

# Licensing Policy



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# Aims



- To provide an overview of the scoping and consultation process for the licensing authority's *Statement of Licensing Policy* (The Policy)
- To inform you of the importance of The Policy
- What types of things can and cannot be included in The Policy

# The Law

## *Licensing Act 2003*

- ‘Light Touch’
- Presumption of Grant
- Licensing Objectives
- Enables lateral thinking and inventive application

# Documentation



Licensing issues for the Canterbury District are dealt with by three core documents:

- *The Licensing Act 2003* (available on line)
- *Amended Guidance issued in accordance with Section 182 of the Licensing Act 2003* (can be read on line via gov.uk)
- **CCC's Statement of Policy** (can be read via the council's website)

# Licensing Objectives



The Licensing Objectives dictate every aspect of licensing

- Legislation
- *Amended Guidance issued under Section 182 of the 2003 Act*
- The Policy
- Applications
- Representations in support
- Objections
- Decision of Licensing Sub-Committee
- Decision on appeal to Magistrates' Court or High Court

# Licensing Objectives



Section 4 of the Licensing Act 2003 states

- (1) A licensing authority must carry out its functions under this Act (“licensing functions”) with a view to promoting the licensing objectives*
- (2) The licensing objectives are –**
- a) the prevention of crime and disorder;**
  - b) public safety;**
  - c) the prevention of public nuisance; and**
  - d) the protection of children from harm**

# CCC's Current Policy



- Section 5 of the 2003 Act requires the licensing authority to publish its Statement of Licensing Policy at least once every five years – it must continually be reviewed once published
- On 07 January 2016 the previous edition of The Policy was re-adopted to allow the Council to conduct a ‘root and branch’ review of the document during 2016 to bring it up-to-date with the latest thinking and innovations

# The Policy



- is a holistic partnership strategy to address local licensing matters
- cannot be inconsistent with the 2003 Act and /or the Amended Guidance
- an appeal court will look at to see if the Council has complied with its own policy
- ensures that each application is considered on its individual merits
- must be advisory rather than prescriptive

# Consultation

It is a statutory requirement to consult with:

- police
- fire and rescue authority
- Director of Public Health
- persons / bodies representative of local personal licence / premises licence / club premises certificate holders
- persons / bodies representative of businesses and residents in its area
- any other body that the local authority thinks appropriate.

Extent and duration of consultation is a matter for local authority

# Consultation timetable



- 28.10.16 Legal Officer confirmed draft policy lawful
- 01.11.16 Management Team considered draft
- 30.11.16 Community Committee authorised publication of draft for consultation
- 01.12.17 – 28.02.17 public consultation period
  - Notice given to interested parties in accordance with statute
  - Public notice in newspaper and on website
  - Consultation sessions 10, 17, 24.01.17
- 15.03.17 Community Committee
- 20.04.17 Full Council

# Consultation undertaken



- Pre-consultation statutory group and other interested parties
- Licensing Forum Meetings 17.03.16 and 11.08.16
- Annual Licensing Meeting 06.07.16
- Direct notice to statutory group and interested parties - 300
- Drop in Consultation Sessions
  - 10.01.17 – Herne Bay
  - 17.01.17 – Whitstable
  - 24.01.17 – Canterbury
- Responses by way of
  - Snap Chap Survey
  - E-mail
  - hard copy

# What must be included?



- The four licensing objectives
- Reference to the Section 182 Guidance
- Each application is considered on its individual merits
- A firm commitment to avoid attaching conditions that duplicate other regulatory authorities
- An enforcement protocol / partnership enforcement
- ‘Light touch’ by the licensing authority
- Set out the extent to which the licensing authority will facilitate entertainment provision balanced with the licensing objectives
- Other measures available to address unlawful and disorderly behaviour

# What must be included?

- The identity of the responsible authority for the protection of children
- Premises giving film exhibitions include in their operating schedules that films will be classified
- Planning permission and building control and the licensing regime are properly separated and neither planning or licensing decisions are binding on the other
- Recognition and compliance of the requirements of the Equality Act 2010
- How duties of the Licensing Committee are delegated to Sub-Committees and / or officers

# What cannot be included?



- Any restriction on the right of a person to make an application or representation
- Any attempt to make licensing law the primary control of nuisance and anti-social behaviour
- Any imposition or condition on licence holders to control individuals once they are away from the premises
- Whether there is 'need' for a premises licence – this is not an issue that can be considered
- Quotas
- Any attempt to limit the access of children to licensed premises unless it is to prevent physical, moral or psychological harm

# What may be included?



- Cumulative impact areas
  - Does not prevent applications being made and if no objections lodged, the application is granted by statute
  - Burden on applicant to establish no adverse impact on licensing objectives
  - Can apply to areas, types of premises, types of licensing activity, queuing issues, concentration of people, nuisance, crime, disorder etc
  - Must be evidence based
  - Will be included in the 2003 Act
  
- Contact points of the responsible authorities

# What may be included?

- **Early Morning Restriction Orders (EMRO)**
  - Can apply to whole or part of area at any time between 00:00 and 06:00
  - Must be evidenced based
  
- **Late Night Levy** – licence holders contribute to the policing of the Late NTE
  - Apply to all premises during levy period
  - Must be evidence based

# What may be included?



- Non-licensing measures that can assist to resolve issues (1)
  - Planning control
  - Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority
  - Provision of CCTV surveillance in town centres, taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols
  - Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly

# What may be included?



- Non-licensing measures that can assist to resolve issues (2)
  - Confiscation of alcohol from adults and children in designated areas
  - Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
  - Prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale)

# What may be included?

## Non-licensing measures that can assist to resolve issues (3)

- Police powers to close down instantly for up to 24 hours (extendable to 48 hours) any licensed premises in respect of which a TEN has effect on grounds of disorder, the likelihood of disorder, or noise emanating from the premises causing a nuisance
- Power of the police, other responsible authorities or other persons to seek a review of a licence or certificate
- Public Spaces Protection Order

# What is included in the draft?

- Licensing / Opening Hours – fixed
- The inclusion of a Code of Conduct
- The inclusion of a toolkit to assist application in the form of a Full Risk Assessment Template
- Licensing Forum
- Use of Intervention Meetings
- Once introduced, the Institute of Licensing's Standard Conditions
- Enforcement Concordat