement)

All signatories to this protocol recognise the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the four licensing objectives it seeks to promote. However, proportionate but firm action will be taken against those who commit serious offences or consistently break the law.

In particular, the Local Authority has set clear standards of service and performance that the public and businesses can expect and a licensing enforcement policy has been created that explains how the Council will undertake its role as Licensing Authority and how the principles of effective enforcement will be achieved.

The parties recognise that voluntary disclosure of information, on a case-by-case basis, will be made provided there is a lawful basis for disclosure and where there are reasonable grounds to believe that a criminal offence has been committed.

### **AIM OF THE PROTOCOL:**

The aim of this protocol is to establish a model upon which all local authorities in Kent can base their individual enforcement with Kent Police, Kent & Medway Fire and Rescue Service, Kent County Council & Medway Trading Standards and the Child Protection Agency, as appropriate.

The aim of an enforcement protocol is to clearly establish the roles played principally by each enforcement agency, that is:

- Local / Licensing Authority
- Kent Police
- Kent Fire and Rescue Service
- Local Authority Environmental Health Services
- Local Authority Occupational Health and Safety Enforcement Service
- Health and Safety Executive
- Kent County Council and Medway Unitary Authority Trading Standards (or local Trading Standards Department as appropriate)
- Kent & Medway Child Protection Committees (or local child protection representative, as appropriate)
- Other enforcement agencies as appropriate (e.g. Customs and Excise, Security Industry Association)

The protocol seeks to establish the roles of the agencies detailed above in relation to:

- inspecting premises for compliance with a relevant licence
- investigating complaints regarding non-compliance
- making representations
- initiating proceedings for offences under the Licensing & Entertainment Acts

This protocol seeks to build upon the good working relationships, which currently exists between the enforcement agencies. All parties recognise the importance of effective co-operation and liaison to ensure those with responsibilities under legislation understand and comply with the law.

The aim of this protocol will also be to comply with the Secretary of State's guidance to local authorities, which states:

'As part of their statement of policy, the Government strongly recommends that licensing authorities should express the intention to establish protocols with the local police on enforcement issues. This would provide for a more efficient deployment of licensing authority staff and police officers that are commonly engaged in enforcing licensing law and the inspection of licensed premises.'

In particular, these protocols should also provide for intelligence led enforcement in dealing with agreed problem and high-risk premises, which require greater attention, while providing a lighter touch in respect of low risk premises that are well run. In some local authority areas, the limited validity of public entertainment, theatre, cinema, night café and late night refreshment house licences has in the past led to a culture of annual inspections regardless of whether the assessed risks make such inspections necessary. Inspections will take place at the discretion of those charged with this role. The principle of risk assessment and intelligence led enforcement should prevail and inspections should not be undertaken routinely but when and if they are judged necessary. This should ensure that resources are more effectively concentrated on problem premises.

However, the visiting regime for premises will not be decided solely on a risk assessment basis. The Local Authority will, as part of its' proactive stance, make regular visits to and in the vicinity of licensed premises in order to assess the impact of their operation on residents and other businesses in the area.

There will be a presumption that visits will take place when various crime and disorder and other indicators show that there are potential problems developing in relation to specific premises or areas.

The Local Authority will monitor patron movement to, from and between premises and the provision and accessibility of transport to assist dispersal of persons away from licensed premises.

## **Enforcement Action**

The purpose of enforcement is to create a safe environment for all.

**Enforcement action** can include the following progressive approach to achieve compliance.

- Verbal advice- *which may be documented*
- Written advice
- Verbal warning- *which will be documented*
- Written warning
- Statutory Notice
- Formal Caution (cross ref to Home Office circular 18/1994)
- Prosecution

The individual circumstances of the breach of the legislation will determine the level of enforcement. All actions will be considered in accordance with the requirements of the Human Rights Act 1998 and considered on its individual merits.

## GENERAL PRINCIPLES

The Signatories, in signing this document agree to:

- Take note of the spirit of cooperation and goodwill that exists between their organisations.
- Recognise the benefits to be derived from developing close working relationships.
- Seek to enhance the understanding of the advantages and opportunities which joint activity can bring to effective law enforcement and community safety.
- Promote and improve the legitimate exchange of information and operational cooperation in support of shared objectives.

Each party to this protocol undertakes to;

- ensure that it complies with all the relevant legislation, this protocol and its internal policies on disclosure
- regularly consult with each other upon matters of policy and strategy
- ensure that the data it holds are as accurate and up to date as possible

Partners are expected to draw upon their own legal advice, wherever necessary.

Information disclosed by any party must be kept secure by the partner to whom it has been provided. Each party must be satisfied that adequate arrangements are in place to protect the confidentiality of the information requested prior to a disclosure being made.

We agree when handling the media;

- to be fair to our fellow partners, and maintain their integrity.
- when providing information to the public, to do so honestly and fairly.
- statements must reflect the multi-agency decision process.
- consent of the data owner will be sought prior to release to the media.

Each party to this protocol are aware of and embrace the principles of The National Intelligence Model (NIM) which is 'A Model for Policing' that ensures information is fully researched, developed and analysed to provide intelligence which enables senior managers to:

- provide strategic direction
- make tactical resourcing decisions about operational policing and
- manage risk

It is important to note that the NIM is NOT just about crime and NOT just about intelligence - it is a model that can be used for most areas of policing. It offers, for the first time, the realisable goal of integrated intelligence in which ALL forces and law enforcement agencies play a part in a system bigger than themselves.

## **LIAISON ARRANGEMENTS:**

It is likely that regular contact will be established between the agencies. This contact is expected and encouraged to be regular and on occasion formalised.

Liaison between the partners to this protocol will:

- Provide an avenue to the appropriate channels 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 other national or regional campaigns or investigations, which may have a bearing on the district, 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 dealt with confidentially and processed in accordance with the terms of this protocol and supports the understanding of mutual benefits.
- Provide a forum to ensure understanding is reached between the local authorities and the police with regard to response times when support is required when dealing with noise problems from licensed premises.
- Provide a forum to ensure a procedure is agreed on how the local authorities power to close premises under section 40 of the Anti Social Behaviour Act 2003 interfaces with the police's power to close premises under section 161 of the Licensing Act 2003

### **Good Practice**

Licensing Authorities should coordinate regular monthly meetings to which all enforcement agencies, partners and those who have responsibilities under the Licensing Act are invited. The group may include the Police, Environmental Health, Planning, Trading Standards, KF&RS, KAS and A&E representatives. The Licensing Authority will undertake administration and management of this meeting.

Each enforcement agency should nominate a Liaison Officer (and a deputy) to initially be the contact point regarding any matters relating to licensed premises. The role of these officers will be:

- to ensure the effective exchange of information between the agencies
- the consideration of the necessity for joint visits
- the implementation of co-ordinated actions, as necessary and as agreed between the agencies
- to co-ordinate the supply of evidence and information to another agency taking formal action
- in the first instance, the recipient of complaints, evidence or information, from other agencies, who believe that agency is the most appropriate agency to take action
- the initial contact to discuss and liaise in the event of uncertainty over lead agency roles

*This protocol needs to set out the communication points between the parties and the contact details. Please update appendix 1 – with appropriate roles rather than named officers; TENs may have different contact points; unlicensed events may have different contacts.*

There is a clear need for good communication and liaison. In particular, where the lead authority dealing with the premises identifies the need for a 'case conference', other responsible authorities

will support the lead authority to gather all views in preparation for enforcement. The lead authority will be expected to co-ordinate such case conferences.

There may be occasions where a partners' assistance is sought in respect of the investigation of an offence, or in future planned targeted action. By working together on occasion partners should be able to achieve more wide reaching results.

In the case of joint operations, the following points should be agreed

- Identify the roles and responsibilities of each partner.
- Detail the resources required.
- Explain the objectives and expected outcomes.
- Comment on the timescale to achieve them.
- Identify the central point for coordination.

If required, the above should be confirmed in writing.

In undertaking joint operations parties must ensure that they are compliant with current legislation to which they are bound. If there is any doubt about the legality of an operation by either party it must be halted and advice sought from the initiating parties' senior representative.

Parties understand that there may be other organisations involved in an operation that have not signed this protocol. Even in these instances the principles of the protocol must be adhered to.

## **EXCHANGE AND HANDLING OF INFORMATION**

The purpose of this document is to assist the exchange of information whilst not overriding existing legal safeguards on personal information. The manner in which information can be exchanged takes into account the following legislation;

- The Data Protection Act 1998 - for the processing of personal information.
- The Human Rights Act 1998 - for the rights of the individual's privacy.
- The Freedom of Information Act 2000
- The Common Law Duty of Confidence.

Whilst the legislative provisions do not make mandatory the disclosure of information, providing that a request follows the guidance set out in the Kent & Medway Information Exchange protocol document, the parties will normally disclose the requested information.

Exchange of information should be conducted in a timely and accurate fashion and confirmed in writing in all cases, (written confirmation includes in electronic form).

There are a variety of data types to consider when exchanging information, all of which have legal implications for the parties. The parties agree to comply with their legal obligations in respect of all disclosures of information undertaken and undertake to adhere to the principles and guidance held within the Kent & Medway Information Exchange Protocol for which a Memorandum of Understanding has been signed by the Chief Officers of each organisation represented on the Kent Inter-Agency Safety Group. This umbrella document is an agreement in principle between all partners to share information, subject to the provisions of that Protocol.



## **RISK BASED APPROACH**

It is stressed that for the purpose of this risk rating the only risks that can be considered are those that have an impact on the four licensing objectives.

This protocol provides for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are well operated.

The principle of using a scoring scheme based on risk factors will normally prevail and proactive inspections will usually be undertaken in accordance with a priority inspection scheme. This should ensure that resources are more effectively allocated to higher risk or 'problem premises'.

A risk-rating model has been developed. In the main it will be based on a high, medium, low risk basis. Enforcement activity will be based on the rating achieved e.g. Low risk = monitoring processes.

See appendix 2 for details of visits each authority may undertake, the basis for their inspection (risk) rating, the programme of inspections and the scope for joint inspections.

## **GUIDING PRINCIPLES FOR DECISION MAKING**

The relevant enforcement authority using the most appropriate legislation must pursue offences committed by perpetrators on licensed premises.

Examples where other legislation may be used to address issues in licensed premises are included in appendix 4.

Close liaison is essential to ensure consistent and transparent action by the relevant agencies as well as to ensure effective use of resources. However, nothing in this protocol will preclude representation by more than one responsible authority in respect of the same or different licensing objectives, relevant to the same licensed premises. Indeed, in some circumstances it would be advantageous for responsible authorities to support each other towards the common aim of promoting the licensing objectives.

**As a guiding principle, the lead authority for both enforcement action and for making representation should be based on the impact the contravention or action has on the promotion of the licensing objectives, and in most cases common sense will dictate the lead authority, along the following lines:**

In respect of instigating legal proceedings, typically the split of responsibility may be as described below:

Crime and Disorder: Kent Police  
Public Safety: Licensing Authority  
Public Nuisance: Licensing Authority or Kent Police  
Protection of Children: Kent Police or Licensing Authority

In respect of making representations, the split may be described as:

Crime and Disorder: Kent Police  
Public Safety: Local Authority H&S Service, HSE and/or Kent Fire and Rescue Service

Public Nuisance: Local Authority Environmental Services and/or Kent Police  
Protection of Children: Social Services and/or Child Protection Agency

The table attached at Appendix 3 seeks to indicate further examples of the likely split of responsibilities and indicates which authority might lead under different situations especially in relation to the new Licensing Act 2003 but can be related to current legislation.

Examples of situations, explaining which authority may take the lead, are included in appendix 4.

### Human Rights Act considerations

Any action taken must be in compliance with relevant legislation. The Human Rights Act 1998 Decision Considerations JAPAN should be taken into account when making decisions whether or not to take action:

- **J**ustification
- **A**uthorisation
- **P**roportionality
- **A**uditable
- **N**ecessary

## **PROVISION OF ADVICE AND INVESTIGATION OF COMPLAINTS**

The signatories to this protocol recognise the value of advice and guidance to applicants and holders of licences, certificates and permissions and all encourage applicants and holders of licences, certificates and permissions to seek such advice, particularly before submitting applications for variations to existing permissions or prior to submitting a temporary event notice.

It is recognised that the relaxation of licensing hours is going to cause a significant increase in noise complaints and therefore an increase in demand of limited resources. Authorities are rightly obliged to ensure effective use of existing resources. The Licensing Act does however provide an opportunity to raise the profile of this area of work and, connected to this, authorities can make new budget growth bids for additional resources to ensure there is sufficient funding available for meaningful and sustainable enforcement work.

Each agency will endeavour, where resources permit, to provide advice and guidance on those matters within the remit of that agency (determined in accordance with the guiding principles of decision making). Where information is requested on a matter outside of any agency's remit, then the contact details of the relevant agency will be passed to the applicant/licence holder.

On receipt of a complaint or concerns relating to licensed premises, club premises or personal licence holder, the receiving agency will:

- Action, as appropriate, if the matter is within that agency's remit
- Pass to the relevant agency, in accordance with the liaison arrangements, detailed above,
- Liaise with the other agencies to establish lead responsibility, in accordance with the liaison arrangements, detailed above.

Each agency will have its own service standards and will respond in accordance with those standards.

## **DEALING WITH UNDERAGE SALES**

The Criminal Justice and Police Act 2001 removed a legal restriction on the use of young persons for Test Purchase operations for alcohol against licensed premises.

Both police and local authority Trading Standards Departments have the necessary authority to prosecute breaches of legislation involving the sale of intoxicating liquor to underage people. Research has shown that the illegal purchase and consumption of alcoholic drinks have significant impact on crime and disorder. A countywide proof of age scheme called "CitizenCard" and 'Connexions Card' is actively supported by the Kent and Medway Trading Standards Departments.

A Memorandum of Understanding has been signed between Kent Police, Medway Council and Kent County Council agreeing individual responsibilities with regard to their enforcement tactic. This document is held at the Partnership & Crime Reduction Department at Kent Police Headquarters.

## **DEALING WITH DISORDERLY PREMISES**

This section describes action to be taken where activities on, or in the vicinity of and related to premises are disorderly or excessive noise is emitted from premises and it is necessary to close the premises to: -

- Ensure public safety and prevent crime and disorder
- Prevent the disturbance

The intention, wherever possible, is to prevent such an activity taking place, by using a Multi-agency approach at an early stage whenever the likelihood of such an event has been established. There will be an expectation that enforcement agencies will work together to achieve a positive outcome that will enable us to identify and target premises to obtain evidence and prosecute for offences where appropriate.

The enforcement partners will:

- As a priority; gather, collate and share information concerning identified premises with our partners and other relevant agencies as permitted under Section 115 Crime & Disorder Act 1998.
- Encourage and as far as is practical, support licencees in taking action to prevent or curtail disorder or nuisance from taking place, ensuring we do not recommend action which gives rise to personal/organisational liability.
- Carry out an operational review of the information available and, whenever appropriate, take action to prevent or curtail any disorder or nuisance from taking place.
- As far as practicable attend all disorder or nuisance discovered or brought to our attention, and, when resources and legislation permit, seek to prevent them from continuing and gather evidence with a view to prosecuting offenders as appropriate.
- Kent Police will provide a presence to reassure local communities. Agencies will gather evidence and intelligence to support proceedings against persons identified as being in breach of legislation or for use in preventing future activities.
- Share information and evidence between Kent Police and the local authority taking into account timescales in relation to prosecution.
- Pursue a policy of openness with the media to highlight the dangers of disorder and nuisance and the resolve of a multi-agency co-operation to prevent them. Whenever possible joint press releases should be issued and should seek to assure local communities.

**Section 161 of the Licensing Act 2003** provides that a senior police officer of the rank of inspector or above may make an order closing individual premises covered by premises licences or a temporary event notice for up to 24 hours where disorder is taking place, or is likely to take place imminently or a nuisance is being caused by noise emanating from the premises. Such orders may only be made where it is necessary in the interests of public safety or to prevent the nuisance caused by noise coming from the premises. These powers should not be used where it

*has been possible to anticipate the disorder arising, for example, in connection with intelligence about likely future disorder at a football fixture or in connection with a demonstration.*

### **Section 160 of the Licensing Act 2003**

*Under section 160 a police officer of the rank of superintendent or above may ask a magistrates' court to make an order requiring all premises holding premises licences or subject to a temporary event notice which are situated at or near the place of the disorder or anticipated disorder to be closed for a period up to 24 hours. The court may not make such an order unless it is satisfied that it is necessary to prevent disorder. A constable may use necessary force to close any premises covered by such an order.*

## **DEALING WITH PUBLIC NUISANCE**

This section describes action where

- (i) excessive noise is being created by customers on, or in the vicinity of and related to premises or
- (ii) (ii) excessive noise is emitted from premises but it is not deemed necessary to take immediate closure action.

It is again important to use a multi –agency approach to deal with this problem so that any enforcement officer witnessing a problem can gather and share information to obtain useful evidence. Many conditions on premises licences relating to noise are not couched in detailed acoustic terms. It is therefore entirely possible for an assessment to be made by non-specialist licensing enforcement officers or police officers as well as Environmental Health Practitioners as to whether or not licensing conditions are being breached. This is important as most local authorities do not have a twenty-four hour, seven day a week out of hours service.

Local Authority Environmental Health Departments are able to use the statutory noise nuisance procedure contained within Part III of the Environmental Protection Act 1990 to deal with noise emanating from premises. This will have a part to play in some cases; for example dealing with more serious noise problems caused by music systems at premises.

There are certain disadvantages/limitations with this Act when dealing with the majority of public nuisance issues relating to the Licensing Act as follows:

- The Environmental Protection Act does not cover noise on the street and so cannot therefore be used for dealing with noise in the vicinity of and related to premises.
- Dealing with public noise nuisance will take significantly longer using the procedure contained within Part III of the Environmental Protection Act 1990 (large amount of evidence gathering to satisfy statutory nuisance definition and prosecution of offence takes place in the Magistrates Court) than action taken under the Licensing Act where a formal review of a problem license can be called at any time by the police, responsible authority or local resident/business with the matter being heard and determined by a review panel in the local council's offices.

Thus in the majority of case when dealing with non critical public nuisance issues the matter will be dealt with by reference to the formal review system contained within the Licensing Act 2003.

## **Anti-social Behaviour Act 2003 – Closure of noisy premises**

**Section 40** of the Anti-social Behaviour Act 2003 allows a chief executive of a local authority to issue a closure order in relation to licensed premises or premises operating under a temporary event notice which are causing a public noise nuisance. The closure order can apply for a maximum of 24 hours, starting from the time when the notice was issued to the manager. If a person disobeys a closure order, by permitting the premises to be open in contravention of a closure order, they will be committing an offence.

### **40 Closure of noisy premises**

40(1) The chief executive officer of the relevant local authority may make a closure order in relation to premises to which this section applies if he reasonably believes that -

- (a) a public nuisance is being caused by noise coming from the premises, and
- (b) the closure of the premises is necessary to prevent that nuisance.

40(2) This section applies to premises if -

- (a) a premises licence has effect in respect of them, or
- (b) a temporary event notice has effect in respect of them.

40(3) In this section "**closure order**" means an order which requires specified premises to be kept closed during a specified period which -

- (a) does not exceed 24 hours, and
- (b) begins when a manager of the premises receives written notice of the order.

40(4) A person commits an offence if without reasonable excuse he permits premises to be open in contravention of a closure order.

40(5) - *relates to penalty.*

**Section 41** of the Anti-social Behaviour Act 2003 is a supplemental and interpretation section. It outlines the procedure under which an order can be cancelled. The chief executive officer of a local authority can authorise environmental health officers to issue closure orders.

### **41 Closure of noisy premises: supplemental**

41(1) Where a closure order is made in relation to premises, the chief executive officer of the relevant local authority -

- (a) may cancel the closure order by notice in writing to a manager of the premises,
- (b) shall cancel the order as soon as is reasonably practicable if he believes that it is no longer necessary in order to prevent a public nuisance being caused by noise coming from the premises, and
- (c) shall give notice of the order as soon as is reasonably practicable to the licensing authority for the area in which the premises are situated.

41(2) The chief executive officer of a local authority may authorise an environmental health officer of the authority to exercise a power or duty of the chief executive officer under section 40(1) or under subsection (1) above; and -

- (a) authority under this subsection may be general or specific, and
- (b) a reference in section 40(1) or subsection (1) above to a belief of the chief executive officer includes a reference to a belief of a person authorised under this subsection.

41(3) In section 40 and this section -

**Chief Executive Officer** of an authority means the head of the paid service of the authority designated under section 4 of the Local Government and Housing Act 1989,

**Environmental Health Officer** of an authority means an officer authorised by the authority for the purpose of exercising a statutory function in relation to pollution of the environment or harm to human health,

**Licensing Authority** has the same meaning as in the Licensing Act 2003,

**Manager** in relation to premises means-

- (a) a person who holds a premises licence in respect of the premises,
- (b) a designated premises supervisor under a premises licence in respect of the premises,
- (c) the premises user in relation to a temporary event notice which has effect in respect of the premises, and
- (d) any other person who works at the premises in a capacity (paid or unpaid) which enables him to close them,

**Premises Licence** has the same meaning as in the Licensing Act 2003,

**Relevant Local Authority** in relation to premises means an authority which has statutory functions, for the area in which the premises are situated, in relation to minimising or preventing the risk of pollution of the environment or of harm to human health, and

**Temporary Event Notice** has the same meaning as in the Licensing Act 2003 (and is to be treated as having effect in accordance with section 170(6) of that Act).

## **DEALING WITH UNLICENSED ACTIVITIES**

This section describes action to be taken where activities are suspected or discovered but for which a licence has not been issued or has otherwise been covered by a Temporary Event Notice under the Licensing Act 2003.

- Prevent the unlicensed activity proceeding
- Ensure public safety and prevent crime and disorder (if necessary by closing the event/premises)
- Gather evidence with a view to prosecuting the organisers.

The intention, wherever possible, is to prevent unlicensed events taking place, by using a Multi-agency approach at an early stage whenever the likelihood of such an event has been established. There will be an expectation that enforcement agencies will work together to achieve a positive outcome that will enable us to identify and target the organisers of such events to obtain evidence and prosecute for offences where appropriate.

The enforcement partners will:

- As a priority; gather, collate and share information concerning unlicensed activities with our partners, landowners and other relevant agencies as permitted under Section 115 Crime & Disorder Act 1998.
- Encourage and as far as is practical, support landowners in taking action to prevent or curtail unlicensed activities from taking place, ensuring we do not recommend action which gives rise to personal/organisational liability.

- Carry out an operational review of the information available and, whenever appropriate, take action to prevent or curtail any unlicensed activity from taking place.
- As far as practicable attend all unlicensed activity discovered or brought to our attention, and, when resources and legislation permit, seek to prevent them being established, seize property as permitted by legislation, and gather evidence with a view to prosecuting organisers or landowners as appropriate.
- When intervention is inappropriate Kent Police will provide a presence to reassure local communities. Agencies will gather evidence and intelligence to support proceedings against persons identified as being in breach of legislation or for use in preventing future unlicensed activities.
- Share information and evidence between Kent Police and the local authority taking into account timescales in relation to prosecution.
- Pursue a policy of openness with the media to highlight the dangers of unlawful events and the resolve of a multi-agency co-operation to prevent them. Whenever possible joint press releases should be issued and should seek to assure local communities.

Unlicensed activity tends to fall into two categories - those in respect of which the authorities have received prior information or intelligence regarding the event, and those where they have not. The former enables a pre-planned multi-agency response and the latter would require a spontaneous response that would normally be initiated by Kent Police as a result of information received. A measured response will be taking by enforcement agencies to such information and the risk such unlicensed activity may be deemed to be posed. The following responses relate to those events, which by their nature, size, location, etc. are deemed 'high risk'.

#### Pre-Planned Response

Enforcement agencies will apply the declared strategy of sharing 'information and intelligence, with a view to preventing the event through early intervention where the law and resources permit.

Enforcement agencies will work together to ensure that both permissive landowners, and organisers are aware of their obligations.

Owners of land adjacent to proposed sites will be advised, allowing sufficient time to apply preventative measures where possible.

Where time permits, enforcement agencies will make contact with the community likely to be affected. Where resources permit, high visibility policing will be used to provide reassurance.

Local Authority Officers will be expected to attend wherever possible to support Kent Police at the site of an unlicensed event.

#### Spontaneous Response

Enforcement agencies will apply the declared strategy of sharing 'information and intelligence, with a view to preventing the event through early intervention where the law and resources permit.

Kent Police officers together with Local Authority Officers will seek to attend all unlawful events brought to their attention to gather and secure evidence with a view to prosecuting organisers and or landowners.



The decision to stop a large unlicensed event from continuing has resource and serious safety implications for the officers implementing the decision and for persons attending the event. The decision to stop the event will normally be made by the Kent Police Silver Commander following a full operational review and risk assessment. If, taking into account the ongoing risk to public safety, the event is allowed to continue; a full audit trail of decisions and risk assessments MUST be available.

When intervention is considered inappropriate Kent Police should seek to provide a continuing presence to reassure local communities. Both Agencies when possible will seek to gather evidence and/or intelligence to support proceedings against persons identified as breaching legislation or for use in preventing future unlicensed events.

**Section 19 of the Criminal Justice and Police Act 2001** empowers a constable or local authority to serve a closure notice on a person having control of, or responsibility for, any premises that are being, or have been used within the last 24 hours, for the sale or consumption of alcohol on or in the vicinity of the premises, **without a liquor licence**, in contravention of section 139 of the Licensing Act 2003.

Where such a closure notice is served it **must** also be served on any other occupier of the premises whose access may be impeded if the part involved in the unlicensed sale of alcohol was to be closed.

- **Alcohol** - has the same meaning as in the Licensing Act 2003. (Section 28(1), Criminal Justice and Police Act 2001.)
- **Notice** - means a notice in writing. (Section 28(1), Criminal Justice and Police Act 2001.)
- **Premises** - includes any land or other place (whether enclosed or otherwise). (Section 28(1), Criminal Justice and Police Act 2001.)
- **Sale** - includes exposure for sale. (Section 28(1), Criminal Justice and Police Act 2001.)
- **Unauthorised sale** - means any supply of alcohol within in the meaning of Section 14 of the Licensing Act 2003. (Section 28(1), Criminal Justice and Police Act 2001.)

**Section 20 of the Criminal Justice and Police Act 2001** enables a constable or local authority to apply for a closure order by complaint from magistrates (between 7 days and six months after the service of the closure notice) in relation to premises on which a closure notice has been served.

A complaint **cannot** be laid where the police or local authority is satisfied that the unlicensed sale of alcohol has ceased and there is no reasonable prospect of it re-starting.

### Post Event

Following any serious incident involving an unlicensed activity, the relevant enforcement agencies will participate in a de-brief. Information on preventative operations will be discussed and best practice and areas of weakness identified, All information/evidence surrounding an event will be shared with a view to taking decisions on prosecution or future licensing applications.

### **RESPONSIBILITY FOR PROSECUTIONS:**

It is expected that the decision of who will instigate legal proceedings will be taken in accordance with the guiding principles for decision-making, irrespective of which authority obtained the evidence.

*Section 186 of the Act restricts the bringing of proceedings to the Licensing Authority or the Director of Public Prosecutions, except sections 146 and 147 when proceedings are brought by a local Weights and Measures Authority.*

*Therefore, any prosecution that the police wish to bring, will need the consent of the Director of Public Prosecutions (acting through a Crown Prosecutor). This means that the decision to charge (or summons) must be that of the Crown Prosecution Service. Contact should initially be made to Vivienne Pearson, the Licensing Co-Ordinator for the Crown Prosecution Service in Kent or, when unavailable, to the Unit Head of the relevant Area, ie. Maidstone, Canterbury, Folkestone, Medway or Gravesend.*

In the event of the LA instigating proceedings on the evidence of officers of Kent Police, Kent Police will nominate the Operational Chief Inspector (of the BCU for the local authority) as the single point of contact to oversee the collection of all used and unused material, to liaise on availability of officers for court, etc. In the event that a warrant is issued, a copy of the file will be held in the warrants office together with the warrant.

### **REGISTER OF CAUTIONS**

Kent Police, at this time, will maintain a register of formal cautions issued to holders of licences, certificates or permissions. Responsibility for this function will transfer to the Licensing Authority upon implementation of the Licensing Act 2003.

### **MEDIA RELATIONS**

The lead agency will be responsible for liaison with the media but will ensure that any other agency with an interest in the matter is kept informed of the media attention and that the response to such interest is discussed, where appropriate, prior to the issue of formal press statements.

### **REVIEW OF THIS PROTOCOL**

The application of this protocol will be kept under regular review at the Kent & Medway Regulatory Licensing Steering Group but will be the subject of formal review annually, such review to be carried out by the Enforcement Sub Group of the Kent & Medway Regulatory Licensing Steering Group, having regard to

- Changes in legislation;
- Changes in Government, LACORS or other authoritative guidance;
- National court rulings;
- Challenges, or Representation made.

Each local authority is encouraged to hold a formal review with the officers involved, on an annual basis, the results of which should be passed to the Enforcement Sub Group for consideration as part of the review of this framework.

### **RESOLUTION OF DISPUTES**

As a consequence of the strong existing partnerships, disputes are expected to be a very rare occurrence. However, in the event of a dispute and in the first instance, the relevant agencies involved should call a formal meeting and try to resolve the dispute by agreement. In the most unlikely event that a satisfactory resolution cannot be achieved, the local Crime and Disorder Reduction Partnership will be asked to adjudicate on the matter.

**Liaison Contact Details** \*(Add/Amend as appropriate)

Police:

Crime Reduction Coordinator (Inspector)  
Area Licensing Officer

Contact Numbers

Fire:

Divisional Fire Officer

Local Authority:

Environmental Health Manager  
Health & Safety

*List other enforcement/responsible authority/departments as appropriate*

Licensing Authority

Licensing Manager  
Senior Licensing Officer

Trading Standards

Senior Officer  
Deputy

Child Protection Committee/District Social Services

District Manager

**Licensing Enforcement Protocol – Risk Rating Scheme Matrix**

The purpose of this risk-rating scheme is to ensure a consistency of approach by those charged with the enforcement of licensing regulation and legislation across the County. Each Licensing and Responsible Authority within Kent accepts the need for such consistency and has, subject to their own policies and procedures, agreed to use this scheme when dealing with licensed premises within their area.

**Name of premises** \_\_\_\_\_  
**Type of premises** \_\_\_\_\_

HAZARD	Y/N	RISK			CONTROL MEASURES IN PLACE
		High	Med	Low	
Primarily for supply of alcohol					
Entertainment/Dance provided					
Food provided/available					
High alcohol consumption					
History of Drug misuse					
Type/Areas of premises vulnerable to drug misuse					
Extended Permitted Hours To midnight Beyond midnight					
Capacity Numbers over 1000 500 200					
Crowd control Exit & entry					
Drinks promotions					
History of disorderly behaviour or public nuisance					
History of Noise/Environmental pollution					
History of Poor Management					
History of failure to comply with licensing legislation/conditions					
Family/Children use					
Affect on residential area					
Staff training/ qualifications					
Fire Control					

First Aid					
Transport/Dispersal measures					
Crime prevention measures					
	<b>TOTAL</b>				

### OVERALL PREMISES RISK RATING

Based on aggregate rating of risk factors present

Aggregate score	=	Premises Rating
+7 high	=	HIGH
1-6 high	=	MEDIUM
0 high, +8 medium	=	MEDIUM
0 high, 1-7 medium	=	LOW
remainder	=	LOW

### Risk Rating Scheme – Enforcement Action for premises indicated as Low, Medium or High risk

Low	Medium	High
Telephone call to discuss issue(s)	Correspondence with premises	Multi-Agency case conference
Correspondence with premises	Personal visit to Licensee	Tasked operations with a view of gathering evidence
Personal visit	Multi-Agency case conference	Produce action plan to resolve problem
	Meeting with Company Representative	Written Warning
	Produce action plan to resolve problem	Prosecution
		Review of Premises Licence
	<b>Inspection/Monitoring</b>	
Inspection of premises once a year	Inspection of premises every 6 months	Inspection of premises every 3 months
Monitoring inspection during hours of operation every 6 months	Monitoring inspections during hours of operation every 3 months	Monitoring inspections during hours of operation monthly

**It is not expected that each and every authority will complete an inspection. One may be completed on behalf of another and information shared as part of the exchange protocol and partnership working.**

## Kent Risk Rating Scheme - Guidance Notes

The purpose of this risk-rating scheme is to ensure a consistency of approach by those charged with the enforcement of licensing regulation and legislation across the County. Each Licensing and Responsible Authority within Kent accepts the need for such consistency and has, subject to their own policies and procedures, agreed to use this scheme when dealing with licensed premises within their area.

'Inspections of premises do not have to take place save at the discretion of those charged with this role. The principle of risk assessment and targeting should prevail and inspections should not be undertaken routinely but when and if judged necessary' – para. 3.57 S182 Guidance to the Licensing Act 2003.

Below are listed the hazards and some of the expectations/control measures enforcement officers may expect to see in place to reduce the risk.

### **Primarily for supply of alcohol - Type of establishment**

HDVD	H
Drinking Club	L
Public House	M

#### Control Measures

Provision of licensed door/floor security/monitored cctv  
Detailed policy relating to drunkenness  
Management training/instruction to staff  
Client base  
Age profile of customer base  
Promotion/minimum pricing policy  
Size of premises  
Hours of trading  
Location of premises  
History log of premises

### **Entertainment/Dance provided – Type of Establishment**

Night Club  
Pub with Dance Floor/Disco area  
Dance Club  
Hall /Stage  
Comedy/Theatre  
Restaurant/show bar

#### Control measures

Size of establishment/size of dance floor area  
Door Supervision/CCTV  
Type of entertainment provided  
Client age profile  
Type of music provided  
Type of entertainment provided  
Special effects  
Location

## **Food provided/available - Type of Establishment**

Public House with restaurant  
Restaurant  
Café  
Café/Bar (open air provision)  
Theatre  
Cinema  
Night club /food bar  
Night Club/restaurant  
Casino  
Betting shop  
Late night refreshment house

### Control Measures

Method of service  
Emphasis on food  
Hours of provision  
Type of food provided (Kebab)  
Interlude provision  
Location of food service area

### High alcohol consumption –

- 1) Number of regular HAPPY HOURS
- (2) Are there regular Lower Prices/Drinks Promotions?
- (3) Number of complaints/incidents of Public Disorder that could be linked with excessive consumption.
- (4) Number of arrests for Drunk Offences

### **History of drug misuse –**

- (1) Number of customers convicted of drug offences who use premises
- (2) Intel. reports of suspected drug users/dealing in or in vicinity of premises.
- (3) Number of reports from other sources claiming drugs use /dealing in premises.

### **Type/Areas of premises vulnerable to drug misuse –**

- (1) History (drugs) of area in which premises is situated
- (2) Are police initiatives welcome --- use of iontrack as condition of entry / visits by Drugs unit/dogs
- (3) What info does licensee supply re suspected drug use.
- (4) What control measures/staff training have been put into place.

### Capacity Number over 1000, 500, 200

**Extended hours** - Are door supervisors employed at the premises (larger premises only)  
Are doors and windows kept closed to prevent noise problems  
If the premises are in a residential area – are pub gardens being used by customers, and until what time.

**Are there signs on the exit doors 'Residential area, please keep voices down' or the like.**

**Crowd control Exit & Entry** - It is expected that there will be a person at the door to greet customers. If queues form is the area roped off or divided from passers by and are customers vetted while in the queue. Is there CCTV with/without audio to cover the door? During exit are customers monitored to remove drinks/bottles and are there sufficient persons to encourage dispersal from the premises in a quiet and orderly fashion?

**Drinks promotions** - It is expected that drinks promotions will be used in a responsible manner in a way that does not encourage excessive drinking. Is there consultation with authorities prior to any promotion? Has the Licensee/manager entered into any voluntary agreement concerning discounting?

**History of disorderly behaviour or public nuisance** - The following are examples of disorderly behaviour or public nuisance – have measures been put in place to reduce them: -  
Regular complaints re noise emanating from the premises,  
Regular complaints re noise caused by customers leaving the premises,  
Criminal Damage caused by customers leaving the premises,  
Regular arrests for Drunkenness/ Public Order offences in or outside the premises,  
A requirement for police officers to be present at the premises to ensure the orderly dispersal of customers,  
Rubbish strewn around the property and the immediate vicinity.

**History of Noise/Environmental pollution** - The Licensing Authority would expect the operator to have measures in place to prevent noise and environmental pollution in the vicinity of the premises.

These measures could include:

- a) Regular inspection/patrol of the external perimeter to ensure that noise outbreak is not obtrusive.
- b) Sensible positioning of amplification and public address systems.
- c) Limiting the area for regulated entertainment both internally and externally to prevent noise outbreak.
- d) Limiting the times of regulated entertainment.
- e) The closing of windows and the provision of an entrance lobby with self-closing external doors.
- f) Display of prominent signage to advise customers to leave the vicinity quietly. Door supervisors to give the same message.
- g) The installation of noise limiters and sound insulation to the premises.
- h) The sensitive disposal of refuse particularly bottles and waste to prevent noise and noxious smells.
- i) External lighting not to cause a nuisance to adjacent properties.

**History of poor management** - The following are some examples of poor management – have measures been put in place to reduce them:-

High turn over of managers,  
High turn over of staff,  
Failing to comply with conditions of the Premises Licence,  
Serving and allowing drunks to remain on the premises,  
No responsibility shown for the behaviour of their customers when they leave the premises,  
Selling alcohol to underage persons,  
High numbers of reports of thefts in the premises ,  
High number of drug incidents in the premises,  
High numbers of assaults in the premises,  
High number of arrests for criminal activity at the premises ie selling stolen goods



**History of failure to comply with licensing legislation/conditions** - view is that this is High Risk

Control measures - Multi agency case conference or tasked ops. to get evidence. Then judgement necessary to decide which of warning / prosecution / review is most appropriate.

Operating guideline - We would always expect the licence holder to be fully aware of the licensing legislation / conditions and also to have informed all staff accordingly. This is particularly relevant where previously information & advice has been supplied or meetings held to discuss a problem. Evidence will need to be gathered if proceeding towards prosecution / review. Monthly monitoring would also be appropriate

**Family/Children use** - Are cigarette/Gaming/Pool and machines of a like kind capable of being supervised by bar staff.

If families are being encouraged to use the premises are the toilets child friendly.

Are Entertainment/services of a sexual/adult nature being provided at the premises/times

Similarly adult films.

Is there a strong element of gambling (not gaming machines) at the premises.

**Affect on residential area** - The Licensing Authority would expect the operator to have measures in place to ensure that there is no adverse effect on the residential area in the vicinity of the premises.

Adverse effect in these areas would normally be crime and disorder in the form of violence and damage and environmental pollution in the form of noise and litter.

These measures could include:

- a) Limiting times particularly if premises are in vicinity of sensitive residencies ie care homes/sheltered housing.
- b) Ensuring customers leave the premises quietly with the provision of the appropriate signage and staff to give the same message in areas such as car parks.
- c) Ensuring that no receptacles/ bottles/glasses are removed from the premises.
- d) Dispersal of patrons leaving to different areas to minimise large groups to prevent confrontation.

**Staff training/qualifications** - Is there a member of staff first aid trained.

Have staff been trained in recognizing symptoms of drug taking and 'safer clubbing'.

**Licensed Door staff** - view is that this is High Risk

Control measures - Tasked ops. to gather evidence leading to written warning / prosecution

Operating guideline - In view of the importance of door staff to the safety of customers, keeping order, preventing crime & disorder etc it is a condition that where door staff are employed that they are SIA licensed and for the personal license holder to employ sufficient numbers in ratio to the capacity of the premises.

The personal licence holder should make door staff fully aware of their responsibilities at individual premises. Failure to comply will result in investigation by way of evidence gathering, leading to written warnings, prosecution etc. where appropriate.

Monthly monitoring would also be relevant here.

**Fire control measures** - see Guidance Note 70 Fire Safety Standards for Small Licensed Premises and Guidance Note 71 Licensing Act 2003 – Requirements from Premises License Applications

**Fire risk assessment** – see Guidance Note 72 Small Licensed Premises – Guidance on Fire Risk Assessments and Emergency Plans

*Awaiting update*

**First Aid provision -**

**Transport –**

**Dispersal measures -**

**Crime prevention measures -**

## Licensing Act 2003 Offences, Lead Authority

SECTION	LEAD AGENCY	DESCRIPTION OF OFFENCE	OFFENDER(S)
33(6)	Licensing Authority	Failure to notify licensing authority of change in name or address of premises licence holder or designated premises supervisor	Premises licence holder
40 (2)	Licensing Authority	Failure to notify existing premises supervisor that premises licence has been varied to replace them, or that such application has been refused	Premises licence holder
41 (5)	Licensing Authority	Failure to provide premises licence (or statement of reasons for failure to do so) to licensing authority within 14 days of direction following premises supervisor giving notice of intention to cease	Premises licence holder
46 (4)	Licensing Authority	Failure to notify designated premises supervisor of application for transfer of premises licence with interim effect or of actual transfer (where applicant and premises supervisor not same person)	Applicant for transfer of premises licence
49(5)	Licensing Authority	Failure to notify premises supervisor of interim authority notice	Interim authority holder
56 (3)	Licensing Authority	Failure to produce premises licence at request of licensing authority for amendment	Premises licence holder
57 (4)	Licensing Authority	Failure to keep premises licence or certified copy at premises	Premises licence holder
57 (4)	Licensing Authority	Failure to display summary of premises licence or certified copy and notice specifying nominated person	Premises licence holder
57 (5)	Licensing Authority & Police	Failure to produce premises licence or certified copy to constable or authorised person for examination	Premises licence holder Nominated person
59 (5)	Licensing Authority & Police	Obstruction of authorised person entering premises to inspect premises re: grant of licence, provisional statement, variation or review	Any person
82(7)	Licensing Authority	Failure to give notice of change of name or alteration of rules of club	Secretary of club
83 (7 )	Licensing Authority	Failure to give notice of change of registered address of club	Secretary of club
93 (3)	Licensing Authority	Failure to produce club premises certificate for amendment within 14 days of request from licensing authority	Secretary of club

94(5)	Licensing Authority	Failure to produce club premises certificate (or certified copy) at premises in custody or control of nominated person	Secretary
94 (6)	Licensing Authority	Failure to display at premises summary of club premises certificate (or certified copy) and a notice stating position held by nominated person	Nominated person
94 (9)	Licensing Authority & Police	Failure to produce club premises certificate (or certified copy) to constable or authorised person for examination	Nominated person
96 (5 )	Licensing Authority & Police	Obstruction of authorised person trying to enter premises for purposes of inspection prior to grant, variation or review of CPC	Any person
108 (3)	Licensing Authority & Police	Obstruction of authorised officer from inspecting temporary event premises to assess impact upon crime prevention objective	Any person
109 (4)	Licensing Authority & Police	Failure to: display copy of temporary event notice; keep notice in custody of premises user (or nominated person at premises); or display notice of who nominated person is	Premises user
109 (8)	Licensing Authority & Police	Failure to produce temporary event notice to authorised officer	Premises user Nominated person
123 (2)	Licensing Authority	Failure to notify licensing authority of conviction for relevant offence or foreign offence as soon as reasonably practicable during grant or renewal application period	Applicant for personal licence
127 (4)	Licensing Authority	Failure to notify licensing authority of change of name or address of personal licence holder	Personal licence holder
128 (6)	Licensing Authority	Failure to notify court of personal licence or 'notifiable event' when being dealt with for relevant offence	Personal licence holder
132(4)	Licensing Authority	Failure to notify licensing authority of conviction for relevant or foreign offence	Personal licence holder
134 (5)	Licensing Authority	Failure to produce personal licence within 14 days to licensing authority to be updated	Personal licence holder
135(4)	Licensing Authority & Police	Failure to produce personal licence to authorised person or a constable whilst on premises to make or authorise sale or supply of alcohol	Personal licence holder
136 (1)	Licensing Authority & Police	Knowingly allow or carry on or attempt to carry on unauthorised licensable activity	Any person (but exceptions – see s134(2))
137(1)	Licensing Authority & Police	Expose alcohol for unauthorised sale by retail	Any person

138 (1)	Licensing Authority & Police	Keeping alcohol on premises for unauthorised sale by retail or supply (supply includes supply by or on behalf of a club)	Any person
140 (1)	POLICE	Allowing disorderly conduct on licensed premises	Any person authorised to prevent conduct
141 (1)	POLICE	Sale or supply (or attempt) or allow sale or supply of alcohol to person who is drunk	Any person in capacity to prevent
142 (1)	POLICE	Obtain or attempt to obtain alcohol for consumption on relevant premises by drunk person	Any person
143 (1)	POLICE	Failure to leave licensed premises or attempt to enter premises following request from constable or authorised person	Any drunk or disorderly person
144 (1)	POLICE	Keeping unlawfully imported goods on relevant premises	Any person authorised to prevent
145 (1) (2) (3)	POLICE	Allowing unaccompanied child to be on relevant premises	Premises licence holder, person who works there authorised to request child to leave or DPS
S146 (1)(3)	WEIGHTS & MEASURES AUTHORITY & POLICE	Sale/supply of alcohol to under 18	Any person or a club
147 (1) (3)	Licensing Authority & Police	Allowing sale/supply of alcohol to under 18	Any person authorised to prevent or member or officer of club present
148 (1) (2)	Licensing Authority & Police	Sale/supply of liquor confectionary to under 16	Any person or a club
149 (1) (3) (4)	Weights & Measures Authority and Police	Purchase/supply (or attempt purchase/supply) of alcohol by or on behalf of under 18 Purchase/supply (or attempt purchase/supply) of alcohol for consumption on relevant premises by under 18	Under 18 or person purchasing on behalf of
150 (1) (2)	Weights & Measures Authority and Police	Consumption on relevant premises of alcohol by under 18 or knowingly allowing the consumption to occur	Under 18 or person in capacity to prevent
151 (1)	POLICE	Delivering alcohol sold or supplied on relevant premises to under 18	Person working on premises
151 (2) (4)	POLICE	Allowing anybody else to deliver alcohol sold or supplied on relevant premises to under 18	Person working on premises in capacity to prevent

			delivery
152 (1)	<b>POLICE</b>	Sending an under 18 to obtain alcohol sold or supplied on relevant premises for consumption off the premises	Any person
153 (1)	Licensing Authority & <b>Police</b>	Allowing an under 18 to sell or supply alcohol on relevant premises	'Responsible person' – see 153(4)
156 (1)	<b>POLICE</b>	Sale of alcohol on or from moving vehicle	Any person
157 (5)	<b>POLICE</b>	Sell or attempt to sell or allow sale of alcohol on train contrary to prohibition order	Any person
158 (1)	Licensing Authority	False statement in connection with licensing application	Any person
157 (4)	Licensing Authority & <b>Police</b>	Keeping premises open, or allowing premises to be kept open in breach of a closure order in respect of an identified area	Manager, premises licence holder, designated premises supervisor or premises user for temporary event
160 (6)	Licensing Authority & <b>Police</b>	Permit premises to be open in contravention of magistrates' closure order	Any person
161 (7)	<b>POLICE</b>	Permit premises to be open in contravention of a closure order for specified premises	Any person
165 (7)	<b>POLICE</b>	Permit premises to open in contravention of magistrates' closure order pending reconsideration of conditions	Any person
179 (4)	Licensing Authority & <b>Police</b>	Obstructing entry of an authorised person entering premises to investigate whether licensable activity is being carried out in accordance with an authorisation	Any person
Sch 8, para 10 (1)	Licensing Authority	(Transitional offence) – false statement in connection with application for conversion of existing licence under para 2	Any person
Sch 8, para 22 (1)	Licensing Authority	(Transitional offence) – false statement in connection with application for conversion of existing club certificate under para 14	Any person

## Appendix 4: Illustrative Scenarios

### Examples of Using Other Legislation:

**Scenario:** During a routine inspection of a nightclub, the Fire Officer observes that all the fire exits are locked and the manager has no knowledge of the location of the keys necessary for unlocking them.

**Action:** Without being able to immediately rectify the problem, the most appropriate course of action for the Fire Officer is to serve a prohibition notice under section 10 of the Fire Precautions Act, 1971 to remedy the situation (as opposed to seeking a review of the licence under the Licensing Act, 2003).

**Scenario:** Person found in possession of quantity of illicit drugs following drug search on entry to premises. Initial detention by Doorstaff as per Premises Drugs Policy.

**Action:** Kent Police will deal with any resulting offences and provide advice and guidance in relation to drug issues.

### Examples of Who Takes the Lead:

**Scenario:** Premises licensed to sell alcohol reported to be operating beyond their permitted hours: It may at first sight be assumed that the Police would lead, as there is sale of alcohol beyond the permitted hours. However, the impact of that contravention should be assessed in determining the lead authority.

**When the Police Lead:** If the impact of the licensed premises opening later than their permitted hours is that additional crime, disorder and antisocial behaviour (which includes noise in the street) and is identifiably associated with specific licensed premises then the Police should lead by interviewing the premises licence holder.

**Action:** Kent Police could prosecute for breach of licence condition, seek a review of the licence or write a warning letter to the premises licence holder (whichever of these actions would be most consistent with the Kent Police's prosecution policy).

**When the Local Authority Lead:** If the impact of opening beyond permitted hours was noise from music escaping from the premises causing a disturbance to residents in the vicinity Licensing or Noise enforcement team would lead.

**Action:** The LA officer could then write a warning letter to the premises licence holder / Designated Premises Supervisor, seek a review of the licence or consider the appropriateness of taking action under the Environmental Protection Act 1990.

In addition, the Licensing Authority could prosecute for breach of licence condition, using the evidence of the Licensing, Noise enforcement team or Police. (Again the choice of action(s) should be consistent with the local authority enforcement policy).

However, there would be other examples where there is overlap within the same objective.

## Examples of Overlaps:

Scenario It is identified during a routine check on a licensed village hall (which is not a workplace) that there is a total absence of fire fighting equipment.

The Fire Authority could lead on this matter, in order to promote the public safety objective, acting under the Licensing Act 2003, if no more appropriate legislation existed to resolve the situation. Alternatively, an officer with health and safety expertise could act if authorised under the Licensing Act 2003; this officer could be an environmental health officer, technical officer, building control officer, licensing officer or an external consultant expert in a particular field of health and safety. (As the HASAWA was not applicable it could not just be an officer authorised under that Act).

**Fire Authority Lead:** If the public safety breach were restricted just to the absence of fire fighting equipment, it would be more appropriate for the fire officer to lead.

**Health and Safety Lead:** If the absence of fire fighting equipment was merely one example of a number of health and safety breaches, the majority of which related to other health and safety matters, the officer expert in health and safety would be the more appropriate lead.

**Joint Action:** If there were a large number of breaches of public safety in respect of both fire precautions and general health and safety, it would be most appropriate for both authorities to consider seeking a review of the licence, in the acknowledgement that any authority may apply to the licensing authority for a licence or club premises certificate to be reviewed at any time.

This example clearly demonstrates the need for good communication and liaison between the responsible authorities, to ensure effective and targeted use of resources and a transparent but comprehensive approach to the relevant licence holder.