

Licensing Policy

Statement of Licensing Policy 2010

Published 1st January 2011



Swale Borough Council's licensing policy has been prepared under section 5 of the Licensing Act 2003. It has been put together using the guidance issued by the Secretary of State at the Department of Culture, Media and Sport. That guidance was issued under section 182 of the Licensing Act 2003.

Contents

PART ONE: Overview of the licensing policy

- 1.1 Introduction of the policy
- 1.2 Description of the borough of Swale
- 1.3 The relationship between licensing and planning
- 1.4 Partnership working

- 1a Related strategies and initiatives
 - 1.1a Swale Safe

- 1b Relevant legislation
 - 1.1b Live/Recorded music licence
 - 1.2b Smoke-free regulation

PART TWO: The policies

- 2.1- Our approach to the policies
- 2.2- Policies supporting each of the licensing objectives

PART THREE: Application process

- 3.1 Advice and guidance
- 3.2 Operating schedules
- 3.3 The Application process
- 3.4 Premises Licence and Club Premises Certificate
- 3.5 Variation to Licence
- 3.6 Provisional Statements
- 3.7 Personal Licence
- 3.8 Designated Premises Supervisor
- 3.9 Temporary Event Notice
- 3.10 Large Scale Events

PART FOUR: Representations, Conditions and Complaints

- 4.1 Irrelevant, frivolous, vexatious and repetitious representations
- 4.2 Interested parties
- 4.3 Conditions
- 4.4 Enforcement
- 4.5 Complaints
- 4.6 Appeals

PART FIVE: Changes in legislation and case law

- 5.1 Changes in Legislation
- 5.2 Minor variations
- 5.3 Village halls
- 5.4 Elected members' involvement
- 5.5 Mandatory Conditions
- 5.6 Adult Entertainment
- 5.7 Early Morning Orders
- 5.8 The Live Music Act 2012

PART SIX: Appendices

Appendix 1 – The Policies

- 1.1 Prevention of Crime and Disorder
- 1.2 Public Safety
- 1.3 Prevention of Public Nuisance
- 1.4 Protection of Children from harm

Appendix 2 – Reviews

- 2.1 Working in partnership
- 2.2 Purpose of reviews
- 2.3 Initiating reviews
- 2.4 Powers following determination of a review

Appendix 3 – Delegated Powers and Committees Chart

Appendix 4 – Swale Borough Council Strategies

Appendix 5 – Other Legislation

Appendix 6 – Noise

- 6.1 Noise sources
- 6.2 Internal noise

CONTACTS

List of all relevant authorities and agencies, the first 8 are also the Responsible Authorities for Licensing Application consultation purposes.

Licensing Policy Vision Statement:

“To transform Swale’s economic, social and environmental prospects, so that it is one of the best places in Britain, in which to live, work, learn and invest.”

PART ONE: Overview of the Licensing Policy

1.1 Introduction:

Swale Borough Council is the Licensing Authority for Swale under the provisions of the Licensing Act 2003 (the Act) and is responsible for the administration of licensing applications and enforcement in the borough

This document has been produced to set out how the Council, will carry out its licensing functions with a view to promoting the four licensing objectives (Section 4(2) of the Licensing Act 2003):

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Prevention of children from harm.

When we are discharging our functions under the Act, we will present clear reasons for any need to not follow the Guidance issued by the Secretary of State, or this Statement of Licensing Policy. We will always consider the circumstances of each application and may make exceptions to our own policy where it is appropriate to do so, in order to promote the licensing objectives.

Through this Statement of Licensing Policy, we aim for:

- the introduction of better and more balanced rules to give businesses greater freedom and flexibility to meet their customers' expectations;
- greater choice for consumers, including tourists, about where, when and how they spend their leisure time;
- the encouragement of more family-friendly premises where younger children can be free to go with the family;
- the further development within communities of live music, dancing and theatre, both in rural areas and in our towns;
- the regeneration of areas that need the increased investment and employment opportunities that a thriving night-time economy can bring; and;
- the necessary protection of local residents, whose lives can be blighted by the disturbance and anti-social behaviour associated with the behaviour of some people visiting places of entertainment.

1.2: Description of the borough of Swale

Swale is the fourth largest district in Kent and covers an area of 364 square kilometres. It has a population of 130,300, and 57,000 households (Swale's Sustainable Community Strategy 2009/2026). It is a prime location, within 40 miles from London and the channel ports, but set in the Kentish Countryside. It is a diverse Borough containing three distinct towns and each has developed and maintained its own identity and character.

The borough benefits from 139 pubs and bars, 50 restaurants, three nightclubs and 79 licensed convenience stores. The entertainment industry brings cultural and financial benefits to the area and we believe that good management of its licensed premises, and of the street environment within which it operates, is essential to our vision of making Swale one of the best places in Britain in which to live, work, learn and invest.

Faversham Town

Faversham is an important historic market town and the improvement of the town socially, economically and environmentally is a central part of the licensing policy. Faversham continues its links with agriculture today with brewing and food processing making up the town's main industry. The licensing policy promotes the local economy and provides opportunities for new employment; we are keen to bring a café culture into the town that will bring colour and more life, but not at the expense of diversity and distinctiveness.

Sheerness Town

Sheerness provides goods and services primarily for the resident population of the Isle of Sheppey. Only specific services, such as the town's supermarket, attracts shoppers from further afield. The licensing policy promotes activity, colour and more life in Sheerness, all day and into the evening, though this diversity should not come at the expense of the existing quality of life. In particular, to make the town more attractive to visitors, proposals that will stimulate the town's businesses that are open at night will be supported, but should be aimed more at the holiday market and leisure entertainment facilities (Swale Borough Local Plan, adopted February 2008).

The Island's coast, in particularly Leysdown, became a popular destination for visitors from London in the post-war period and continues to thrive today. Leysdown has particular importance to Swale, largely due to the Caravan Parks, which are an important feature of the landscape.

Sittingbourne Town

Sittingbourne prospered as a market town, but has since focused on industrial manufacturing. The Council's Development Services Team has recently published a proposal to redevelop Sittingbourne town centre, and applicants are advised to review 'The Sittingbourne Town Centre Masterplan', available through Development Services. The Masterplan is made up of the town's retail heart and secondary shopping areas, together with those other elements important to the functioning of the town and the night-time economy. The Masterplan promotes a considerable growth of the town as a retail centre to minimise the need for people to travel elsewhere.

1.3: The relationship between licensing and planning

The use of any licensed premises or place may be subject to planning controls. There are several key differences between licensing and planning control, although the departments overlap. Licensing is concerned with detailed issues concerning the operation and management of the premises, while planning's concerns relate to the character of the building and the area that the building is in. Aspects of the local area that fall short of being a public nuisance, are outside the scope of the licensing department.

(For example: In planning terms, a large restaurant might be unacceptable in a conservation area which is characterised by small retail units, on the grounds of character and function. Whereas on licensing grounds public nuisance might not apply.)

The Council's planning department is a responsible authority under the Act and can make representations on applications. However it can only make representation relating to the licensing objectives. Nuisance and crime and disorder are shared concerns of planning and licensing, and a combination of licensing and planning powers are required to tackle these problems (see Guidance, paragraph 13.39).

1.4: Partnership working

We will continue to improve the service it provides and promote the licensing objectives, by consulting with other public serving organisations, businesses and residents who use our service. We will continue to improve communication with all licensing bodies and our councillors, and through a close working partnership with the community Safety Partnership (CSP) we strive to meet the needs of the local communities under Section 17 of the Crime and Disorder Act 1998.

The Council has adopted a variety of strategies to protect and promote Swale. These initiatives are to prevent anti-social behaviour and disturbances of noise and promote a cleaning and greener environment.

1a Related strategies and initiatives

1.1a: Swale Safe

Swale Safe is a partnership that works with Swale's businesses, Kent Police and the Council. It is an active part of the night-time economy and aims to prevent anti-social behaviour, not only in individual premises but also within the town centres; so that socialising can be enjoyed by people of all ages without fear of violence or crime.

Swale Safe's aims are to:

- Support businesses in Swale;
- Help protect staff, stock, premises and customers;
- To create a reduction in crime in Swale.

Members of Swale Safe are linked via a monitored radio network that enables them to communicate with each other quickly, with Kent Police and the CCTV control centre. Swale Safe distributes information about criminals and anti-social behaviour that may have a direct effect on licensed premises and offers support in excluding persistent offenders from entering premises, through the use of exclusion orders.

1b Relevant legislation

Many other legal requirements apply to licensed premises' such as fire safety, planning, building control, public health, food hygiene and trading standards and the Council must be aware of the importance of doing all that it reasonably can do to prevent crime and disorder (under Section 17 of the Crime and Disorder Act 1998).

The licensing department is committed to avoiding duplication with other legislation. Conditions will only be attached to premises licences if they are considered necessary to promote the licensing objectives and are not required under other legislation. Licence Holders should be aware of the below, and the Council advise applicants to seek additional information.

1.1.b: Live/Recorded music licence

The performance of, or playing of, live music or recorded music may require an additional licence from the Performing Rights Society (PRS) or PPL.

In any location or premises outside the home, where music is played (i.e. clubs, village halls, dentist waiting rooms, takeaways and retail shops) the owner or proprietor of the premises is normally responsible for obtaining a 'Music Licence', from one of the above agencies; this is in conjunction with any Premises Licence granted under the Licensing Act 2003. (See Contacts for further information)

1.2.b: Smoke-free regulation

Under the Health Act 2006, the smoking ban was introduced across England on 1 July 2007 with the purpose of protecting employees, customers and visitors from exposure to second-hand smoke. This changed the way many people in England socialised and dramatically affected licensed premises.

All premises that are open to the public must be smoke-free, and an A5 sign must be placed on the entrance to the building to signify this. It is the Council's responsibility to deal with breaches of the Health Act 2006, but licence holders are advised to seek further information.

For more information visit www.smokefreeengland.gov.uk.

PART TWO: The policies

2.1: Policy approach

We only have discretion on whether to grant applications for new premises licences or variations to existing premises licences, to impose conditions on granting licenses if representations relevant to the licensing objectives are made by “interested parties” (local residents and businesses) or by “responsible authorities” within prescribed time. Otherwise, the application will automatically be granted. We will only consider these policies when relevant representations have been made.

There are four types of policy in this statement; each policy supports each of the licensing objectives. These apply to all applications. They contain criteria and considerations that will be relevant depending on the type and nature of the application, and refer to potential concerns that may require conditions.

When relevant representations are made, we will apply the relevant parts of these policies to applications (including those for provisional statements, for variation to premises licence and similar applications related to club premises certificates for qualifying clubs) for:

- A new licence
- An increase in the capacity of the premises
- An extension in the hours (for licensable activities or open to the public)
- A change to the way the premises operates in regard to the Operating Schedule, which will have an impact on the promotion of the licensing objectives
- Varying an existing condition attached to a premises licence, which will have an impact on the promotion of the licensing objectives

As described in the Guidance these policies will not apply to an application to change the name or address of someone named in the licence or an application to vary the licence to specify a new individual as the designated premises supervisor.

2.2: Policies supporting the licensing objectives

These policies are intended to help applicants by setting out criteria and considerations that they should have in mind when drawing up

an Operating Schedule. While the criteria, because they relate to the licensing objectives, will apply to all applications to some degree, the considerations listed may not necessarily apply or apply equally to all applications. These considerations have been developed with reference to the licensing objectives and in conjunction with the responsible authorities.

PART THREE: Application process

3.1: Advice and guidance

The Licensing Department, Environmental Services, Kent Police and Kent and Medway Fire and Rescue will offer advice and guidance to applicant's. Pre-application discussions are positively encouraged and we advise all applicants to consult with each of the authorities before submitting an application.

Once an application has been submitted, there are fixed timescales for consultation, which may restrict the opportunity for mediation. This is particularly important for large-scale events, both under a premises licence or a Temporary Event Notice.

3.2: Operating schedule

Operating schedules allow the applicant to advise the Council, interested parties and other public-serving organisations how they intend to ensure that the operation of their premises will promote the licensing objectives.

The operating schedule forms part of the application. It sets out the type of activity to be provided and the times it will be provided, and it also includes steps that will be taken to prevent that licensable activity impacting unfavourably on the licensing objectives.

The following types of applications have operating schedules set out within the application form:

- Applications for new premises licenses and new club premises certificates.
- Variations of Premises Licence and club premises certificates; and
- Provisional Statements.

Premises and use type vary enormously and it is important that operating schedules are specific to the premises and use type for the

type of application made. Applicants should therefore make informed judgments as to the steps that may need to be taken to promote the licensing objectives and consider whether these steps need to be included within the Operating Schedule.

3.3: Application process

Every application received, whether for the issue of a personal or premises licence, will be treated in accordance with this policy, the Act and the Guidance . If no relevant representations are received then the licence will be issued automatically. However, in the case of a premises licence or club premises certificate, conditions will be attached as are mandatory under the Act and are consistent with the operating schedule accompanying the application.

An application or notification for licensing purposes will be accepted as being valid only where it contains all of the detail specified by the Act or regulations and is accompanied where appropriate by the correct fee.

3.4: Premises licence and club premises certificate

A premises licence is required for any premises offering licensable activities Once a licence is granted it is valid for the life of the business, however an annual administration fee is applicable. The application for a premises licence must set out the terms of operation, and these will become the main conditions of any licence. It must also include a floor plan of the premises, and other general details.

A premises licence that includes the sale of alcohol must name a designated premises supervisor, who must themselves have a personal licence, and who must counter-sign the application.

Although the procedure for applying or seeking to vary a club premises certificate is similar to a premises licence, the club operating schedules, must include the steps the club intend to take to promote the licensing objectives.

These will be translated into conditions and imposed onto the certificate, unless the conditions have been modified following consideration of relevant representations by responsible authorities or interested parties.

Once granted an annual fee must be paid each year. This Council collects it's annual fees each November. Failure to pay the fee within 21 days will result in the Council suspending the licence until such time as the fee is received.

3.5: Variation of a licence

An application for a variation must be advertised in accordance with regulations and the council will expect applications to be advertised to residents and business in the vicinity. Applications must be notified to the 'responsible authorities'. These must be accompanied by an 'Operating Schedule' setting out what licensable activities the premises will be used for and any other hours when it will be open to customers or members. The Operating Schedule should be prepared after an applicant's assessment of the effect of the grant of the licence on the licensing objectives. Applicants are advised to consult the 'responsible authorities' when they do this.

Unless 'relevant representation' are made by the responsible authorities or 'interested parties' (residents and business in the vicinity) that relate to the licensing objectives, the application must be granted. The licence will be subject to those conditions that give effect to the Operating Schedule. If the licence includes the sale of alcohol, it must specify the designated premises Supervisor and the mandatory conditions on the sale of alcohol. There are also mandatory conditions for film exhibition and on door supervision.

If the relevant representations are withdrawn, possible after mediation and revision of the Operating Schedule, the Licensing Authority must grant the application. If the representations stand but all parties agree that there is no need to hold a hearing, the Licensing Authority can decide the application without holding a hearing but this function cannot be delegated from the sub-committee.

3.6: Provisional statement

A provisional statement is an application made by someone with an interest in premises, which is or is about to be constructed for use for one or more licensable activities, or which is or is about to be extended or altered for that purpose. Applications for provisional statements will be considered, subject to the provisions of the Act. The applicant for a provisional statement should seek advice from its legal advisor or the Council's licensing team.

3.7: Personal licence

The sale of alcohol, because of its wider impact on the community, and its relation to crime and anti-social behaviour, carries with it greater responsibility than that of late night refreshment and the provision of regulated entertainment. This is why, a person who wishes to supply alcohol, or authorise the supply of alcohol, in accordance with a premises licence must apply for a personal licence.

We have little discretion regarding the grant of these licences. In general, provided that an applicant has a qualification determined by Department of Culture, Media and Sport (DCMS) and does not have any unspent convictions (schedule 4 of the Licensing Act 2003); the application has to be granted.

Applications should be made to the Licensing Authority for the area in which the applicant is ordinarily resident or, in any other case, may be made to any licensing authority. Applications for a personal licence must be made on a prescribed form and once granted will last for a period of ten years.

Police may object to the grant of a personal licence, if an applicant has a relevant conviction, in these circumstances the licensing committee will carefully consider the application at a hearing. The determination will be based on the Crime and Disorder objective and the seriousness and relevance of the conviction(s), the period that has elapsed since the offence(s) and any other mitigating circumstances.

3.8: Designated premises supervisor

At any premises, where the sale of alcohol is authorised, one or more personal licence holders may be employed. However, under the Act the premise licence must contain the details a specified individual, among those personal licence holders, to act as the 'Designated Premises Supervisor' (DPS).

The main purpose of the 'DPS' is to ensure that there is always a single person who can be readily identified for the premises. We will normally expect the DPS to have been given day-to-day responsibility for running the premises by the premises licence holder.

All applications to appoint a person as the premises supervisor must be accompanied by a form of consent from that person to accept the role

and responsibilities.

The Police are the only authority that can make representation on any application to vary the Designated Premises Supervisor, on the grounds that the transfer may undermine the crime prevention objective. Where the police object to the application to transfer, the matter will be heard before the licensing sub-committee.

These provisions as to Designated Premises Supervisor do not apply to Club Premises Certificates and in certain circumstances community premises .

3.9: Temporary event notice

The Act allows for small scale events (less than 500 people at any one time and lasting no longer than 168 hours) which include any licensable activities to be held without the need for a premises licence. However advance notice must be given to the Licensing Authority, Environmental Health and Kent Police.

The Police and Environmental Health can object to a temporary event notice on the grounds of any of the 4 Licensing Objectives, they have 72 hours in which to lodge an objection. Applicants are encouraged to consider the implications that the event will have on the licensing objectives and local residents, especially when these events are proposed for outdoors.

Under the Act, the number of temporary event notices that a personal licence holder can make is limited to 50 per calendar year. People who are not personal licence holders can only give notice of five events in any one year. The number of times a premises can be subject to a temporary event notice, within one calendar year, is limited to 12 notices or 21 days (whichever comes first). In any other circumstances, a full premises licence or club premises certificate would be required for the period of the event involved.

A temporary event notices must be made using the prescribed form and although the statutory notice requires the form to be served on the Licensing Authority, Environmental Health and police ten working days prior to the event, the council would prefer that organisers give a minimum one months notice.

New legislation that came into effect on 25th April 2012 now allows for 'Late Tens', these can be served not before 9 working days and not later than 5 working days prior to the event. A personal licence holder may serve 10 Late Ten's per calendar year, a non personal licence holder may serve 2. If either the Police or Environmental Health object to a Late Ten there is no appeal.

Organisers may choose to notify the Licensing Authority and the police of multiple events at a single time Organisers of outdoor events are strongly advised to contact the Council's Safety Advisory Group (see Contacts), which is a panel of experts that can advise organisers of issues relating to Health and Safety, Crowd Control etc

3.10: Large scale events

Swale Borough Council is committed to encouraging the use of public open space, highway and amenity areas across the borough for community events. If you are planning to host an event in a public open space, we can help you through our Event Application Process. This includes help with any permissions and/or licenses you may need, as well as advice with general event co-ordination. Temporary event notices are aimed at the safe management of organised public events. They are not intended to impact on individual civil liberties or freedom of assembly and association as described in the Human Rights Act

This process can take several months in exceptional circumstances so it is best to contact the Council's Licensing Team as early as possible and provide the relevant information. The way an event is processed is dependent on a number of factors, the most significant being how many people the event will attract. If your event is expected to attract fewer than 500 people then we advise that an application is submitted 28 days prior to the event, for events that:

- Require a legal road closure
- Are likely to attract more than 500 people
- Are made up of a series of events
- Are held over more than one day

We would advise the application, including a 'Traffic Management Plan', be submitted a minimum of three months prior to the event taking place (complies with the 'Traffic Management Act 2004'). If you would like advice and guidance from the very beginning of your event

planning, you may like to look at our Events -Toolkit on the Swale Council website.

PART FOUR: Representations, conditions and complaints

4.1: Irrelevant, frivolous, vexatious and repetitious

Representations that are irrelevant, frivolous, vexatious, repetitious or anonymous, will not be considered by the Licensing Authority. Representations must be relevant before we can consider them. This means that they must be:

- Made by a responsible authority or an interested party
- Has some evidential link to the premises in question
- Addresses one or more of the licensing objectives

We will determine whether any representation is frivolous or vexatious, and where such a determination is made the individual or body making representation will be given reasons why this decision has been reached.

A repetitious representation is one made an unreasonably short time after, and identical or substantially similar to:

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

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

4.2: Interested Parties

Interested parties include residents and businesses in the vicinity of premises where an application for a premises licence or a qualifying club certificate has been made or an application for a variation to an existing premises with a premises licence or qualifying club certificate.

The Policing and Crime Act 2009 received royal assent on 12

November 2009. Included within this Act was the provision for Local Councillors to make representations on a licensing applications or seek a review of licensed premises in their own right.

4.3: Conditions

We will not impose any conditions, apart from the mandatory conditions on the sale of alcohol and on the exhibition of films unless there is a necessity to impose conditions following a relevant representation at a hearing. We will only impose such conditions as are necessary to promote the licensing objectives arising out of the consideration of the representations. Conditions will be focused on matters that are within the control of individual licensees and will centre on the premises and the vicinity of those premises.

4.4: Enforcement

It is essential that licensed premises operate in accordance with the Act and promotes of the licensing objectives. Part of our role is to monitor premises and take appropriate action to ensure that the licensing objectives are promoted.

In accordance with Section 182 Guidance, ,we will work together with the police in promoting the licensing objectives. The 'Kent and Medway Enforcement Protocol' was approved in February 2008 and agrees the appropriate responsibilities and procedures for joint working and enforcement between these two agencies.

The Council is committed to the principles of good enforcement by carrying out these regulatory functions in a fair, open and consistent manner. Inspections, enforcement, and where appropriate, surveillance under the Act will be based on the principles of risk assessment, identifying incidents of violent crime, disorder and nuisance in and around licensed premises.

We will need to be satisfied that premises are being run in accordance with the Act and any licensing conditions, which may be attached to the premises licence. The frequency of inspections will need to be determined on risk-based criteria, with high-risk operations receiving more attention than premises carrying low public safety/ nuisance risks.

4.5: Complaints

Any complaints received by the Council about unlicensed activity or

the way a licensed premise may be operating will be dealt with in accordance with the Council's Enforcement Policy and may result in an adjustment to the risk rating, promoting more frequent visits.

We recognised the interest of local residents and will work with businesses in an attempt to resolve issues that are of concern. In all cases the person against whom the allegation has been made, will be notified of the complaint, and they will be assisted in meeting the four licensing objectives. The licence holder can be assured that:

- They will receive clear explanations from the enforcement officers of what needs to be done and by when, and
- Be given the opportunity to resolve those differences before formal enforcement action is taken – unless immediate action is needed.
- They will receive an explanation of their rights to appeal.

Responsible Authorities and/or residents living within the vicinity of the licensed premises can request a review of a licence by completing the prescribed form. We do not normally expect more than one review within a 12 month period, on substantially similar grounds, except where it arises following a closure order.

4.6: Appeals

Applicants and those making representations in respects of applications and reviews to the Licensing Authority, have a right of appeal to the magistrate's court against the authority's decisions.

PART FIVE: Change in legislation

5.1: Changes in Legislation

There have been some changes to the Act, since it became operative in 2005.

5.2: Minor Variations

A new process came into effect from 29 July 2009, which allows a licence holder to make small changes to an existing premises licence or club premises certificates (which will not affect one or more of the licensing objectives), without the need for a full variation application

This new process is simpler, quicker and less costly for the premises licence or club premises certificate holder. The process differs from a full variation as follows:

- The application will be determined in 15 working days instead of up to 2 months;
- Local residents and businesses only have 10 working days to comment rather than the usual 28 consecutive days;
- No hearings are necessary as minor variation requests are either granted or rejected by the Licensing Officer;
- No press advertisement is needed, only a white (instead of the usual blue) notice needs to be displayed on the premises;
- The licence/certificate holder does not have to serve the application on responsible authorities as the Licensing Officer will contact them and seek feedback on whether the licensing objectives are likely to be affected;
- Conditions can not be imposed under this process but can be volunteered as part of an application or after discussion with the responsible authorities. A minor variation may ask for existing conditions to be amended, or even removed, where the licensing objectives would be unaffected by it.

There are some circumstances that cannot be considered minor variations, which are as follows:

- Adding sale and supply of alcohol as an activity or increase the amount of time during a day that alcohol may be sold;
- Authorising any sale or supply of alcohol between 11pm and 7am;
- DPS cannot be varied under this process;
- ‘Substantial variations’ or extending period licence has effect for.

5.3: Village Halls

The Act requires that a mandatory condition is placed on all premises licences requiring a designated premises supervisor to be specified and that every sale of alcohol be authorised by the holder of a personal licence. The Government has issued a Legislative Reform Order that enables church halls and community premises to apply for removal of this condition and have an alternative condition added that makes the management committee responsible for the sale or supply of alcohol.

5.4: Elected Members Involvement

The Policing and Crime Act 2009 will allow local councillors and members of the Licensing Authority to make representations to licensing applications as ‘interested parties’, this will include the power

to apply for a review of a premises licence. They are not required to live in the vicinity of the premises and do not have to be representing someone who does. The term 'members of the Licensing Authority' refers only to councillors, and not officers or other employees of the authority.

5.5: Mandatory conditions

The Policing and Crime Act 2009 allowed the Government to impose mandatory conditions with regard to the responsible retailing of alcohol. These conditions must be intended to support and actively promote the licensing objectives. The aim of the mandatory conditions is to ensure that those businesses, both small and large, who are selling alcohol irresponsibly, act more responsibly to help tackle alcohol-related crime and disorder.

The mandatory licensing conditions apply to all alcohol retailers and hence they will apply to many small businesses. Many of the proposed conditions involve restrictions on irresponsible practices or promotions and hence will not have any impact on those businesses that do not currently operate these types of practices or promotions. However, it is likely that some small businesses are operating them and hence will be affected by these conditions. The new conditions are as follows:

- (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

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

(i) the outcome of a race, competition or other event or process, or
(ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

- The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
- The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
- The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

- The responsible person shall ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the

following measures–

- (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
- (b) customers are made aware of the availability of these measures.

For the purposes of this policy a responsible person will be considered to be:

- Premises licence holder
- Designated premises supervisor
- A person aged 18 or over who is authorised to allow the sale or supply of alcohol by an under 18
- A member or officer of a club present on the club premises who can oversee the supply of alcohol

5.6: Adult Entertainment

Premises that wish to provide adult entertainment by way of lap dancing, pole dancing or other types of activities involving nudity (relevant entertainment) are required to be licensed under the Local Government (Miscellaneous Provisions) Act 1982 unless they provide such entertainment less than 11 times in any rolling year and there is at least one calendar month between performances. Where this exemption applies the holders of authorities under the Licensing Act 2003 (premises licences, club premises certificates or temporary events notices) will be expected to implement measures to actively promote the four licensing objectives. In particular the Licensing Authority encourages measures that will protect children from moral, physical or mental harm. Such measures may include the following however this list should not be seen as being exhaustive or exclusive:

- Measures to ensure that any adult entertainment cannot be viewed from the public highway or from any part of the premises not being used for adult entertainment. Such measures may include the screening of doors and windows or the screening of the stage area to reduce the field of vision in respect of the performance
- A proof of age scheme where persons under the age of 18 years are required to provide photographic means of identification
- The provision of door supervisors registered by the Security

Industry Authority for the purposes of ensuring good behaviour during any performance and to ensure that age restrictions are complied with.

- Measures to ensure that members of the audience are not permitted to be in physical contact with the performer. This may include a barrier or enforced sterile area immediately in front of the stage at a distance that will prevent contact.

Where premises licences or club premises certificates have conditions attached in respect of regulated entertainment in the form of adult entertainment such conditions will remain in force unless the premises are licensed for relevant entertainment under the Local Government (Miscellaneous Provisions) Act 1982. This is because it is anticipated that the conditions in respect of premises with relevant entertainment are likely to be stricter than those with regulated entertainment.

5.7: Early Morning Orders

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

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

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

It is immaterial for the purposes of an order under this section whether a premises licence or club premises certificate is granted, or a temporary event notice is given, before or after the order is made. The effects of this provision is that where such an order is made it becomes enforceable on all premises where a premises licence, club premises certificate or temporary events notice is in force notwithstanding that the permitted hours were granted prior to the order being made.

The Licensing Authority has considered that a primary objective of the Licensing Act 2003 is to allow for a phased closure of licensed premises at the end of an evening thus reducing the crime and disorder

and nuisance associated with a number of premises closing at the same time. It is the intention of this licensing authority to make orders under this section only where it is shown to be necessary in order that the licensing objectives, and in particular those relating to crime and disorder and public nuisance, will be promoted.

5.8 The Live Music Act 2012

Under the Live Music Act 2012, any performance that takes place in the presence of an audience of no more than 200 people will not need a licence to undertake live amplified music between 8am and 11pm. Any licence conditions currently imposed on a licensed premises which relate directly to Live Music, within the said hours, will no longer have any effect. If a relevant authority feels a condition should remain in force, the Licensing Authority must review the licence in order to re-apply the condition.

Karaoke is not classed as live music in this instance.

PART SIX: Appendices

APPENDIX ONE: The policies

1.1: Prevention of crime and disorder

To prevent crime and disorder, the Licensing Authority will apply the following criteria and take into account the following considerations, where relevant, in determining applications and reviews:

Criteria

- Whether the premises makes or will make a significant contribution to levels of crime and disorder;
- Whether the Operating schedule is based on an adequate risk assessment, undertaken by the applicant;
- The likelihood of crime and disorder occurring as a result of the grant of the application.

Considerations

- In deciding this, regard will be had to: the levels of crime and disorder in and around the venue; the proposals contained in the Operating Schedule and the level of compliance to conditions on existing licences. This provides a comprehensive but not exhaustive

list of conditions, not all of which will be applicable to all premises.

- Whether the layout, lighting and fittings of the premises have been designed so as to minimise conflict and opportunities for crime and disorder.
- Whether the Operating Schedule includes appropriate management measures to prevent crime and disorder.
- Whether the Operating Schedules for pubs and bars or for the provision of facilities for music and dancing have taken into account: the number of people who may be admitted to the premises and the possibility of crowding increasing the likelihood of crime and disorder, the areas set aside for drinking while standing at any time when any licensable activity is taking place, and of the measures set out in Appendix 10 to help prevent crime and disorder and offences under the Licensing Act 2003. Other premises may have to regard these matters in exceptional circumstances.

Reasons for Policy

The Licensing Authority will expect applicants to explain in their Operating Schedule how the operation of the premises will promote the prevention of crime and disorder. For pubs, bars and premises with facilities for music and dancing (e.g. night clubs), a specific assessment is encouraged of how risks of violence and crime in the premises and the vicinity will be managed.

Conditions

The Licensing Authority will tailor appropriate and necessary conditions for premises licences and club premises certificates.

The Licensing Authority may impose a range of conditions on premises licenses or club premise certificates, which include matters referred to in the revised Guidance as follows:

- Prescribed capacity of premises.
- Requirements for an appropriate ratio of tables and chairs to customers, based on capacity, and for areas to be allocated permanently for seated customers in order to prevent overcrowding, which can lead to disorder and violence.
- A requirement for Security Industry Authority registered door supervisors to control numbers of people entering the premises and to deny entry to individuals who appear drunk, disorderly or intent on crime.

- Requirements that drinking vessels be made of toughened glass or plastic or other materials that do not form a sharp edge when broken, and that glass bottles are not passed to customers; This may be a particular concern if drinks are to be consumed outside the premises.
- Restrictions on drinking in areas within and outside the premises.
- Limitations on the types of promotions of alcoholic drinks, so as not to encourage excessive drinking, or drunkenness. (Reference should be made to codes of good practice from responsible authorities and from that industry, such as the British Beer and Pub Association's Guidance on Point of Sale Promotions).
- Procedures for checking the ages of young people who appear under 21 to ensure that alcohol is not sold to those under 18, and that those under 16 are accompanied in alcohol led premises.
- The maintenance of good order by the management, particularly where alcohol is supplied for consumption and where large numbers of people are admitted.
- Dedicated text, pager or other communications between management teams, and the local police stations and other licensed premises to provide early warning of disorder.
- Warning signs about crime prevention measures.
- Clear policies and measure to prevent weapons or illegal drugs being brought onto the premises and measures to discourage the use of illegal drugs.
- The installation and maintenance of appropriately sited closed circuit television cameras (CCTV) to be operational during the period of the licence and other appropriate times both inside and immediately outside the premises which can provide images of a suitable quality for use as evidence.

1.2: Public safety

To promote public safety the Licensing Authority will apply the following criteria and take into account the following considerations, where relevant, in determining applications and reviews:

Criteria

- Whether appropriate and satisfactory general and technical risk assessments, management procedures and certificates have been made available to the relevant responsible authority and to the

Licensing Authority, that demonstrate that the public will be safe within and in the vicinity of the premises.

Considerations

- Whether the premises already have a licence or a fire certificate that specifies that maximum number of people that can attend it or be present and, if not, whether a risk assessment has been undertaken as to maximum number of people who can be present in various parts of the premises, so that they can be operated safely and can be evacuated safely in the event of an emergency.
- Whether there are procedures proposed to record and limit the number of people on the premises with opportunities for 'pass outs' and readmission.
- Whether patrons can arrive at and depart from the premises safely.
- Whether there may be overcrowding in particular parts of the premises.
- Whether music and dance venues and performance venues will use equipment or special effects that may affect public safety (e.g. moving equipment, vehicles, pyrotechnics, strobe lights, smoke machines).
- Whether due account has been given to the measure outline in 'Safer Clubbing' (see glossary) in applications for facilities for music and dancing. The key areas identified are:
 1. prevention of overcrowding
 2. air conditioning and ventilation
 3. availability of drinking water
 4. further measures to combat dancers and others overheating
 5. overall safety
- Whether there are defined responsibilities and procedures for medical and other emergencies and for calling the emergency services.
- The levels of compliance with conditions on existing licences relating to public safety.

Reasons for Policy

The council in its role as Licensing Authority must try to ensure the safety of people visiting and working in licensed premises. The council will need to be satisfied that measures to promote public safety

including risk assessments, setting safe capacities, adequate means of escape, and CCTV are put in place and maintained, if not adequately provided for by other regulatory regimes. There are a considerable number of premises without fire safety certificates or licences that specify their safe capacities. In addition, crime, disorder and anti-social behaviour inside and in the vicinity of licensed premises may threaten public safety and affect perceptions of public safety.

Conditions

Conditions that may be attached to licences by the Licensing Authority may include the following matters, but other conditions related to public safety may also be attached:

- Checks on equipment at specified intervals.
- Standards to be maintained e.g. temporary electrical installations to comply with British Standards.
- The number of people on the premises appropriate to the activities taking place and reliable ways of counting the number of people on the premises.
- Maintaining and making available a record of inspections, pre-opening and during performance, of fire doors, escapes, and appliances and of the number of people on the premises.
- Measures to prevent climbing onto ledges, balconies and speakers.
- Management measures to reduce the risks of dancers and others overheating such as affordable cloakrooms, 'chill-out' rooms, breaks from fast dance rhythms, and identifying dancers who may be in distress.
- Provision of facilities for people who are taken ill or injured to contact friends or family, to recover, or be kept safe while awaiting medical assistance.

1.3: Prevention of public nuisance

To prevent public nuisance the Licensing Authority will apply the following criteria and take into account the following considerations, where relevant, in determining applications and reviews:

Criteria

- The potential for nuisance associated with the style, characteristics and activities of the business to be carried on at the premises;
- Potential steps which could be taken to reduce the risk of nuisance

occurring. This will particularly apply in areas of residential accommodation and where there is residential accommodation in the proximity of the premises.

Considerations

Noise and Vibration:

- Whether Operating Schedule contain adequate measures to prevent noise and vibration, whether air borne or structure borne, generated from within the premises, outside it, or from an open site, that may cause disturbance to people in the vicinity. Regard will be had to disturbance of people whether at home, at work, staying in, or visiting the vicinity. However, stricter conditions will be imposed on premises licences in areas that have denser residential accommodation or have residential accommodation close to them

Measures to limit noise and vibration:

Applicants will be expected to have included measures in their Operating Schedule that take into account the following:

1. restrict the generation of noise within the premises and from activities associated with the premises in the vicinity, or from an open air site.
2. limit the escape of noise from the premises or open air site.
3. restrict noise emissions to below levels that could affect people in the vicinity going about their business, at work and when at home both while relaxing and while sleeping.
4. minimise and control noise from customers arriving at the premises, or open air site outside it and departing from it.
5. minimise and control noise from staff, contractors and suppliers and their activities,
6. minimise and control noise from vehicles associated with and providing services to the premises or open air site and their customers.

Eating, drinking and smoking outside premises:

- Whether people standing or sitting outside premises are likely to cause obstruction or other nuisance.
- Whether the premises are under or near to residential

accommodation.

- The hours of the sale of alcohol in open containers or food for consumption outside the premises.
- Measures to make sure that customers move away from outside premises when such sales cease.
- Measure to collect drinking vessels and crockery, cutlery and litter.
- The areas proposed for the consumption of food and alcoholic drink.
- Whether there is a need for door supervisors to prevent or to control customers congregating in outdoor areas to smoke, consume food or drink (whether supplied from the premises or not), between certain hours or at all times. There may in addition be particular issues of crime and disorder with regard to outside activities.

(Planning permission and a Table and Chairs Licence will be required for seating for the use of customers on the public highway)

- Whether the proposals would lead to the need for increased refuse storage or waste collection.
- Whether measures would be undertaken to prevent nuisance caused by the storage, handling and collection of refuse and recyclable materials.
- Whether the sale of take-away food is proposed and the measures planned to prevent littering in the vicinity and to clear up any litter that occurs.
- Whether late night premises are likely to generate litter. Premises may need to make provision for patrols to clear up litter, taking into consideration the hours of street sweeping.
- Whether queuing is likely and the steps proposed to prevent queuing or, if some queuing is inevitable, to divert queues away from residential properties and entrances of neighbouring premises, and to manage the queue to prevent disturbance or obstruction.
- The measures proposed for the management of people leaving premises to smoke and for their readmission; including managing readmissions in relation to any queuing for admission and to measure to ensure that security procedures apply equally to admissions and readmission.
- Whether other measures to prevent nuisance such as the use of CCTV or the employment of registered door supervisors are necessary.

Reasons for Policy

The Licensing Authority will expect applicants to set out in their Operating Schedules the steps taken, or proposed to be taken, to deal with the potential for public nuisance arising from the operation of the premises or open air site under the licence. Applicants are advised to identify and describe through a risk assessment how these risks will be managed. Public Nuisance could include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community. It may also include, in appropriate circumstances, a reduction of the living and working amenity and environment of interested parties in the vicinity of licensed premises.

Swale Borough Council has a substantial residential population and the council as the Licensing Authority has a duty to protect it from nuisance. Commercial occupiers of premises also have a legitimate expectation of an environment that is attractive and helps sustain their business. The role of the council as Licensing Authority is to maintain an appropriate balance between the legitimate aspirations of the entertainment industry and the needs of the residents and other businesses, workers, shoppers and visitors. It will need to satisfy itself that adequate measures to prevent public nuisance are in place and will be maintained. These principles apply also to events in open air sites.

Playing of music can cause nuisance both through noise breakout and by its effect on patrons, who become accustomed to high sounds levels and to shouting to make themselves heard, which can lead to them being noisier when leaving the premises. The later that music is played, the greater the potential for nuisance.

In determining both these types of applications, regard will be paid to amenity concerns. However, the use of garden or courtyard areas and private forecourts is not controlled under these regimes. In order to prevent public nuisance it will be necessary to consider the extent of eating and drinking that will take place outdoors and the measures that will be necessary to ensure that nuisance is not created.

Conditions

Conditions could be necessary to limit the times when certain licensable activities take place, although the premises may be open

to the public at such times. For example, there may be reason to have a condition on the hour that music ceases to be played in a bar or restaurant, or when alcohol is served at a music venue, which is prior to the end of other licensable activities. Conditions may also be attached referring to the parts of premises that might be used for certain licensable activities at certain times. Stricter conditions will be expected in areas of denser residential accommodation.

Conditions will be attached to premises licences where appropriate. These may include conditions on: maximum noise levels over particular time periods, the installation of acoustic lobbies; provision of signs, publicity and verbal advice to patrons to leave quietly and by certain routes; controlling nuisance from light pollution; taking food or drink outside the premises; fly posting; distribution of leaflets; litter and cleaning outside of the frontage and in the vicinity of the premises.

1.4: Protecting children from harm

To protect children from harm the Licensing Authority will apply the following criteria and take into account the following considerations, where relevant, in determining applications and reviews:

Criteria

- Whether there are appropriate measures in place to protect children from harm.

Considerations

- Whether there are effective measures to check the age of those young people who appear under 21 to ensure that alcohol is not sold to those under 18 and those under 16 are accompanied in alcohol led premises
- Whether the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- Whether accompanied children under 16 on the premises of which the primary purpose is supply of alcohol for consumption on the premises are taking a table meal or are being entertained by a live performance.
- The hour to which accompanied children under 16 are proposed to be on the premises where the exclusive or primary purpose of

the services provided at the premises is the supply of alcohol for consumption on the premises.

- Whether due regard is paid to industry codes of practice on the labelling and display of alcoholic drinks (The Portman Group Code of Practice on the Naming, Packaging and Merchandising of Alcoholic Drinks and their Retail Alert Bulletins on unsuitable packaging and marketing).
- Whether there are adequate procedures for identifying unaccompanied or lost children and ensuring that they are kept safe and adequately supervised until they can be handed over to a responsible adult.
- The likelihood of children being attracted to the premises; e.g. by the nature of activities or facilities provided whether or not these are licensed.
- Whether there is evidence of heavy, binge or underage drinking on the premises.
- Whether the premises commonly provides entertainment or services of an adult or sexual nature.
- Whether there is a strong element of gambling on the premises (but not, for example, the presence of a small number of cash prize gaming machines).
- Whether films are to be shown and the measures to restrict children from viewing age restricted films classified according to the recommendations of the British Board of Film Classification or the council itself.
- If performances or activities are likely to attract children, the number of adults required for the supervision of children.
- Where play facilities are provided if an adequate risk assessment has been made and appropriate measures taken.
- The measures to be taken to ensure that those supervising or having significant contact with children have been appropriately vetted to ensure that they pose no risk to children. Obtaining Enhanced Disclosure from the Criminal Records Bureau may be appropriate in some cases.
- Proposals for the provision or arrangements for safe transport for children.

Reasons for Policy

The Licensing Authority will expect applicants to consider the measures

necessary to promote the licensing objective of protecting children from harm when on the premises and in the vicinity where it is in the power of the applicant to influence this.

These measures may include staff training on how to control the entry of children and young people under 18 and the vetting of staff who will supervise them. Applicants will have to give particular regard to these measures in applications for licenses involving:

- the sale of alcohol
- children's performances
- attractions or performances likely to attract children

It is an offence to sell alcohol to children. In this context, children are defined as individuals under 18. The provisions of the Act are that unaccompanied children under 16 should not be on 'premises being used exclusively or primarily for the supply of alcohol' (e.g. 'alcohol led' premises such as pubs, bars and nightclubs). In addition, it is offence to allow unaccompanied children under 16 on premises licensed to sell alcohol for consumption on the premises after midnight but before 05:00.

Conditions

In line with the Guidance conditions may be attached relating to the access or, where necessary the exclusion of people under the age of 18 to a premises licence or club premises certificate where there is:

- a history of offences relating to underage drinking
- a known association with drug taking or dealing
- a strong element of gambling on the premises
- entertainment of an adult or sexual nature commonly provided
- films shown with age restricted classification

Conditions limiting the access of children may also be attached. These could include one or any combination of the following:

- requirements for adequate procedures to check ages in premises where alcohol is served.
- limitations on the hours when children may be present.
- limitations or the exclusion of children under certain ages when particular specified activities are taking place.

- age limitations (below 18).
- requirements for accompanying adults (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult).
- limitations on of parts of premises to which children may have access.
- full exclusion of people under 18 from the premises when any licensable activities are taking place.

As a Licensing Authority the council may impose conditions on film exhibitions in order to protect children from inappropriate exposure to portrayals of violence or sexual activities, strong language and sexual expletives. These may include:

- a requirement to adhere to either the age restricted recommendations of the British Board of Film Classification or to similar classifications imposed by the council.
- a requirement for the cinema venue operator to submit any film not classified by the British Board of Film Classification which it intends to exhibit 28 days before it is proposed to show it.
- in line with the various classifications of films by the British Board of Film Classification, the Licensing Authority may impose conditions necessary to restrict access accordingly and to require any certificates or notices of category to be displayed appropriately.

APPENDIX TWO: Reviews of premises licence

2.1 Working in partnership

The promotion of the Licensing objectives and achieving common aims relies on a partnership between licence holders, authorised persons, interested parties, the police, fire authority and the council. The council will try to give licence holders early warning of any concerns about problems identified at any licensed premises and identify the need for improvement

2.2 Purpose of reviews

The review process is integral to the operation of the Licensing Act 2003. The Government's intention is for a light touch regulatory regime with regard to the granting of new licences and variations. Only when there have been representation will the licensing authority have the discretion not to grant licences. If problems arise in connection

with a premises licence, it is for the responsible authorities and the interested parties to apply for a review of the licence. Without such representations, the Licensing Authority cannot review a licence. Proceedings under the Licensing Act 2003 for reviewing a premises licence are provided as a key protection for the community, where problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring.

2.3 Initiating reviews

At any stage, following the grant of a premises licence, any of the responsible authorities or interested party, such as a resident living in the vicinity of the premises, may ask the council to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives. The police can take action to close premises for up to 24 hours on grounds of disorder and noise nuisance under the terms of the Licensing Act 2003, and the powers for the police to apply for an expedited review of a premises licence where the premises selling alcohol are associated with serious crime and disorder. There are powers under Section 40 and 41 of the Anti-Social Behaviour Act 2003 for Environmental Health officers to close premises for 24 hours on grounds that noise from licensed premises is causing a public nuisance. The council cannot initiate its own reviews of premises licences, however, officers of the council who are specified as responsible authorities under the Act may request reviews

In every review case an evidential basis for the allegations made will need to be submitted to the council as the Licensing Authority.

When a request for a review is initiated from an interested party, the council is required to first consider whether the representation made is irrelevant to the licensing objectives, or is vexatious or frivolous, In addition, the Secretary of State recommends that more than one review on similar grounds originating from interested parties should not be permitted within a period of 12 months except in exceptional and compelling circumstances or where it arises following a closure order

Where the council receives a request for a review in accordance with the closure, procedures described in Part 8 of the Act, the council will arrange a hearing in accordance with the regulations set out by the Secretary of State.

2.4 Powers following determination of review

The council, in determining a review, may exercise the range of powers to them to promote the licensing objectives.

The licensing authority must take those of the following steps it considers necessary to promote the licensing objectives:

- modifying the conditions of the premises licence (which includes adding a new condition or any alteration or omission of an existing condition temporarily or permanently)
- excluding a licensable activity from the scope of the licence
- removing the designated supervisor
- suspending the licence for a period not exceeding three months
- revoking the licence

Other steps that can be taken by the council include:

- taking no action
- issuing an informal warning
- recommending improvements within a particular time
- monitoring by regular inspection and invite to seek a further review if problems persist.

Guidance states “However, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvements – either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach”.

Offences under the Licensing Act 2003 include the serving of alcohol to unaccompanied persons under 18. The consumption of alcohol by minors impacts on the health, educational attainment, employment prospects and increases the propensity towards crime of young people. The admitting of serving of persons who are intoxicated is also an offence under the Licensing Act 2003; the council will treat representations that these offences have occurred seriously when they arise in connections with the granting or review of a premises licence. It will also have regard to other criminal activities which may take place in some types of licensed premises:

- sale or distribution of drugs
- sale or distribution of stolen or counterfeit goods or weapons

- sale of smuggled tobacco and alcohol
- prostitution, pimping or procuring
- use as a base for criminal activity, particularly gangs
- organisation of racist activity
- unlawful gaming and gambling

Where reviews arise and the Licensing Authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – will be seriously considered. However, revocation remains an option if other licensing objectives are being undermined.

MATTER TO BE DEALT WITH	FULL Committee	LICENSING SUB COMMITTEE	Officers
PERSONAL LICENCES			
Application for Personal Licence		If a police objection is made	If no objection is made
Application for Personal Licence with unspent convictions		All Cases	
Applications to vary designated personal licence holder		If a police objection is made	All other cases
Request to be removed as designated personal licence holder			All cases
PREMISES LICENCES & CLUB PREMISES CERTIFICATES			
Application for premises licence/ club premises certificate		If a relevant representation is made	If no relevant representation is made
Application for provisional statement		If a relevant representation is made	If no relevant representation is made
Application to vary premises licence/ club premises certificate		If a relevant representation is made	If no relevant representation is made
Application for minor variation to a premises licence/ club premises certificate			All cases

Application to remove the need for a Designated Premises Supervisor (village halls only)			All cases
Application for transfer of premises licence		If a police objection is made	All cases
Application for interim Authorities		If a police objection is made	All cases
Application to review premises licence/ club premises certificate		All cases	
Decision on whether a ground for review is relevant, frivolous, vexatious, etc			All cases
Decision to object when local authority is a consultee and not the lead authority			All cases
TEMPORARY EVENT NOTICES			
Determination of a police or EHO representation to a temporary event notice		All cases	

APPENDIX THREE: Committees and Delegated decision making chart

APPENDIX FOUR: Swale borough strategies

Sittingbourne Town Centre Masterplan

Swale Borough Council Cultural Strategy

Swale Borough Council Corporate Plan

Swale Community Safety Partnership – Community Safety Plan

Swale Transport Strategy

Swale Borough Local Plan

Information on all of the above is available at www.swale.gov.uk

APPENDIX FIVE: Other relevant legislation

Equality, Diversity and Race Relations (Corporate Equality Plan)

Planning Legislation and Building Regulations

Health and Safety at Work Act 1974

Human Rights Act 1998

Disability Discrimination Act 1995

Environmental Protection Act 1990

Miscellaneous Provisions Act 1982 (Sex Venues)

Crime and Disorder Act 1998, Section 17

Policing and Crime Act 2009

Control of Noise at Work Regulations

APPENDIX SIX: Guidance on noise

The Council regards the control of noise as an essential aspect of good neighbourliness, contributing to the sustainability of residential and commercial communities.

6.1 Noise Sources

Applicants should consider the potential sources of noise and the hours when it may be generated. The following noise sources will be considered on all applications, whether they are proposing indoor activity or in the open air.

- a) Music and human voices, both amplified and non amplified
- b) Other internal activities
- c) Use of open areas
- d) Patrons queuing
- e) Patrons and staff entering and leaving the premises and in its vicinity
- f) Vehicles arriving, waiting and leaving the premises and in its vicinity
- g) Deliveries and collections including refuse and collection of recyclable materials
- h) Plant, machinery and associated equipment, including mechanical ventilation
- i) Any other factors that could cause noise disturbance.

Many licensed activities can cause noise that is heard outside the premises or originates from an open air site causing public nuisance. A risk assessment for such activities should take into account the guidance set out below, which indicates circumstances when a noise report may be necessary and what it should contain.

6.2 Internal noise and structural transmission

Applicants should demonstrate that as far as is reasonably practicable, the licensed activities and the equipment used, will be designed and operated to prevent the transmission of audible noise or vibration through the fabric of the building, to adjoining or nearby properties.

Premises should be capable of being operated at all times of year without doors and windows being opened for ventilation. When licensable activities involve the playing of music, or the licence requires the operation of kitchens or the running of generators after 23:00 hours, the applicant may be required to demonstrate what steps are being taken in their Operating Schedule.

For further information on noise related issues please contact our Environmental Pollution Team at pollution@swale.gov.uk

Contacts

Information on the various aspects of the licensing process and policy can be obtained from the following bodies:

<p>Licensing Officer Licensing Department Swale Borough Council, East Street, Sittingbourne Kent ME10 3HT Tel: 01795 417634</p>	<p>Police Licensing Officer Sittingbourne Police Station Central Avenue, Sittingbourne Kent ME10 4NR Tel: 01795 419394</p>
<p>Licensing Officer Maidstone Group Fire Safety Maidstone Fire Station, Loose Road, Maidstone Kent ME15 9QB 01622 774126</p>	<p>Environmental Officer Environmental Protection Team Swale Borough Council, East Street, Sittingbourne Kent ME10 3HT Tel: 01795 417320</p>
<p>Licensing Team Child Protection Agency Social Services Directorate Kent County Council, Brenchley House 123-135 Week Street Maidstone Kent ME14 1RF</p>	<p>Commercial Team Environmental Services Swale Borough Council Swale House, East Street Sittingbourne Kent ME10 3HT Tel: 01795 417297</p>
<p>West Kent Primary Care Trust West Kent PCT Wharf House, Medway Wharf Road Tonbridge Kent, TN9 1RE</p>	<p>KCC Trading Standards 1st Floor, Invicta House County Hall, Maidstone Kent, ME14 1XX</p>
<p><i>The above 8 contacts are also all of the Responsible Authorities that must be consulted on Licensing Applications</i></p>	
<p><i>The 6 contacts below are for information only</i></p>	
<p>Performing Rights Society (PRS) Copyright House 39-33 Berners Street London W1T 3AB Tel: 020 7580 5544</p>	<p>Department of Culture, Media & Sport (DCMS) 2-4 Cockspur Street London SW1Y 5DH</p>
<p>Security Industry Authority PO Box 49768 90 High Holborn London WC1V 6WY Tel: 01843 850754</p>	<p>Disability Rights Commission DRC Helpline Freepost MID1264 Stratford Upon Avon CV37 9BR Tel: 08457 622633</p>
<p>British Institute of Innkeeping Wessex House, 80 Park Street Camberley, Surrey GU15 3PT Tel: 01276 684449</p>	<p>Kent Magistrates Court The Court House, Palace Avenue Maidstone, Kent ME15 6LL Tel: 01622 683559</p>

For further copies, information or enquiries relating to the content of this leaflet, please contact:

Licensing Section
Regulatory Services
Swale Borough Council
Swale House, East Street
Sittingbourne
Kent ME10 3HT

Telephone direct: 01795 417364
www.swale.gov.uk

Difficulty in understanding this leaflet?
Need it in Braille, large print or on audio tape?
For translations or interpretations contact us
and we will do our best to help.
Tel: 01795 417850 Email: csc@swale.gov.uk