

Statement of Licensing Policy

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

1.0 Introduction

1.1 Gravesham Borough Council is the Licensing Authority under the Licensing Act 2003. The Council is responsible for granting premises licences, club premises certificates, temporary events notices and personal licences in the District in respect of the sale and/or supply of alcohol. The Council also licences the provision of regulated entertainment and late night refreshment.

(see appendix for definitions)

1.2 The 2003 Act requires the Council to carry out its various licensing functions to promote the following four licensing objectives:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

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

1.4 The aims of this Statement of licensing policy in line with the four licensing objectives are to:

- a. help build and maintain a fair and prosperous society that properly balances the rights of individuals and their communities
- b. integrate its aims and objectives with other initiatives, policies plus strategies that will:

- i. encourage young people and culture
- ii. reduce crime and disorder
- iii. encourage tourism
- iv. encourage an early evening and night time economy which is viable and sustainable
- v. reduce alcohol misuse
- vi. encourage employment
- vii. encourage the self sufficiency of local communities
- viii. reduce the burden of unnecessary regulation on business

1.5 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. Where it is necessary to depart from the guidance—either in this policy or at any other time – The Council will give clear and cogent reasons for doing so. It has been drafted in partnership with the Kent Licensing Forum and the Kent Licensing Regulatory Steering Group. The Council shall endeavour to work with other local authorities (particularly where licensing authorities' boundaries meet) to ensure that a consistent approach is taken in licensing matters whilst respecting the differing needs of individual communities. Additionally the local authority will hold regular 'open meetings' so that the local community can express how it feels about how the licensing objectives are being met.

- 1.6 **The bold sections** of this Policy indicate the matters that the Council is seeking to emphasise. When assessing applications, the Council must be satisfied that the measures proposed in the applicant's operating schedule aim to meet the licensing objectives, as far as possible.
- 1.7 However, it should be recognised that this policy covers a wide variety of premises and activities carried on in them including theatres, cinemas, restaurants, pubs, nightclubs, private members' clubs, village halls and community centres, as well as off-licences, fast food outlets, late night cafes 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 in any given circumstances.
- 1.8 **In respect of each of the four licensing objectives, applicants will need to provide evidence to the Council that suitable and sufficient measures, as detailed in their operating schedule, will be implemented and maintained, relevant to the individual style and characteristics of their premises and events. Reference will need to be made as to whether additional measures will be taken on a permanent basis or specific occasion such as when a special event or promotion planned, which is intended to, or likely to attract, larger audiences.**
- 1.9 **When considering applications, the Council will have regard to this Policy, the Licensing Act 2003, particularly the Licensing Objectives and Guidance issued under Section 182 of the Act, and any supporting regulations that may from time to time be made. It will also seek proper integration with local crime prevention, planning, transport, employment and cultural strategies (see appendix).** 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. The Council will monitor the impact of licensing on the provision of regular entertainment particularly live music and dancing. Care will be taken to ensure that only necessary, proportionate and reasonable licensing conditions are imposed.
- 1.10 The Policy does not undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits, as well as against the relevant policy and statutory framework. It does not override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act. In formulating this policy the Council has had regard to the provisions of the Human Rights Act 1998. This Act places a duty on public authorities to protect the rights of individuals in a variety of circumstances, and to balance those rights against the rights of persons trading in licensable activities and to achieve proportionality. The Council has also had regard to the Race Relations Act 1976 as amended by The Race Relations (Amendment) Act 2000, and to the Disability Discrimination Act 1995.
- 1.11 Applicants and those making representation in respect of applications to the Council have a right of appeal to the Magistrates' Court against the decisions of the Council.
- 1.12.1 The Council recognises that longer licensing hours with regard to the sale of alcohol are important to ensure that concentrations of customers leaving premises simultaneously are avoided.

The object of licensing is to maintain appropriate control of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the 2003 Act. Where any party makes relevant representations, the Council will seek to make objective judgements as to whether conditions may need to be attached to a licence, certificate or Temporary Event Notice to secure achievement of the licensing objectives. Any such conditions 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 and will cover issues that are reasonably within the control of individual licensees.

1.13 When considering any conditions, the Council acknowledges that the licensing function is not the primary mechanism for the general control of the anti-social behaviour of individuals once they are outside the vicinity of licensed premises and beyond the direct control of the licensee of any premises concerned. However, other mechanisms may be utilised, where appropriate, to tackle unruly or unlawful behaviour of patrons when beyond the control of premises. These include:

- Partnership working with the Kent Police (and other agencies as appropriate) to promote enforcement of the law concerning disorder and antisocial behaviour, including the issuing of fixed penalty notices
- Powers to designate parts of the area as places where alcohol may not be consumed publicly
- Partnership working with businesses, transport operators and other parts of the Council to create a safe and clean environment.

As part of its overall policy the Council expects every holder of a licence or Temporary Event Notice to be

responsible for minimising the impact of their activities and anti-social behaviour by their patrons within the immediate vicinity of their premises.

A key aim of the licensing policy is to maintain a safe and family friendly environment in the Local Authority Area. It may be that conditions that would be relevant in the town and city centres may not be appropriate in rural areas – but each application will be considered on its merits.

Further, when the Council is considering any application, it will avoid duplication with other regulatory regimes, (e.g. health and safety at work, environmental protection, disability discrimination, The Regulatory Reform (Fire safety) Order 2005). The licensing regime is not intended to be used to achieve outcomes that have been or will be achieved by other legislation. In particular, its licensing functions will be discharged separately from its functions as the Local Planning Authority.

Licences and planning permission

1.14 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.

It will be expected in general that the grant or variation of planning permission would be resolved before a licence application is made. The licensing committee may refuse to grant a licence following representations from the local planning authority if the:

- (1) activity sought to be licensed would amount to an unlawful use of the premises;

- (2) hours being sought exceed those authorised by any planning permission.

It will be for the applicant to demonstrate any special circumstances to justify a departure from this policy in the face of representations from the local planning authority.

- 1.15 With the exception of the approval and review of its Licensing Policy, decisions on licensing matters will be taken in accordance with a published and approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making. (see table in appendix)

Cumulative impact of a concentration of licensed premises

- 1.16 "Cumulative impact" is not mentioned specifically in the 2003 Act but means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. For example, the potential impact on crime and disorder or public nuisance on a town or city centres of a large concentration of licensed premises in that part of the local authority area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the local authority to consider in its policy.

- 1.17 Where, after considering the available evidence and consulting the Statutory Authorities listed in section 5(3) of the 2003 Act and any others, the local authority is satisfied that it is appropriate and necessary to include an approach to cumulative impact in the licensing policy statement, it will indicate in the policy that it is adopting a special policy of refusing new licences whenever it receives relevant representations about the cumulative impact on the licensing objectives from responsible authorities and interested parties which it concludes after hearing those representations should lead to refusal.

- 1.18 There will be an evidential basis for the decision to include a special policy within the policy. For example, Crime and

Disorder Reduction Partnerships will often have collated information that demonstrates cumulative impact as part of their general role on anti-social behaviour; and crime prevent strategies may have already identified cumulative impact as a local problem. Similarly, environmental health officers may be able to demonstrate concentrations of valid complaints relating to noise disturbance.

- 1.19 In summary, the steps to be followed in considering whether to adopt a special policy within the policy are:

- identification of concern about crime and disorder or public nuisance;
- consideration of whether it can be demonstrated that crime and disorder and nuisance 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 where 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 policy;
- subject to that consultation, inclusion of a special policy about future premises licence or club premises certificate applications from that area within the terms of the licensing policy;
- publication of the special policy as part of the policy required by the 2003 Act.

- 1.20 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or material variations will normally be refused, if relevant representations to that effect are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced. Applicants would need to address the

special policy issues in their operating schedules in order to rebut such a presumption. However, a special policy must stress that this presumption does not relieve responsible authorities or interested parties of the need to make a relevant representation before the local authority may lawfully consider giving effect to its special policy. If no representation is received, it would remain the case that any application must be granted in terms that are consistent with the operating schedule submitted. However, responsible authorities, such as the police, or interested parties, can make a written representation maintaining that it is necessary to refuse the application for the promotion of the prevention of crime and disorder and referring to information that had been before the local authority when it developed its policy.

- 1.21 If adopted, special policies will be reviewed regularly to assess whether they are needed any longer or need expanding. While a special policy is in existence, applicants will need to demonstrate why the operation of the premises would not add to the cumulative impact being experienced.
- 1.22 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.
- 1.23 The Council recognises that the diversity of premises selling alcohol, serving food and providing entertainment covers a wide range of contrasting styles and characteristics and will have full regard to those differences and the differing impact these will have on the local community.
- 1.24 It therefore also recognises that, within this policy, it may be able to approve licences that are unlikely to add significantly to the problems arising from saturation, and will consider the circumstances of each individual application.

For further advice see paragraphs 3.13 – 3.28 of the Guidance issued under section 182 of the Act.

Advice and Guidance

- 1.25 The Council recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act provide and welcomes the diversity of activities that are provided by licence holders. For this reason, pre-application discussions will be encouraged to assist applicants to develop their operating schedule to the standards the Council will normally expect. The Council, Kent Police and/or Kent & Medway Fire and Rescue Service will offer as much advice and guidance to applicants, as resources permit.
- 1.26 The Council 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 the proposal with the Council and those from whom they think representations are likely 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.

Consultation

- 1.27 There are a number of groups who have a stake in the leisure industry, including businesses, customers, residents and regulators, all of whom have views and concerns that require consideration as part of the licensing function and promotion of the licensing objectives.
- 1.28 In developing this Policy Statement, the Council consulted widely. Along with the statutory consultees (the Chief Police Officer for the District and the Kent & Medway Fire and Rescue Service) and the Crime and Disorder Reduction

Partnership, the views of existing licence holders, businesses, voluntary groups and residents were also taken into account. Due consideration was given to the views of all those who responded to that consultation process.

- 1.29 **This Policy Statement will take effect on 7 January 2008 and will remain in force for a period of 3 years.** It will be subject to regular review by the Council's Licensing Committee. This may lead to Interim Provisions within the three year period. Officers will make an annual report to Councillors on the operation of the Policy. There will be further consultation prior to the tri-annual renewal of the policy. The Chief Officer of Police will also be requested to make an annual report on licensing matters to Councillors.

1.30 **Amusement with prizes machines**

The Council will normally grant permits authorising up to two machines without a Licensing Committee hearing.

1.31 **Reviews**

Where possible and appropriate the Council, Kent Police and/or Kent & Medway Fire & Rescue Service will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.

No more than one review will normally be permitted within any 12 month period on substantially similar grounds except in exceptional and compelling circumstances or where it arises following a closure order.

Responsible authorities and/or residents living in the vicinity can trigger a review of a premises licence but an evidentiary basis would be required to be presented to the Council.

1.32 **Enforcement**

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 Council has adopted the principals of 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.

- 1.34 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

- 1.35 The Council recognises the interests of both individual citizens and the requirements of 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 persistently break the law. The Council has set clear standards of service and performance that the public and businesses can expect. In particular, 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. This policy is freely available from the Regulatory Services Department. Details of the Council's corporate complaints procedures are available from Customer Services Department 01474 564422. These documents can also be viewed on the Council's website: www.gravesham.gov.uk

1.36 The Council has established protocols with Kent Police, Kent & Medway Fire and Rescue Service and Kent County Council Trading Standards on enforcement issues. These protocols provide 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.

1.37 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'. Monitoring visits will also take place in around premises.

See Enforcement Policy.

2.0 LICENSING OBJECTIVES

2.1 The following sections set out the Council's Policy relating specifically to the four licensing objectives:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

The Council will attach Conditions to licences where considered necessary and proportionate for the promotion of the licensing objectives. They will be tailored to the individual style and characteristics of the particular premises and events concerned. These Conditions will be drawn from the relevant Model Pools of Conditions set out in Annexe D of the Guidance issued under S182 of the Licensing Act 2003. It may be necessary to impose Conditions not in the Model Pool when appropriate. Each case will be considered on its merits.

2.2 In each section relating to the objectives, the Council has defined its intended outcome (**in bold type**). Each section then lists the factors that would

influence the achievement of that objective but, because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive. Applicants know their premises best and will be expected to address all aspects relevant to the individual style and characteristics of their premises and events.

2.3 Further, in each section, a list of possible control measures is provided, to be of assistance to applicants, but again is not intended to be an exhaustive list. Many control measures achieve more than one objective but have not necessarily been listed under each objective. Applicants will not be required to mention a control measure more than once in their operating schedule.

2.4 The Council will expect the selection of control measures, referred to in 2.3 above, to be based upon a risk assessment of the premises, events, activities and the customers expected to attend (e.g. their age, number, etc.). Whilst the Council may not require such risk assessments to be documented, (other than where required by other legislation), 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.

2.5 Additional measures may be necessary on a specific basis 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. **Reference must 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.**

- 2.6 **The Council considers the effective and responsible management of the premises, instruction, training and supervision of staff 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 Council will expect these elements to be specifically considered and addressed within an applicant's operating schedule.**
- 2.7 **In addition, the occupancy capacity for premises, (which includes performers and staff) and events as appropriate, is also considered to be an essential factor in the achievement of the four licensing objectives, (except in respect of premises licensed for the consumption of food and/or alcohol off the premises). The Council will expect the issue of occupancy capacity to be considered and addressed within an applicant's operating schedule and, in most instances, will agree a maximum occupancy capacity, based on the applicant's assessment within their operating schedule.**
- 2.8 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 might include:
- 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 (e.g. age, disability)
 - The attendance by customers with disabilities, or whose first language is not English
- Availability of suitable and sufficient sanitary accommodation
 - Nature and provision of facilities for ventilation
- 2.9 The agreement to a capacity for premises or events should not be interpreted as a requirement to also provide permanent monitoring arrangements such as door staff, attendance clickers or maintenance of attendance records. The Council 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 be able to give details of the additional arrangements that will be put in place to ensure that the capacity of the premises is not exceeded.**
- 3.0 Prevention of Crime and Disorder
- 3.1 **Gravesham Borough Council is committed to further improving the quality of life for the people of the District by continuing to reduce crime and the fear of crime. The Local Authority will also consult and involve the Crime and Disorder Reduction Partnership in decision making in order to maximise the effectiveness of reducing crime, misuse of drugs and the fear of crime.**
- 3.2 Section 17 of the Crime and Disorder Act 1998 and the Violent Crime Reduction Act 2006 introduced a wide range of measures for preventing crime and disorder and imposed a duty on Gravesham Borough Council, Kent Police, Kent County Council and others to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003 reinforces this duty for local authorities.

3.3 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility 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.

3.4 When addressing the issue of crime and disorder, the applicant must demonstrate that those factors that impact on crime and disorder have been considered. These might include:

- Underage drinking
- Drunkenness on premises
- Public drunkenness
- Drugs
- Violent behaviour
- Anti-social behaviour

3.5 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and/or activities:

- Effective and responsible management of premises
- Training and supervision of staff
- Adoption of best practice guidance (e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice, including those relating to drinks promotions e.g. The Point of Sale Promotions published by BBPA)
- Acceptance of accredited 'proof of age' cards for example "Pass Card" promoted by Kent Trading Standards and Kent Police and/or 'new type' driving licences with photographs, passports, an official identity card issued by H M Forces.

- Provision of effective CCTV in and around premises
- Employment of Security Industry Authority licensed Doorstaff. If two or more are employed there must be at least one male and one female
- Provision of toughened or plastic glasses
- Provision of secure deposit boxes for confiscated items ('sin bins')
- Provision of litterbins and other security measures, such as lighting, outside premises
- Membership of a Pub Watch scheme
- G-SAFE – Gravesend Town Centre Crime Initiative

3.6 Within the operating schedule for premises from which alcohol will be sold, a Designated Premises Supervisor (DPS) must be identified and named. **The Council 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 Council will normally expect the DPS to have additional training and experience commensurate with the nature and style of the operation of the premises.** In exceptional circumstances, the police may object to the designation of a new premises supervisor where they believe that such appointment would undermine the crime prevention objective.

3.7 Certain temporary events are not required to be licensed but must be notified to the Council and Police using the Temporary Event Notice procedure. However, depending on the nature and location of such events, these can have serious crime and disorder implications. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable to enable the police and the Council to work with them to identify and reduce the risk of crime and disorder.

3.8 Where the Council has given notice in writing to the holder of the premises licence prohibiting the exhibition of a film

on the grounds that it contains matter, which, if exhibited, would be likely to:

- Encourage or incite crime or lead to disorder, or
- Stir up hatred or incite violence towards any section of the public on grounds of colour, race or ethnic or racial origin, disability, religious beliefs, sexual orientation or gender

The Council will expect that the film shall not be exhibited in the premises except with the consent in writing of the Council and in accordance with any conditions attached to such consent.

The Council will require all films to comply with the British Board of Film Classification (BBFC) guidelines.

4.0 Public Safety

4.1 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.

4.2 When addressing the issue of public safety, it is expected that an applicant will demonstrate that those factors that impact on the standards of public safety have been considered. These may include:

- The occupancy capacity of the premises
- 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, in particular the sale or supply of alcohol, and including whether those activities are of a temporary or permanent nature

- The hours of operation, noting the difference between opening hours and the hours of licensable activities ("drinking up time").
- Customer profile (e.g. age, disability)
- The use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.

The need to establish premises occupancy limits in accordance with a risk assessment is identified in paragraph 2.6 of this Policy Statement. It is expected that the following types of premises will have occupancy limits included in operating schedules after consultation with the Fire Authority.

Nightclubs

Cinemas

Theatres

Such other venues providing regulated entertainment as may be identified.

In accordance with the Secretary of State's guidance, premises where a fire safety certificate has been issued under the Fire Precautions Act 1971 (which imposes an occupancy limit) it will not have an occupancy limit imposed under the premises licence unless the fire authority recommends a change. For example if the current fire certificate does not take into account the licensable activity a new capacity figure may be required.

The Act repeals the Cinematograph (Safety) Regulations 1955 which contained a significant number of regulations in respect of fire safety provision at cinemas. Similar provisions will therefore be reproduced on licences for such premises.

4.3 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and/or activities:

- Suitable and sufficient risk assessments
- Effective and responsible management of premises
- Provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons
- Appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons
- Adoption of best practice guidance
- Provision of effective CCTV in and around premises
- Provision of toughened or plastic non disposable glasses/bottles
- Implementation of crowd management measures
- Regular testing (and certification where appropriate) of procedures, appliances, systems etc. pertinent to safety

5.0 Prevention of Public Nuisance

5.1 Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. The Council wishes to proactively maintain and protect the amenity 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.

5.2 The Council intends to interpret 'public nuisance' in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

5.3 Applicants need to clearly understand that the Council will pay particular attention whether or not to impose stricter conditions, including controls on licensing hours, where licensed premises are in residential

areas with a view to protecting the quality of life of residential occupiers.

5.4 In the case of shops, stores and supermarkets and garages selling alcohol, the Council will normally 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.

5.5 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 prevent public nuisance, relevant to the individual style and characteristics of their premises and events.

5.6 When addressing the issue of prevention of public nuisance, the applicant must demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include:

- 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 time
- The steps the applicant has taken or proposes to take to ensure that staff leave the premises quietly
- The steps the applicant has taken or proposes to take to prevent

disturbance by patrons arriving or leaving the premises

- Whether routes to and from the premises, on foot or by car or service or delivery vehicles, pass residential premises.
- Whether other measures have been taken or are proposed such as the use of CCTV or the employment of registered door supervisors.
- The arrangements made or proposed for parking by patrons, and the effect of this parking on local residents.
- The likelihood of any violence, disorder or policing problems arising if a licence were granted.
- Whether taxis and private hire vehicles serving the premises are likely to disturb local residents.
- The siting of external lighting, including security lighting that is installed inappropriately.
- 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.

5.7 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and/or activities:

- Effective and responsible management of premises
- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance
- Control of operating hours for all or parts (e.g. garden areas) of premises, including such matters as deliveries
- Adoption of best practice guidance (e.g. Good Practice Guide on the Control of Noise from Pubs and

Clubs, produced by Institute of Acoustics)

- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- Management of people, including staff, and traffic (and resulting queues) arriving and leaving premises
- Liaison with public transport providers
- Siting of external lighting, including security lighting
- Management arrangements for collection and disposal of litter
- Effective ventilation systems to prevent nuisance from odour

5.8 In relation to smoking outside licensed premises applicants may wish to consider

- The provisions and maintenance of suitable receptacles for customers to dispose of cigarette litter in areas used, or likely to be used, for smoking
- Licensees to take all reasonable steps to discourage smoking on the public highway close to residential premises, particularly after 22.00 hours. This could include measures such as a ban on customers taking drinks outside on to the public highway, the use of door supervisors, or imposing a time after which readmissions to the premises will not be permitted.
- Garden areas to be cleared at a reasonable time where not doing so could cause nuisance to neighbouring residents.

6.0 Protection of children from harm

6.1 **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 protect children from harm, relevant to the individual style and characteristics of their premises and events. The Local Authority**

commends the Portman Group Code of Practice on the naming and packaging of alcoholic drinks.

6.2 The protection of children from harm is an important issue. It is hoped that family friendly premises will thrive, but the risk of harm to children remains a paramount consideration when determining applications.

6.3 The relaxation in the Licensing Act giving accompanied 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. However, it is recognised that parents and others accompanying children also have responsibilities.

6.4 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 the transmission of programmes by video or DVD. 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, the unpredictability of their age and the lack of understanding of danger.

6.5 Whilst children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. When addressing the issue of protecting children from harm, the applicant must demonstrate that those factors that impact on harm to children have been considered. These may include the potential for children to:

- Purchase, acquire or consume alcohol
- Be exposed to drugs, drug taking or drug dealing
- Be exposed to gambling

- Be exposed to activities of an adult or sexual nature
- Be exposed to incidents of violence or disorder
- Be exposed to environmental pollution such as noise or smoke
- Be exposed to special hazards such as falls from a height

6.6 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and/or activities:

- Effective and responsible management of premises
- Provision of a sufficient number of people employed or engaged to secure the protection of children from harm
- Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm
- Adoption of best practice guidance (Public Places Charter)
- Limitations on the hours when children may be present, in all or parts of the premises
- Limitations or exclusions by age when certain activities are taking place
- Imposition of requirements for children to be accompanied by an adult
- Acceptance of accredited 'proof of age' cards for example "Connexions Card" promoted by Kent Trading Standards and Kent Police and/or 'new type' driving licences with photographs, passport, an official identity card issued by HM Forces or by a EU country bearing the photograph and date of birth of bearer
- The placing of machines under the Gambling Act 2005 so that they can be properly supervised.

- 6.7 In the case of film exhibitions, the Council will expect licensees to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the BBFC or the Council. In the case of a film exhibition that has not been classified, the Council will expect the licensee to certify to the Council that an assessment of the suitability of the film for exhibition to children in accordance with the BBFC Guidelines has been carried out and that this has been confirmed by the Council in writing prior to public viewing.
- 6.8 Where regulated entertainment is provided the Council will require the presence of an adequate number of adult staff to control the access and egress of children and to protect them from harm whilst on the premises. Where children are present as performers, the Council will normally require an adequate number of adult staff to be responsible for the child performers. The staff should be suitably screened through the Police or the Criminal Records Bureau to work with children.
- 6.9 The Council will rarely impose complete bans on access to children. In exceptional circumstances conditions restricting access or excluding children completely may be considered necessary. Those conditions may restrict children from entering all or part of licensed premises:
- (1) at certain times of the day or
 - (2) when certain licensable activities are taking place or
 - (3) to which children aged under 16 years should have access only when supervised by an adult or
 - (4) to which unsupervised children under 16 will be permitted access
- 6.10 Examples of premises where these conditions may be considered include where:
- (1) there have been convictions for serving alcohol to minors or where there is some evidence of under-age drinking
 - (2) there is a known association with drug taking or dealing
 - (3) there is a strong element of gambling on the premises
 - (4) entertainment of an adult or sexual nature is commonly provided
 - (5) there is a presumption that children under 18 should not be allowed (eg to nightclubs, except where under 18 discos are being held)
 - (6) licensable activities are taking place during times when children under 16 may be expected to be attending compulsory full-time education.

Statement of Licensing Policy Appendices

Appendix 1 Useful Addresses

Appendix 2 Good Practice Guides and Contact Points

Appendix 3 Definitions

Appendix 4 Gravesham Community Safety Strategy & Action Plan

Appendix 5 List of Delegated Functions

Appendix 6 Enforcement

Appendix 7 Local Plan Policies

Appendix 8 Gravesham Cultural Policy

Appendix 9 Help with Operating Schedule

Appendix 1 – Useful addresses

Kent Police

Gravesend Police Station
133 Windmill Street
Gravesend Kent DA12 1DB
01474 33 10 55

Kent Fire and Rescue

Gravesend Fire Safety
Thameside Fire Station
Coldharbour Road
Northfleet Kent DA11 8NT
01474 32 67 57
Fax 01474 56 92 64

Child Protection

Social Services Children and Families
District Manager
Joynes House, New Road
Gravesend, Kent DA11 0AT
01474 32 86 64
Fax 01474 32 07 41

Gravesend Public Safety Unit

4th floor Civic Centre
Windmill Street
Gravesend Kent DA12 1AU

Criminal Records Bureau

Customer Services CRB
PO Box 110, Liverpool L3 6ZZ
0870 90 90 811

Security Industry Authority

PO Box 9
Newcastle Upon Tyne NE82 6YX
08702 43 01 00
Fax 08702 43 01 25

Gravesend Chamber of Commerce

6 Berkeley Crescent
Gravesend Kent DA12 2AD
01474 32 08 05
Fax 01474 53 71 52

KCC Trading Standards

Invicta House, County Hall
Maidstone, Kent ME14 1XX
01622 22 10 12
Fax 01622 22 10 13

Maritime and Coastguard Agency

Central Court
1b Knoll Rise
Orpington, Kent BR6 0JA
01689 89 04 00
Fax 01689 89 04 46

Gravesend Borough Council

Licensing Section
Regulatory Services
Civic Centre, Windmill Street
Gravesend, Kent DA 12 1AU
01474 33 73 34
Fax 01474 33 79 43

Gravesend Borough Council

Planning and Regeneration Services
Civic Centre, Windmill Street
Gravesend, Kent DA 12 1AU
01474 33 73 91
Fax 01474 33 75 31

Gravesend Borough Council

Commercial Section (Health & Safety)
Regulatory Services
Civic Centre, Windmill Street
Gravesend, Kent DA 12 1AU
01474 33 73 34
Fax 01474 33 79 43

Gravesend Borough Council

Environmental Protection Services
(Pollution Control)
Regulatory Services
Civic Centre, Windmill Street
Gravesend, Kent DA 12 1AU
01474 33 73 34
Fax 01474 33 79 43

Appendix 2 – Good Practice Guides and Contact Points

Together Campaign – Tackling Anti-Social behaviour
www.together.gov.uk

Safer Clubbing – concerns drugs and nightclubs
www.drugs.gov.uk

Qualifications supporting the licensing objectives
www.bii.org

Portman group of Practice on naming, packaging and promotion of alcoholic drink
www.portman-group.org.uk

Crime reduction – general guidance
www.crimereduction.gov.uk

Good Practice Guide on Control of Noises from Clubs & Pubs The Institute of Acoustics
www.ioa.org.uk

Good Practice Guide – Licensing. Justices Clerks Society / Magistrates Association
www.magistrates-association.org.uk

The National Alcohol Harm Reduction Strategy Toolkit
www.alcoholconcern.org.uk

Point of Sale Promotions – British Beer and Pub association
www.beerandpub.com

British Institute of Inn-keeping – BII.
www.bii.org.uk
Bar Entertainment & Dance Association – BEDA
www.beda.org.uk

Federation of Licensed Victuallers Associations – FLVA
www.flva.co.uk

Association of Licensed Multiple Retailers
www.almr.org.uk.

Off- Licenses:

Association of Convenience Stores
www.thelocalshop.com.

National Federation of Retail Newsagents
www.nfrn.co.uk.



Appendix 3 Definitions

In this Policy, the following definitions are included to provide an explanation of certain terms included in the Act and therefore in the Policy. In some cases they are an abbreviation of what is stated in the Licensing Act 2003 or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Licensing Act 2003.

What are the activities covered by the Licensing Act?

The Act lists four licensable activities, which are to be regulated by the provisions of the Act. These, in brief, are:

- The sale by retail of alcohol;
- The supply of alcohol by clubs;
- The provision of regulated entertainment;
- The provision of late night refreshment.

What is regulated entertainment under the Licensing Act 2003?

The provision of regulated entertainment covers the provision of entertainment or of entertainment facilities. The descriptions of entertainment in the Licensing Act are:

- the performance of a play;
- an exhibition of a film;
- an indoor sporting event;
- boxing or wrestling entertainment;
- a performance of live music;
- any playing of recorded music;
- a performance of dance;
- or entertainment of a similar description to live music, recorded music or dance.

Furthermore, to be "regulated entertainment" the entertainment must take place in the presence of an audience and be provided for the purpose of, or for purposes which include, entertaining that audience. Entertainment facilities are facilities for enabling people to take part in entertainment for the purpose of being entertained or for purposes, which include the purpose, of being entertained. This applies only to:

- making music;
- dancing; and
- entertainment of a similar description to making music or dancing.

"Entertainment facilities" are, for example, a dance floor provided for customers to use, whereas "entertainment" might involve a performance of dance provided for an audience.

In order for the provision of entertainment or entertainment facilities to be regulated, two conditions must be satisfied.

- The first of these is that the entertainment or entertainment facilities must be provided:

(a) to any extent for the public or a section of the public or
(b) exclusively for members and their guests of a club which is a qualifying club in relation to the provision of regulated entertainment or
(c) where (a) and (b) do not apply, for consideration and with a view to profit.

- The second is that the premises on which the entertainment takes place, or entertainment facilities provided, are made available for the entertainment to take place.

What is an operating schedule?

An operating schedule is a document which is in prescribed form and includes a statement of the following matters:

- (a) the relevant licensable activities;
- (b) the times during which it is proposed that the relevant licensable activities are to take place;
- (c) any other times during which it is proposed that the premises are to be open to the public;
- (d) where the applicant wishes the licence to have effect for a limited period, that period;
- (e) where the relevant licensable activities include the supply of alcohol prescribed information in respect of the individual whom the applicant wishes to have specified in the premises licence as the premises supervisor;
- (f) where the relevant licensable activities

include the supply of alcohol, whether the supplies are proposed to be for consumption on the premises or off the premises, or both;
(g) the steps which it is proposed to take to promote the licensing objectives; and
(h) such other matters as may be prescribed.

For clubs applying for a club premises certificate a similar document, known as a club operating schedule is prepared.

What is Late Night Refreshment?

For the purposes of the Act, the provision of late night refreshment means the supply of hot food or hot drink to the public, for consumption on or off the premises, between 11pm and 5am or the supply of hot food or hot drink to any persons between those hours on or from premises to which the public has access.

The Act provides for a number of supplies to be exempt supplies which will not constitute the provision of late night refreshment. Examples are the provision of hot drink by vending machines in certain circumstances; where the hot food or hot drink is supplied free of charge; or where it is supplied by a registered charity.

Food or drink is "hot" for the purposes of the Act if it is heated on the premises or elsewhere before it is supplied for the purpose of enabling it to be consumed at above ambient air temperature, or if it may be heated on the premises for this purpose after it is supplied.

Licensing Objectives

The objectives of licensing set out in the 2003 Act:

- The prevention of crime and disorder
- The protection of public safety
- The prevention of public nuisance
- The protection of children from harm

The Council must carry out its functions under the Act with a view to promoting the licensing objectives.

Appeals

Appeals against decisions of the licensing authority are to the magistrates' court for the area in which the premises are situated. The appeal must be lodged within 21 days of being notified of the Authority's decision.

Authorised Persons

'Authorised Persons' are specified people who have statutory duties in relation to the inspection of premises, e.g licensing officers, police, fire, health & safety and environmental health.

Interested Parties

Are persons living in the vicinity of the premises; a body representing such persons, a person involved in business in the vicinity; or a body representing businesses in the vicinity.

Responsible authorities

These include the police, fire, enforcing authority for health and safety, planning authority, environmental health, bodies responsible for child protection, trading standards and other specified authorities. Only these groups can make representations about an application for a premises licence.

Closure Order

New powers for the police and courts to close premises. The 2003 Act significantly extends the existing powers of the police to seek court orders in a geographical area that is experiencing or likely to experience disorder or to close down instantly individual premises that are disorderly, likely to become disorderly or are causing noise nuisance.

Club Premises Certificate

A certificate which licences a qualifying club for the sale/supply of alcohol. It can be granted to members' clubs which comply with specific conditions e.g. membership rules, run by club committees, profits go to members not an owners etc. There is no time limit on the duration of the certificate but it may be withdrawn, surrendered or suspended.

Conditions

A Premises licence may be granted subject to different conditions, and these may be in respect of different parts of the premises and different licensable activities. There is no power to impose conditions on a personal licence. Guidance to the Act provides *'The only conditions which should be imposed on a premises licence or club premises certificate are those which are necessary for the promotion of the licensing objectives. accordingly, if the existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be necessary to impose the same or similar duties on the premises licence holder'*. Conditions must be proportional and tailored to size, style, characteristics and activities taking place at the premises concerned.

Designated Premises Supervisor

The person in the case of premises selling alcohol, who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder himself (who must also be a Personal Licence holder)

Interim Authority Notices

Where a premises licence lapses, due to death, incapacity or insolvency etc. of the holder, specified persons can within 7 days serve an interim authority notice on the licensing authority. This revives the licence, subject to police objection, for a period of up to 2 months so the premises can continue trading.

Licensing Authority

Gravesham Borough Council

Mandatory Conditions

Conditions that the act requires are imposed on a premises licence, club premises certificate or personal licence.

Objection Notice

A procedure whereby the police can object to the grant of a personal licence on the grounds that, having regard to convictions of

the applicant for relevant offences, the grant would undermine the crime prevention objective.

Relevant Representations

The 2003 act does not use the term 'objections' except in relation to the Police. Instead authorised persons, interested parties and responsible authorities may be able to make relevant representations about an application for a licence. Representations must relate to the licensing objectives and where made by an interested party or responsible authority the local authority need only consider relevant representations. The making of relevant representations engages the licensing authorities' discretion to take 'steps' consistent with the licensing objectives when considering the application.

Review of Licence

Where a premises licence is in force an interested party or responsible authority may apply to the Licensing Authority for it to be reviewed. The authority must hold a hearing to review the licence as a result must take any necessary steps to promote the licensing objectives, such as modification of conditions; exclusion of licensable activities; removal of the premises supervisor; suspension of the licence for up to three months; or the revocation of the licence.

Statement of Licensing Policy

Each licensing authority must, every three years determine and publish a statement of licensing policy. There is a requirement to consult on the policy and keep it under review.

Temporary Events Notice

A permitted temporary activity involving one or more licensable activities subject to the following various conditions and limitations:-

- Duration – they are limited to events lasting up to 96 hours
- Scale – they cannot involve the presence of more than 499 people at any one time
- Use of the same premises – the same premises cannot be used on more than 12 occasions in a calendar year,

but are subject to the overall aggregate of 15 days irrespective of the number of occasions on which they have been used.

- the number of notices by one individual within a given period of time – a Personal Licence holder is limited to 50 notices in one year and any other person to 5 notices in a similar period.

If these conditions are not fulfilled, the temporary event would require a Premises licence if it were currently unlicensed for the activity involved.

Transfer

A procedure where an application can be made to transfer the premises licence into a new name e.g. if a premises licence holder sell his premises an application may be made to transfer the premises licence to the new owner.-



Appendix 4 – Gravesham’s Community Safety Strategy and Action Plan

- **Strategic aim 1 – reducing crime in geographical focus areas**
The Crime Reduction Partnership is committed to reducing crime in areas identified in the Crime Audit as being high priorities both in terms of crime and social exclusion. The areas identified in the audit are Northcourt, Northfleet west and Gravesend Town Centre. Multi agency groups comprising of Police, Council and county council representatives, as well as relevant local agencies and residents associations, are set up to evaluate the local problems and find solutions. It has supported initiatives such as the Home zone and establishment of residents associations and work to address fly tipping in Northcourt, Wardens and Alcohol Dispersal areas in Northfleet North as well as insuring PCSO’s will be available to patrol all hotspot areas

Town Centre – This is where the majority of work with licensing comes in and will be the focus of much work for the community safety team in relation to new licensing powers. A crime initiative exists in the Town centre with the capacity to be expanded in to the night time economy as this grows in order to accommodate this.
- **Strategic Aim 2 – Tackling Anti Social Behaviour.**
The main component of this is a multi agency group chaired by an Anti social behaviour co-ordinator looking at identified individuals who persistently offend. It also encompasses more generic forms of anti social behaviour such as that caused through under age drinking.
- **Strategic Aim 3 – Reducing Crimes against property.**
In keeping with the biggest criminal problem in Gravesend at present – criminal damage – this aim is to focus on the large bulk of crimes in Gravesend and address them through measures ranging from graffiti clearing hotlines and work to reduce fly tipping and opportunistic fires through to car crime initiatives to reduce theft from motor vehicles.
- **Strategic Aim 4 – Reducing Personal Crime and supporting victims.**
Integrating Gravesham Borough Council into the work of the Domestic Abuse Forum has been a big part of this, as well as continued work to support victims and witnesses in cases of Anti social Behaviour and racial harassment.
- **Strategic Aim 5 - Reducing Drug related crime or Drug Misuse.**
Work is carried out with a range of agencies in order to best allocate and effectively use resources available from the Home Office for the purposes of providing targeted enforcement and treatment for drug users in Gravesham.
- **Strategic Aim 6 – Improving Partnership working and Partnership Development.**
Community Safety is a Multi agency concern and only succeeds when operated as such. It is therefore vital that implementing community safety is seen as a joint responsibility between and within agencies and that all agencies take complimentary actions to achieve a common goal. It is the aim of the Community Safety office to ensure, with this aim, that this message is effectively communicated.



Appendix 5 – Recommended delegation of functions

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer or premises licence		If a police objection	All other cases
Applications for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc.			All cases
Decision to object when Local Authority is a consultee and not the relevant authority considering the application.		All cases	
Determination of a police objection to a temporary event notice.		All cases	



Appendix 6 – Enforcement of the Licensing Act 2003

The Council will take a proactive approach to the enforcement of the Licensing Act 2003. In addition, any complaints we receive in respect of licensed premises will be investigated and the complainant kept informed.

The Council has adopted an Enforcement and Prosecution Policy in respect of the Licensing Act 2003. This sets out our step-wise, risk based approach to enforcement and our commitment to effective partnership working with the other responsible authorities under the Act.. This policy may be viewed on the council's website and is detailed below.

All complaints and requests for service made in relation to premises, persons and the Licensing Act 2003 (excluding licence applications) will be dealt with in accordance with departmental service standard procedures. For complaints we deem to be of an urgent nature, our first response will be within 24 hours (during normal working hours). For non-urgent matters our first response will be within 5 working days.

Persons wishing to make a complaint are able to do so in the following ways, addressing their complaint for the attention of the Senior Licensing Officer.

- in person to Civic Centre, Windmill Street, Gravesend, Kent DA12 1AU
- in writing to Licensing Section, Regulatory Services
- by telephone on 01474 337334
- by fax on 01474 33 72 96
- by e-mail to licensingchanges@gravesham.gov.uk
- via our website www.gravesham.gov.uk

Gravesham Borough Council is a signatory to the Kent & Medway Licensing Enforcement Protocol relevant to the Licensing Act 2003. This Protocol was developed in close conjunction with all the other local authorities in Kent, Kent police, Kent Fire & Rescue service and Kent County Council, who are all signatories to the protocol. The aim of the Protocol is to ensure a risk rated prioritised partnership approach to enforcement taking into account LACORS best practice guidance in providing information sharing, and consistency to the benefit of licensees, potential licensees, businesses, residents and to regulatory agencies having a Kent wide remit.

Licensing Enforcement and Prosecution Policy Licensing Act 2003

1. Aim

This policy is intended to fairly and firmly enforce the law in a consistent and transparent way, and in accordance with the four licensing objectives:

- prevention of crime and disorder
- public safety
- prevention of public nuisance
- protection of children from harm.

The council will assist and advise wherever appropriate, but proportionate action will be taken against those who breach the provisions of the legislation.

2. Purpose of policy

This policy is designed to:

- ensure consistency of approach and enforcement in respect of licensing issues
- provide officers with guidelines to enable them to make reasoned decisions regarding enforcement
- inform the public and proprietors of businesses of the principles by which enforcement action is determined and subsequently taken.

3. Underlying principles of the policy

The council has adopted or is in agreement with the provisions of the Government's Enforcement Concordat. This represents a graduated approach to enforcement based on the principles of:

- agreed standards and procedures
- helpfulness
- openness
- transparency
- proportionality
- consistency
- complaints procedure.

Standards and procedures

The council produces standards and procedures in respect of the level of service and performance to be expected. The council publishes its performance against the standards. The standards and procedures are readily available to businesses, others who are regulated and the public.

Helpfulness

The Council will deal courteously and efficiently with all individuals, organisations and businesses that it comes into contact with. Staff will identify themselves by name and contact numbers will be made available. Electronic means of communication will be facilitated wherever possible.

Openness

Information and advice will be provided in plain language and details of charges etc. will be made readily available. Translation services will be made available where practicable to assist customers who do not have English as their first language.

Transparency

Transparency is important in maintaining public confidence in the council's regulatory capacity. The council will help those being regulated, and others to understand what they need to do and how it may be achieved. The council will also make its own role in the matter clear.

The council will explain carefully (and if necessary in writing) why the action is necessary, who must carry it out and by what date it must be carried out. A clear distinction will be made between a legal requirement, a request and best practice.

The council will give every reasonable opportunity for discussion before formal enforcement action is taken unless urgent action is necessary in the public interest or to prevent the destruction of evidence that would compromise the council's case. In such circumstances the council will give a written explanation of its reasons for taking immediate action and this will be done as soon as possible after the event.

The council will give written notice of any rights of appeal against enforcement action at the time that action is taken.

Proportionality

The council, police and other enforcement agencies will, as far as the law allows and where co-operation is given, work with business/licensees to enable them to meet their legal obligations without undue cost. The council will take into account the cost of compliance by ensuring that any enforcement or remedial action required is proportionate to the risks. However clear breaches of the legislation may attract prosecution and /or recommendation for review of the licence where it is deemed to be in the public interest.

Consistency

The council and its officers will act in a fair and consistent manner. Council Officers whilst exercising their professional judgement in individual cases, will do so within a framework based on consistency and fairness in action. However the council recognises that consistency does not mean uniformity and officers of the council are required to take professional decisions that take account of a wide variety of situations and circumstances. Officers will take account of national and local standards and guidance and also be aware of this policy.

There will be specific circumstances when the council will share an enforcement role with the police or other agencies. When this happens, the same degree of consistency and fairness will be applied.

Complaints procedure

The council has a formal complaints procedure, although many complaints may appropriately be dealt with by a senior manager within Regulatory Services. Information regarding the formal complaints procedure may be obtained by calling Customer Services on 01474 33 70 00 or through the council's website www.gravesham.gov.uk

In addition to the council's own complaints procedures, the Local Government Ombudsman hears complaints regarding local government maladministration, and details of this are also available from Customer Services.

4. Liaison with other regulatory agencies

The council will work actively with the police and other bodies (Fire and Rescue Service, Customs and Excise, Trading Standards, Child Protection, Health and Safety Executive, Maritime and Coastguard Agency, Security Industry Authority, Crown Prosecution Service, etc.), in enforcing the licensing legislation. This will necessitate the sharing of information in relation those persons involved in licensing and relevant premises based on the requirements of the Licensing Act 2003, Criminal Justice and Police Act 2001, Anti-Social Behaviour Act 2003, Criminal Justice and Public Order Act 1994, Crime and Disorder Act 1998, Violent Crime Reduction Act 2006 and other relevant legislation.

There are various statutory provisions that enable the council to exchange relevant information with other bodies. These provisions will be used as appropriate.

This enforcement policy in no way restricts other regulatory bodies from carrying out enforcement under their own regulatory powers. When the council and another enforcement agency both have powers to take enforcement action, – the council will liaise with the other body to ensure that:

- action is effectively coordinated
- proceedings are for the appropriate offence
- inconsistencies are avoided.

5. Licensing Visits

Council officers will make licensing visits to premises, and may on occasion be accompanied primarily by police and or other regulatory agencies. Both the council and the other relevant agencies firmly believe that working together and with business is the primary method to achieve the licensing objectives, but will take appropriate enforcement action if necessary.

The visiting regime for premises is primarily but not solely decided on a risk assessment basis. The council 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 Council 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. The information gained from these monitoring exercises will inform the development of the councils' licensing policy statement.

6. Enforcement Action/Options

The initial contact between council and Business/ Licensees will normally be informal, with the provision of advice, guidance and support.

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 (in accordance with Home Office circular 18/1994)
- prosecution

The individual circumstances of the breach of the legislation will determine the level of enforcement. In the case of a premises licence the council or the police may ask for a review which may lead to a suspension or revocation of the licence. All actions will be considered in accordance with the requirements of the Human Rights Act 1998 and considered on its individual merits.

On conviction for a relevant offence, magistrates may endorse, suspend or revoke a personal licence. Council officers, police or crown prosecutors may relating to such a conviction remind the magistrates of their powers to endorse, suspend or revoke a personal licence

When prosecution is being considered, the relevant enforcement bodies will on a case-by-case basis decide which the lead authority to prosecute the offence will be.

Regard will be taken of the Code of Practice made under Section 10 Prosecution of Offences Act 1985 and issued by the Crown Prosecution Service. Due consideration will be given to any guidance and/or advice issued by Government, Local Authority Association and other professional and technical bodies. Statements will be provided as regard to evidence from one agency to another as necessary. Before deciding whether to prosecute the following factors will be considered:

- the nature, seriousness and effect of the alleged offence
- there is sufficient, reliable and admissible evidence that the offence has been committed
- the history of the business/person concerned
- any explanation offered by the alleged offender
- the willingness of the business/individual to prevent a reoccurrence of the problem and the level of cooperation with Council officers, Police and/or other agencies
- whether it is in the public interest to prosecute
- the realistic prospect of conviction
- whether any other action (including a formal caution) would be more appropriate or effective.
- the views of any complainant, witness and other parties with an interest in a prosecution and their willingness to cooperate.
- the deterrent effect on the offender and others.

Prosecution will only be instigated following review of the matter by the Head of Regulatory Services and in consultation with the Head of Legal Services.

The council takes a proactive stance towards the proper regulation of, and enforcement of the provisions of this legislation. The council will normally take the lead on issues including:

- noise
- production and display of relevant licences and documents
- unauthorised licensable activities in relation to the provision of regulated entertainment
- breaches of conditions of premises licences
- breaches of requirements under temporary events notices
- exposing and keeping of alcohol on premises for unauthorised sale

Other breaches of the act will be dealt with either directly or jointly as indicated above. The council will give full cooperation to any other agency in carrying out their investigations.

7. Departures from the enforcement and prosecution policy

Agreed departures from the policy will be rare and the reason will be documented in each case, following review by Head of Regulatory Services

8. Review of policy

The council will review this enforcement policy at least every 3 years in line with the review of the licensing policy statement, or when changes in legislation or centrally issued guidance make this necessary.



Appendix 8

Gravesham Cultural Policy as part of the Kent Thameside Cultural Strategy

Promoting a Broad Range of Leisure and Cultural Activities (Arts and Entertainment)

The council will actively encourage and promote a broad range of arts and entertainment, recognising the wider cultural benefits for local communities. Live performance is central to the development of cultural diversity and vibrant, exciting communities, including traditional entertainment such as circus and street arts. The potential for limited disturbance in neighborhoods will always be balanced with these wider benefits and so the council will endeavor to positively encourage all venues to offer leisure and cultural activities as far as possible.

The Council as Licence Holder for Public Spaces

The council will also seek Premises Licences for public spaces in the community in its own name. This could include, for example, open spaces, town centre areas, community halls and similar public spaces. With regard to those places, performers and entertainers will not themselves need to obtain a premises licence or give a temporary event notice in order to perform. Instead they would require permission from the council as Premises Licence holder. The council intends to use this method of licensing to encourage circus and street arts to our local communities. Any charges related to this permission will be reasonable and proportionate.

Gravesham's Cultural Strategy is available from

Leisure Services
Public Health and Community Wellbeing Department
Civic Centre
Windmill Street
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Appendix 9 - Help with your Operating Schedule under The Licensing Act 2003

An operating schedule is a required document for all new applications for premises licences, club premises certificates or for applications for a conversion of a premises licence with a simultaneous variation. It is required to take into account the four licensing objectives that form the main thrust of the Licensing Act 2003. They are:

Four Licensing Objectives

The prevention of Crime and Disorder
The protection of Public Safety
The prevention of Nuisance
The protection of Children from Harm

When an applicant for a premises licence or club premises certificate is preparing their operating schedule the following options should be considered which, if necessary, would promote each of the licensing objectives. Very careful consideration of what is written is advised as it will form the basis of the conditions imposed on the licence. However, as a guide, sections 2 – 6 in Gravesham Borough Council's Statement of Licensing Policy should be used as the basis for the sorts of things that may be expected to be addressed in the operating schedule. Obviously, not all are appropriate to all premises. For example, attendant ratios for seated audiences would not normally be a feature of a public house, and similarly use of two-way radios would not be relevant to licensed premises in rural settings as there is not the same customer migration pattern as in a town centre.

Do be realistic in what you intend to do. Take into consideration: Your neighbours both residential and business and your track record with the police, the council, trading standards and other enforcement agencies.

It is not intended that the matters dealt with in this guidance are the definitive but are merely mentioned to give a good idea of what you should be considering when formulating your operating schedule.

Things to Consider

Prevention of Crime and Disorder

Door Supervisors

Conditions relating to the provision of door supervisors and security teams may be valuable in:
Preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder
Keeping out excluded individuals (subject to court imposed bans or bans imposed by the licence holder)
Searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons
Maintaining orderly queuing outside of venues prone to queuing
Door supervisors also have a role to play in ensuring public safety

You may therefore think of including within the operating schedule details confirming that:

Door staff will be correctly registered with the Security Industry Authority (SIA) and will display the correct name badge and proof of registration. To get more information visit <http://www.sia.org/> or call their helpline 0870 2430100

Will be subject to ongoing training

Will be used at a ratio to be agreed by the police and council

Will wear clothing that can be easily and clearly identifiable on CCTV

CCTV

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise siting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time. The police may be able to provide individuals conducting risk assessments when preparing operating schedules with advice on the use of CCTV to prevent crime. Items that could be included on the schedule could therefore be:

CCTV will be installed and working to the satisfaction of the police and the council

Recordings will be maintained for an appropriate period of time (generally one month – but to be agreed with police and council)

If the CCTV equipment is inoperative, the police and council to be informed as soon as possible and immediate steps taken to put the equipment back into action

Notices to be displayed at the entrance to the premises advising that CCTV is in operation

Bottles and Glasses

Glass bottles may be used as weapons inflicting more serious harm during incidents of disorder. Glasses containing drinks can also be used as weapons during incidents and in un-toughened form, can cause very serious injuries. Consideration should therefore be given to measures to prevent this such as:

Alcoholic and soft drinks will be served in plastic or toughened glasses

All bottles (other than those where it is not intended that the contents are consumed direct from the bottle) will be made of plastic

If glass bottles are used, the contents will be decanted into plastic or toughened glass

No customers carrying open or sealed bottles or glasses will be admitted to the premises at any time

No customers will be permitted to take open containers or alcoholic or soft drinks from the premises

All bottles and glasses will be removed from public areas as soon as they are finished with or empty

Proof of Age Cards

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent such crimes, it may be necessary to require a policy to be applied at certain licensed premises requiring the production of 'proof of age' before such sales are made. This should not be limited to recognised 'proof of age' cards, but allow for the production of other proof, such as photo-driving licences, student cards and passports. The Secretary of State strongly supports the PASS accreditation system which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences and passports. Kent Trading Standards promote 'connexions cards' and you may want to contact them for further details telephone 01622 22 10 12

Capacity limits

Although most commonly made a condition of a licence on public safety grounds, consideration should also be given to conditions which set capacity limits for licensed premises or clubs where it may be necessary to prevent overcrowding which can lead to disorder and violence. Where such a condition is considered necessary, consideration should also be given as to whether door supervisors would be needed to ensure that the numbers are appropriately controlled. It is therefore recommended that you liaise with the police and fire authority as well as the council on this point. Particular attention should be paid to the advice contained in paragraphs 2.6 - 2.8 of the Statement of Licensing Policy issued by the council that clearly states the factors that need to be taken into account in this regard. You should also take into account advice given in this appendix under public safety.

Text/Radio Pagers

Text and radio pagers connecting premises licence holders, designated premises supervisors, managers of premises and clubs to the local police can provide for rapid response by the police to situations of disorder which may be endangering the customers and staff on the premises. It is therefore advised that membership of the 'G-safe' scheme is a good idea if you are within Gravesend town centre. Further details of this are available from the Community Safety team of the Environmental and Public Health Services Department – Telephone number 01474 33 72 58

Signage

It may be necessary for the normal hours under the terms of the premises licence or club premises certificate at which licensable activities are permitted to take place to be displayed on or immediately outside the premises so that it is clear if breaches of the terms of the licence or certificate are taking place.

Similarly, it may be necessary for any restrictions on the admission of children to be 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 these conditions.

General

Other conditions that may be considered could be:

A policy to be in force for the management of large groups i.e hen and stag parties. The group will be required to nominate a responsible person to liaise with staff.

A secure area for customer's personal belongings to be made available

An incident book to be kept and details of all instances of public disorder to be recorded

Public Safety

In certain premises where existing legislation does not provide adequate safety of the public, in order to meet the Licensing Objectives, example conditions that you could incorporate into your schedule as applicable are detailed below, these however, are not exhaustive, and special consideration on top of these suggested conditions should be made in respect of different types of premises eg: premises used for closely seated audiences, indoor sports entertainments, film and late night refreshment premises etc which could require additional conditions - if in doubt you are best to consult the council for advice.

Example conditions for:

Disabled People

When disabled people are present, adequate arrangements to exist to enable their safe evacuation in the event of an emergency

Disabled people on the premises to be made aware of these arrangements

First Aid

Adequate and appropriate supply of first aid equipment and materials to be available on the premises

At least one suitable trained first-aider to be on duty when the public are present

The first-aider to be trained to deal with drug and alcohol related problems

If more than one first-aider is present, their respective duties will be clearly defined

Fire Safety

All exit doors will be easy to open without the use of a key, card, code or similar means and will be available for egress while the public are on the premises

Means of escape will be maintained unobstructed, immediately available and clearly identifiable

Exit doors will be regularly checked to ensure they function satisfactorily. Records of these checks will be kept and produced on request

Any removable security fastenings will be removed whenever the premises are open to the public or staff;

All fire doors will be maintained effectively self-closing and shall not be held open other than by approved devices

Fire resisting doors to service shafts, ducts and cupboards will be kept locked shut

Step and stair edges will be highlighted so as to be conspicuous

All gangways, exitways and treads of steps or stairways will be maintained with non-slippery and even surfaces

All floor coverings will be secured and maintained so that they will not ruck. Mats will be fitted into matwells so as to be flush with the floor surface

Hangings, curtains and temporary decorations will be maintained in a flame retardant conditions

Upholstered seating will be fire retardant and compliant with current fire safety regulations

Curtains, hangings and temporary decorations will not obstruct exits, fire safety signs or fire-fighting equipment

Notices detailing the actions to be taken in the event of fire or other emergency will be prominently displayed and maintained in good condition

Access will be provided for emergency vehicles and this access will be kept clear and free from obstruction

Fire drill and emergency lighting tests will be conducted monthly. Records of these tests will be made available to the council upon request

All fire exits and means of escape will be signed in accordance with BS5499

An evacuation policy will be in place that is to the satisfaction of the fire authority. All staff members will be trained in the evacuation policy

The fire brigade will be called to any outbreak of fire, however slight. This will also be entered into the incident book

Wall and ceiling finishes will be fire resistant

Exit doors will open outwards (or will be secured in the open position)

Lighting

In the absence of adequate daylight, the lighting in any area accessible to the public will be fully operational

Fire safety signs will be adequately illuminated

Emergency lighting will not be altered

Emergency lighting batteries will be fully charged before the admission of the public

Emergency lighting tests will be conducted monthly. Records of these tests will be made available to the council upon request.

Safety certificates

The provision of certain documentation will assist in showing how you intend to meet the public safety licensing objective; you could therefore propose to supply the council with some of the certificates listed below:

A satisfactory NICEIC or ECA periodic electrical report to be supplied annually
A satisfactory NICEIC or ECA periodic emergency lighting report to be supplied annually
A CORGI certificate of inspection in respect of any gas boiler, calorifier or appliance to be supplied annually
An OFTEC certificate in respect of any oil-fired boiler or appliance to be supplied annually
If there are suspended ceilings at the premises, a certificate to be obtained from a suitably qualified professional and supplied to the council every five years
A satisfactory certificate on inspection for portable fire fighting equipment to be supplied annually
A satisfactory certificate for any fire detection alarm to be supplied annually
Any temporary electrical installation to be subject of a temporary electrical installation report by a NICEIC or ECA electrician or a certificate of compliance with BS7909

Alterations to the premises

Premises should not be altered in such a way as to make it impossible to comply with an existing licence condition without first seeking a variation of the premises licence proposing the deletion of any condition relating to public safety. It would therefore be necessary to propose in a new operating schedule, reflecting the proposed alteration to the premises, alternative steps to promote the public safety objective. The application would enable responsible authorities with expertise in safety matters to consider whether the proposal is acceptable.

Capacity limits

The need to establish maximum occupancy capacity in accordance with a risk assessment is quite clearly set out within the Statement of Licensing Policy and there will be an expectation that this issue will be fully addressed in all operating schedules. You should therefore ensure that:

arrangements are made to ensure that any capacity limit imposed is not exceeded
the licence holder, a club official, manager or designated premises supervisor should be aware of the number of people on the premises and be able to inform any authorised person on request

General example measures to promote the objective of Public Safety

It is suggested that the use of any special effects or mechanical installation would be arranged and stored so as to minimise any risk to the safety of the audience, performers and staff and that the following would only be used after prior notification had been made to the council and fire authority: dry ice machines and cryogenic fog, smoke machines and fog generators, pyrotechnics, including fireworks, real flame, firearms, motor vehicles, strobe lighting, lasers, explosives and highly flammable substances.

Free drinking water to be made available at all times that the premises are open to the public

A chill out area to the satisfaction of the police and council to be provided. This will be cooler and quieter than the dance areas

A dedicated phone line to a local taxi firm be provided and a policy be in place of escorting all patrons from the premises to a licensed taxi or private hire vehicle

A constant and accurate record to be maintained of the number of patrons within the premises and that the records be made available upon request

Searching as a condition of entry to be considered at all times and to be mandatory if directed by police

The Prevention of Public Nuisance

It should be noted that provision of the Environmental Protection Act 1990 provides some protection to the general public from the effects of noise nuisance. In addition, the provision in Part 8 of the Licensing Act 2003 enables a senior police officer to close down instantly for up to 24 hours any licensed premises or premises carrying on temporary permitted activities that are causing nuisance resulting from noise emanating from the premises. These matters should be taken into account before deciding what is necessary for the prevention of public nuisance. You should also pay careful attention to Section 5 of the Statement of Licensing Policy issued by Gravesham Borough Council that gives comprehensive advice on the issues that need to be

tackled to ensure that you will not cause public nuisance. You could consider including some of the following within your schedule:

Doors and windows to be kept closed whenever necessary

Fitting devices to doors and windows so that in the event they are opened the amplified sound is cut off

Noise limiters fitted to all amplification equipment to be used

For the final hour of opening any music to be discernibly quieter

Prominent, clear and legible notices to be displayed at all exits requesting patrons to respect the needs of local residents and to leave the premises and the area quietly

Ensure that any taxis taking patrons from the premises do not sound their horns to announce their arrival after a certain time

The playing of live or recorded music in garden areas of a premises to cease after a time to be agreed with the council

The use of external garden areas to cease after a time to be agreed with the council

The placing of bottles into receptacles outside the premises to take place at times that will minimise disturbance to residents in the neighbourhood

Any queues outside the premises to be monitored by a member of staff to ensure the minimum of disturbance to nearby residents.

No flashing or bright lights on or outside the licensed premises that would cause a nuisance to nearby properties

Nearby streets to be monitored after 11pm to ensure that patrons are not littering the streets and/or residents property or causing a nuisance to residents

Protection of Children From Harm

Section 6 of Gravesham Borough Council's Statement of Licensing Policy quite clearly sets out the issues that should be tackled with regard to the protection children from harm when writing an operating schedule. Subject to the premises licence holder's licence or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act. However, whilst applications in relation to premises licences and club premises certificates will be judged on their individual merits and characteristics, the Secretary of State recommends (unless there are circumstances justifying the contrary) that:

for any premises with known association (having been presented with evidence) with or likely to give rise to heavy or binge drinking, drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting access at all for children under 18 years.

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 should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time

Therefore when preparing operating schedules applicants should therefore have mind of the above and explain their reasons and outline in detail the steps they intend to take to protect children from harm if they wish to go against the advice of the Secretary of State

Example measures to meet the licensing objective of Protection of Children from Harm could therefore be some of the following:

The hours of the day during which age restrictions will and will not apply to be detailed

A proof of age policy to be agreed by the police and the council

If children are allowed on the premises, a 'no smoking' area of such a size and design that it genuinely provides a suitable, comfortable area for children and families wishing to be separated from smoking to be available

No person under 18 to be permitted to enter the premises whilst entertainment of an adult nature is taking place

For further advice on any matter relating to the Licensing Act 2003 please contact the Licensing Team, Regulatory Services Department, Civic Centre, Windmill Street, Gravesend, Kent DA12 1BQ, telephone numbers 01474 33 73 47/33 76 51 or e-mail

licensing.changes@gravesham.gov.uk