

# Agenda

## Licensing Committee Meeting

Date: Monday, 24 June 2024

Time 7.00 pm

Venue: Council Chamber, Swale House, East Street, Sittingbourne, ME10 3HT

Membership:

Councillors Derek Carnell (Chair), Roger Clark, Simon Clark, Tim Gibson, Carole Jackson, Mark Last, Rich Lehmann, Ben J Martin, Lee-Anne Moore, Tara Noe, Tom Nundy, Chris Palmer, Paul Stephen, Angie Valls and Tony Winckless (Vice-Chair).

Quorum = 5

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Pages

### Recording and Privacy Notice

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- (d) Anyone unable to use the stairs should make themselves known during this agenda item.

2. Apologies for Absence

3. Minutes

To approve the [Minutes](#) of the meetings held on 13 February 2024 (Minute Nos. 624 – 630) and 15 May 2024 (Minute Nos. 27 - 28) as correct records.

To accept the minutes of the following Licensing Sub-Committees:

[26 March 2024 \(Minute Nos. 791 – 794\)](#)

[22 April 2024 – 10am \(Minute Nos. 836 – 839\)](#)

[22 April 2024 – 12 pm \(Minute Nos. 840 – 843\)](#)

4. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves, their families or friends.

The Chair will ask Members if they have any disclosable pecuniary interests (DPIs) or disclosable non-pecuniary interests (DNPIs) to declare in respect of items on the agenda. Members with a DPI in an item must leave the room for that item and may not participate in the debate or vote.

Aside from disclosable interests, where a fair-minded and informed observer would think there was a real possibility that a Member might be biased or predetermined on an item, the Member should declare this and leave the room while that item is considered.

Members who are in any doubt about interests, bias or predetermination should contact the monitoring officer for advice prior to the meeting.

5. Public Session

The Council operates a scheme of public speaking at meetings of the Licensing Committee. Requests to speak at the meeting must be registered by Democratic Services by noon on Friday 21 June 2024 and must be related to an item on the Agenda. Each speaker has a maximum of three minutes to speak.

- |    |                                    |          |
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| 6. | Pavement Licence policy amendments | 5 - 36   |
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**Issued on Wednesday, 12 June 2024**

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**Chief Executive, Swale Borough Council,  
Swale House, East Street, Sittingbourne, Kent, ME10 3HT**

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<b>Licensing Committee Meeting</b>	
<b>Meeting Date</b>	24 <sup>th</sup> June 2024
<b>Report Title</b>	Amendments to the Swale BC Pavement Licence policy 2023 - 2026
<b>EMT Lead</b>	Emma Wiggins, Director of Regeneration and Neighbourhoods
<b>Head of Service</b>	Charlotte Hudson, Head of Housing and Community Services
<b>Lead Officer</b>	Christina Hills, Licensing Team Leader
<b>Classification</b>	<b>Open</b>
<b>Recommendations</b>	<ol style="list-style-type: none"><li>1. That Members consider the proposed draft revision of the Swale BC Pavement Licence policy 2023-2026 made in response to recent changes in legislation and approve adoption of the policy.</li><li>2. That Members approve the proposed fees as set out in the report.</li><li>3. That Members recommend to Policy and Resources Committee that the policy be approved and published</li></ol>

## 1 Purpose of Report and Executive Summary

- 1.1 To present Members with a draft revision of the current Swale Pavement Licence Policy which has been amended in line with changes to the current legislation brought about by the commencement of Schedule 22 of the Levelling Up and Regeneration Act 2023.
- 1.2 Members are requested to consider and approve the fee levels for new and renewal applications for the grant of licences.

## 2 Background

- 2.1 In response to the Coronavirus pandemic, the Government introduced the Business and Planning Act 2020. This included a temporary provision for a quicker and cheaper or “fast track” process to allow businesses selling food or drink to obtain authorisation from a local authority to place furniture such as tables and chairs on the highway adjacent to their premises known as a Pavement Licence.
- 2.2 This temporary provision was originally due to expire on 30<sup>th</sup> September 2021, but this has been extended in subsequent years, the last extension being laid before parliament and adopted on 17<sup>th</sup> July 2023 so that fast track Pavement Licence provisions will continue to apply until 30<sup>th</sup> September 2024. There are currently 18 granted licences.

- 2.3 At the Licensing Committee meeting of 19<sup>th</sup> October 2023, Members approved the current Swale BC Pavement Licensing Policy 2023 – 2026  
<https://services.swale.gov.uk/meetings/documents/s26849/Pavement%20Licence%20Policy.pdf>
- 2.4 There is no statutory requirement for a local authority to have a formal Pavement Licence policy; however, a Council can choose to adopt a policy. As stated, this is for the benefit of business owners as well as reassuring the general public. It also reinforces the Regulators Code when dealing with applications by promoting effective practice and ensuring that all decisions as to whether to grant an application or not are proportionate, consistent and transparent.
- 2.5 The Levelling Up and Regeneration Act 2023 has now come into effect and the relevant section regarding pavement licences came into force with the Levelling Up and Regeneration Act 2023 (Commencement No. 3 and Transitional and Savings Provision) Regulations 2024/389 from 31<sup>st</sup> March 2024. This made a number of changes and as a result it has been necessary to review the current policy and make amendments to it to reflect these changes. The draft policy is shown as **Appendix I**. A table showing the amended wording is shown as **Appendix II**.

### **3 Proposals**

- 3.1 The changes brought about by the Levelling Up and Regeneration Act 2023 are to:
- Amend the fee councils can charge applicants, increasing it from £100 to £350 for premises which already hold a pavement licence, and £500 for new applicants.
  - Extend the public consultation period and council determination period from 7 days to 14 days.
  - Extend the maximum duration of pavement licences from 1 year to 2 years. The length of a licence is however at the discretion of the local authority.
  - Provide that pavement Licences can also be amended by the local authority with the consent of the licence holder if it is considered that the conditions on the licence are not being met.
  - Prohibit a local authority from granting a tables and chairs licence under the old regime (Highways Act 1980) if a pavement permit is capable of being granted under this legislation.
  - Insert a new Enforcement schedule providing powers to the local authority to remove furniture if a premise is not abiding by its pavement licence conditions and hours.

### **4 Alternative Options Considered and Rejected**

- 4.1 As the amendments to the policy are a statutory requirement, if a local authority has a policy for pavement licensing, then the current legislation must be reflected in it.

- 4.2 Members could decide that pavement licences will be issued for a lesser period than 2 years, but this involves extra work for the licensing team and unnecessary bureaucracy and financial burden for applicants and existing licensees and is therefore not recommended.
- 4.2 With regards to the setting of fees, Members could decide to set fees lower than the suggested maximum however the preferred option is to approve the fees at the maximum level i.e., £500 for a new application and £350 for a renewal application.
- 4.3 The rationale for this is two-fold: - firstly because the current fee of £100 barely covers the assessment and processing of an application. Secondly, to date, the Government have paid a 'burdens payment' of £5,000 annually to administer the temporary process. However, it is believed that now that the licensing regime has been made permanent and local authorities can levy higher fees which will be more reflective of the actual costs involved with the pavement licence process, the burdens payment will cease although it has not been possible to confirm this.
- 4.4 Members will also be mindful that licence fees should be set so as to be 'cost neutral' and not to make a profit. Therefore, if Members are minded to approve the recommendation that fees are set at the maximum permitted, it would be the intention to review them in 12 months' time when a full assessment of the impact of the new requirements and the cost to the Council could be made.

## 5 Consultation Undertaken or Proposed

- 5.1 As the amendments to the policy are in line with the new legislation it is not considered necessary that a consultation exercise is needed.

## 6 Implications

Issue	Implications
Corporate Plan	<p>The service is an important regulatory function undertaken to ensure the safety of the public consumers</p> <p>Community – Indirect links to:</p> <p>To work as part of the Community Safety Partnership to delivery priorities to address domestic abuse, crime, and disorder, ASB and support vulnerable people.</p>
Financial, Resource and Property	<p>The amendments to the Business and Planning Act 2020 application fees for Pavement Licences cap licence fees at a maximum of £500 for a new application and £350 for a renewal application.</p>

	So far Burdens Payments have also been paid to the Council by Government for the setting up and administration of Pavement Licences, but it is unclear whether this will continue
Legal, Statutory and Procurement	<p>The Business and Planning Act 2020 (As amended by the Levelling Up and Regeneration Act 2023) gives Council the power to grant pavement licences and deal with them thereafter.</p> <p>The Licensing Committee is able to delegate the administration and decision-making process of Pavement Licence functions to officers.</p> <p>Each application must be considered on its own merits with the ability to depart from the policy in appropriate circumstances.</p>
Crime and Disorder	It is important that Swale BC has a robust and accountable regulatory regime in relation to pavement licences in order to ensure fair trading and to protect consumers. Licensing regimes are designed to regulate licensable activities in such a way as to support the prevention/reduction of crime and disorder through the imposition of permissible conditions and appropriate enforcement
Environment and Climate/Ecological Emergency	There are no direct climate change implications for these proposals. In terms of environmental impact, licence holders will be required to keep the pavement used clean and clear of litter/rubbish and to ensure that tables and chairs and furniture are removed from the pavement by 11pm to prevent noise nuisance to nearby residential properties
Health and Wellbeing	The pavement licence arrangements require licence holders to make reasonable provision for outside seating where smoking is not permitted. Businesses must continue to have regard to smoke free legislation under the Health Act 2006, and the subsequent Smoke Free (Premises and Enforcement ) Regulations 2006.
Safeguarding of Children, Young People and Vulnerable Adults	Whilst there are no specific elements of the pavement licence regime relating to the safeguarding of children and vulnerable adults, licensing regimes in general provide a means of regulating, which links in with safeguarding duties and responsibilities
Risk Management and Health and Safety	Failure to process and determine applications in a timely manner would lead to a number of deemed approvals with less control over their impact on the environment or the community.
Equality and Diversity	The Council has a legal obligation under section 149 of the Equality Act 2010 to have due regard to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different groups. There are mandatory conditions involved with Pavement Licences which relate to persons with disabilities
Privacy and Data Protection	As Pavement Licences involve the processing of personal data, GDPR and Data Protection Act 2018 principles are followed



## **7 Appendices**

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Draft Pavement Licence policy
- Appendix II: Summary of changes to policy

## **8 Background Papers**

Business and Planning Act 2020  
Levelling Up and Regeneration Act 2023

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## Swale Borough Council



### Pavement Licensing Policy

Business and Planning Act 2020

(as amended by the Levelling Up & Regeneration Act 2023)

Version 1.1

Next Scheduled Review:

All enquiries relating to this document should be sent to:

Licensing  
Swale Borough Council  
Swale House  
East Street  
Sittingbourne  
Kent  
ME10 3 HT

[licensing@swale.gov.uk](mailto:licensing@swale.gov.uk)

### Issue & Review Register

Summary of Changes	Issue Number & Date	Approved by
Changes made to reflect new requirements under the Levelling Up & Regeneration Act 2023	<u>V1.1</u>	Licensing Committee 24 <sup>th</sup> June 2024

Compiled by: Christina Hills, Licensing Team Leader

Date:

Approved by: Licensing Committee

Date:

#### **Changes and Corrections**

Any changes or corrections required should be notified in writing to:

Licensing  
Swale Borough Council  
Swale House  
East Street  
Sittingbourne  
Kent  
ME10 3HT

Or  
[licensing@swale.gov.uk](mailto:licensing@swale.gov.uk)

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## 1. Introduction

The COVID-19 pandemic affected businesses across the economy causing many to cease trading for several months while others had to significantly modify their operations.

As the economy started to re-open, on 25 June 2020 the Government announced an urgent relaxation to planning and licensing laws to help the hospitality industry recover from the coronavirus lockdown by removing some requirements and expediting others.

Amongst other measures, the Business and Planning Act 2020 introduced a temporary fast-track process for premises serving food and drink such as bars, restaurants and pubs to obtain permission, in the form of a “pavement licence”, from Swale Borough Council for the placement of furniture such as tables and chairs on the pavement outside their premises which will enable them to maximise their and boost the economy.

Until then, street furniture permissions were granted as tables and chairs licences by Kent County Council, the Highways Authority, under Part 7A of the Highways Act 1980. The fee varies between local authorities and there is a 28-day consultation period.

The new temporary measure placed a cap on the application fee for businesses, and introduced a new 14-day determination period, ensuring that businesses could obtain licences in a timely and cost-effective manner to aid their financial recovery.

The original Pavement Licensing provisions were set to expire on 30 September 2020 however, these have been extended further, until 30 September 2024.

The Levelling Up and Regeneration Act 2023 made these changes permanent on 31<sup>st</sup> March 2024 and these amendments have now been incorporated into this policy.

The amendments are to:

- Amend the fee that councils can charge applicants, increasing it from £100 to £350 for premises which already hold a Pavement Licence, and £500 for new applicants
- Extend the public consultation period and council determination period from 7 day to 14 days
- Extend the maximum duration of Pavement Licences from 1 year to 2 years. The length of a licence is however at the discretion of the local authority
- Provide that Pavement Licences can also be amended by the local authority with the consent of the licence holder if it is considered that the conditions on the licence are not being met
- Prohibit a local authority (i.e. KCC) from granting a tables and chairs licence under the old regime (Highways Act 1980) if a Pavement Licence is capable of being granted under this Bill

- Insert a new Enforcement schedule providing powers to the local authority to remove furniture if a premises is not abiding by its pavement licence conditions and hours

One of the current benefits of the Pavement Licence procedure is that once a licence is granted by the local authority, the premises will benefit from deemed planning permission for the street furniture for the duration of the Pavement Licence. There is no proposal to change this.

## **2. Scope**

### **2.1 Definition of Pavement Licence**

A pavement licence is granted by the local authority, or deemed to have been granted, which allows the licence-holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made.

A licence permits a business to use furniture placed on the highway to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the premises

### **2.2 Eligible Businesses**

A business which uses (or proposes to use) premises for the sale of food or drink for consumption (on or off the premises) can apply for a licence. Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours.

### **2.3 Eligible Locations**

Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980.

Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited. Highways maintained by Network Rail or over the Crown land are exempt (so a licence cannot be granted).

### **2.4 Type of furniture permitted**

The furniture which may be used are:

- Counters or stalls for selling or serving food or drink
- Tables, counters or shelves on which food or drink can be placed
- Chair, benches or other forms of seating
- Umbrellas, barriers, heaters or other articles used in connection with the outdoor consumption of food or drink.

This furniture is required to be removable, which in principle means it is not a permanent fixed structure, and is able to be moved easily, and stored away of an evening.

## 2.5 Planning Permission

Once a licence is granted, or deemed to be granted, the applicant will also benefit from deemed planning permission to use the land for anything done pursuant to the licence while the licence is valid.

## 3. Application and Determination of Pavement Licences

### 3.1 Submission of the application

An application for a NEW Pavement Licence must be made to the Council and the following will be required to be submitted with the application:

- a) a completed application form and the required fee
- b) a plan showing the location of the premises shown by a red line, so the application site can be clearly identified
- c) a plan clearly showing the proposed area covered by the licence in relation to the highway, if not to scale, with measurements clearly shown. The plan must show the positions and number of the proposed tables and chairs, together with any other items that they wish to place on the highway. The plan shall include clear measurements of, for example, pathway width/length, building width and any other fixed item in the proposed area. The entrance to the premises must also be shown
- d) the proposed days of the week on which, and the times of day between which, it is proposed to put furniture on the highway,
- e) evidence of the right to occupy the premises (e.g. the lease);
- f) photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied;
- g) (if applicable) reference of existing pavement licence currently under consideration by the local authority;
- h) evidence that the applicant has met the requirement to give notice of the application (for example photographs of the notice outside the premises and of the notice itself);
- i) a copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million, and
- j) any other evidence needed to demonstrate how the Council's local conditions, and any national conditions will be satisfied.

An application for a RENEWAL of a pavement licence must be made electronically to the Council and be accompanied by the following:

- a completed application form
- the required fee
- a copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million, (caveat:



there may be rare circumstances where a different minimum value may be agreed in advance before submission of application)

- any other information or evidence requested
- Note: photographs of furniture are not required on renewal unless the proposed items differ from those currently licensed

NOTE: a renewal cannot be submitted after expiry of the current licence. A new application would be required.

### 3.2 Fees

The fee for applying for a licence can be set locally but are capped at £500 for a new application and £350 for renewal. Please refer to the Council's website to look up current fees <https://swale.gov.uk/business-licensing-and-procurement/licences-permits-and-consents/putting-furniture-in-a-public-place>

Application fees must accompany the application in order for the application to be considered valid and for the consultation period to commence.

The fee can be paid using the Council's automated payment line 01795 417286 or on the Swale website <https://swale.gov.uk/business-licensing-and-procurement/licences-permits-and-consents/make-a-licensing-payment>

The fee is an 'application' fee for the processing of the application. The fee will not be refunded if the application is withdrawn, refused or if a licence is surrendered or revoked before expiration.

### 3.3 Consultation

Applications are consulted upon for 14 days, starting with the day on which a valid application is made to the Council.

The Council will publish details of the application on its website at <https://swale.gov.uk/news-and-your-council/consultations>

The Council is required by law to consult with the Highways Authority. In addition, to ensure that there are not detrimental effects to this application the Council will also consult with:

- Swale BC Environmental Health Service (including environmental protection and food and safety teams)
- Ward Councillors
- Police

Members of the public and others listed above can contact the Council to make representations.

The Council must take into account representations received during the public consultation period and consider them when determining the application.

### 3.4 Site Notice

An applicant for a pavement licence must, on the day application is made, fix a notice of the application to the premises so that the notice is readily visible to, and can be read easily by passers-by. The notice must remain in place until the end of the public consultation period.

Evidence of the placement of the site notice must be emailed to the council at [licensing@swale.gov.uk](mailto:licensing@swale.gov.uk)

The Site Notice must:

- a) state that the application has been made and the date on which it was made
- b) state the statutory provisions under which the application is made
- c) state the address of the premises and name of the business
- d) describe the proposed use of the furniture
- e) indicate that representations relating to the application may be made to the Council during the public consultation period and when that period comes to an end
- f) state the Council's website where the application and any accompanying material can be viewed during the consultation period
- g) state the address to which representations should be sent during the consultation period
- h) the end date of the consultation (7 days starting the day after the application is submitted to the authority)

A template Site Notice is shown as **Appendix 1**.

### 3.5 Site Assessment

The following matters will be among those used by the Council and consultees in considering the suitability of the proposed application:

- a) Public health and safety – for example any reasonable crowd management measures needed and, if it were to become applicable again any government guidance on social distancing requirements
- b) Public amenity – would the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour and litter
- c) Accessibility – taking a proportionate approach to considering the nature of the site in relation to which the application for a licence is made, its surroundings and its users, taking particular account of:
  - Any other temporary measures in place that may be relevant to the proposal, for example, the reallocation of road space. This could include pedestrianised streets and any subsequent reallocation of this space to vehicles.
  - Whether there are other permanent street furniture or structures in place on the footway that already reduce access
  - The impact on any neighbouring premises

- The recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of Inclusive Mobility publication [www.gov.uk/government/publications/inclusive-mobility](http://www.gov.uk/government/publications/inclusive-mobility)
- Other users of the space, for example if there are high levels of pedestrian or cycle movements

Applicants are strongly encouraged to talk to neighbouring businesses and occupiers prior to applying to the Council and to take any issues around noise, and nuisance into consideration as part of their proposal.

### 3.6 Determination

Once the application is submitted the Council has 28 days from the day after the application is made (excluding public holidays) to consult on and determine the application. This consists of 14 days of public consultation, and then 14 days to consider and determine the application after the consultation.

If the Council determines that application before the end of the determination period it can:

- Grant the licence in respect of any or all of the purposes specified in the application
- Grant the licence for some or all of the part of the highway specified in the application, and/or impose conditions
- Refuse the application

If the council does not determine the application within 14 days, the application will be deemed to have been granted.

### 3.7 Approval of applications

Swale Borough Council supports the aims of the Business and Planning Act 2020 and wishes to promote economic recovery and growth in its area and will therefore seek to grant applications for licences where possible.

However, this aim has to be balanced with the need to ensure that the issuing of Pavement Licences does not put public health or safety at risk, does not lead to anti-social behaviour and ensures that the public, particularly those with disabilities such as sight impairment are unhampered when walking along streets

The Council will consider the criteria contained within these guidelines in determining applications and will treat each case on its merits.

On approving the application, the Council will issue a Pavement Licence and attach conditions. The licence will also contain specific terms such as days and hours when tables and chairs and other street furniture are permitted and if necessary, the appearance and location of the furniture corresponding to the application.

A copy of the Council's standard conditions, which will be attached to all Pavement Licences is shown at Appendix 2. Additional conditions may be attached if the Council considers it appropriate in the circumstances of any particular case.

### 3.8 Licence Duration

If the Council determines an application before the end of the determination period they can specify the duration of the licence, subject to a maximum of 2 years.

The Council will normally grant applications for a 2 year period unless a shorter period has been requested or it is necessary for good reason, such as known upcoming street works, for example.

If a licence is 'deemed' granted because the authority does not make a decision on an application before the end of the determination period, then the licence will be valid for a period of two years.

### 3.9 Refusal of applications

If the site is deemed unsuitable for a Pavement Licence, or if relevant representations are made which cannot be mitigated by imposing conditions, then the application may be refused.

The Council may refuse an application on other grounds including (but not limited to) where the granting of the licence would put at risk public health or safety, lead to anti-social behaviour or public nuisance or unreasonably hamper pedestrians' ability to move freely.

The Council will notify applicants of the reasons for refusal following determination. There is no statutory appeal process against a decision to refuse an application. However, the Community Safety Manager will consider any appeal submitted within 14 days of the refusal notification. Clear reasons should be given for the reasons of an appeal. The Community Safety Manager's decision is final.

### 3.10 Variation of licences

There is no provision in the legislation to apply for variation of a pavement licence. Should the licence holder wish to vary the licence, they would need to submit a new application.

## 4. Conditions

The Council's standard conditions are set out in Appendix 2. In some cases, extra measures may be required. This will be determined when assessing any application, on a case-by-case basis.

## 5. Enforcement

The Council aims to work closely with other enforcement authorities to enforce the provisions of all appropriate legislation. The case remains that an obstruction of the Highway is an offence under the Highways Act 1980 and will be dealt with by Kent County Council Highways or the police.

Obtaining a Pavement Licence does not confer the licence holder immunity in regard to other legislation that may apply, e.g. Public Liability, Health & Safety at Work, Food Hygiene and Safety and Alcohol and Entertainment Licensing, and applicants must ensure that all such permissions etc. are in place prior to operating.

### Where a licence is issued:

The Levelling Up and Regeneration Act 2023 states that:-

If a condition imposed on a licence either by the Council or via a National Condition is breached the Council is able to issue a notice requiring the breach to be remedied.

The authority may revoke a licence in the following circumstances:

1. For breach of condition, (whether or not a remediation notice has been issued) or
2. Where:
  - the highway is being obstructed (other than by anything permitted by the licence);
  - there is anti-social behaviour or public nuisance – for example, the use is increasing the amount of noise generated late at night and litter is not being cleaned up;
  - it transpires the applicant has provided false or misleading statements in their application – for example they are operating a stall selling hot food and had applied for tables and chairs on which drinks could be consumed;
  - or
  - the applicant did not comply with the requirement to affix the notice to notify the public for the relevant period.
3. The Council may also revoke the licence where all or any part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted. For example, the licensed area (or road adjacent) is no longer to be pedestrianised. The Council will give reasons where these powers are used.

As an alternative to revoking the licence the Licensing Authority may, with the consent of the licence holder, amend the licence if it considers that— (a) some or all of the part of the relevant highway to which the licence relates has become unsuitable for any purpose in relation to which the licence was granted

or deemed to be granted, (b) as a result of the licence— (i) there is a risk to public health or safety, (ii) anti-social behaviour or public nuisance is being caused or risks being caused, or (iii) the highway is being obstructed (other than by anything done by the licence holder pursuant to the licence).

### **Unlicensed activity**

Where a person/business puts removable furniture on a relevant highway and is not authorised to do so, the licensing authority may, by issuing a notice, require the person/business to:

- Remove the furniture before the date specified on the notice and
- Refrain from putting furniture on the highway unless authorised to do so.

Contravention of such a notice may lead to the authority removing the furniture and storing it, and require the person/business to pay the authority's reasonable costs in removing and storing the furniture and to refuse to return the furniture until those costs are paid.

If, within the period of three months beginning with the day on which the notice is given, the person/business does not pay those reasonable costs, or does not recover the furniture, the local authority may-

- Dispose of the furniture by sale or in any other way it thinks fit, and
- Retain any proceeds of sale for any purpose it thinks fit

In this section, 'authorised' means authorised by—

- A pavement licence,
- Permission under Part 7A of the Highways Act 1980, or
- Permission granted under any other enactment

If the Council considers that a licence holder has breached any condition of the licence it may:

- Revoke the licence, or
- Serve a notice on the licence holder requiring the taking of such steps to remedy the breach as specified in the notice

If the licence holder fails to comply with the terms of a notice it may revoke the licence.

The Council may also revoke a licence in the following circumstances:

- a) Where the highway is being obstructed (other than by anything permitted by the Pavement Licence)
- b) If there is anti-social behaviour or noise nuisance associated with the operation of the Pavement Licence – for example if the use of the Pavement Licence

increases the amount of noise generated late at night or litter is not being cleaned up

The Council may also revoke a Pavement Licence where all or any part of the area of the highway to which the licence relates has become unsuitable for the purpose that the licence was granted. The Council will give reasons where these powers are used.

All enforcement activity will be undertaken in line with the principles set out in the Regulator's Code and the Council's Enforcement Policy.

## **6. Review of Policy**

This Policy covers the processes and procedures for Pavement Licences under the Business and Planning Act 2020 (as amended by the Levelling Up and Regeneration Act 2023) .

This Policy will be reviewed from time to time should changes occur in relevant legislation, the nature of Pavement licences generally, or as a result of local considerations within the Borough.

**Appendix 1**

**NOTICE for display by an applicant for a Pavement Licence.**

**[Clause 2] of the Business and Planning Act 2020.**

I/We *(name of applicant)*

do hereby give notice that on *(date of application)* [I/we] have applied to Swale Borough Council for a 'Pavement Licence' at: *(postal address of premises)*

known as *(name premises known by)*

The application is for: *(brief description of application – e.g outdoor seating to the front of the premises for serving food and drink)*

Any person wishing to make representations to this application may do so by writing to: Swale Borough Council. Email: [licensing@swale.gov.uk](mailto:licensing@swale.gov.uk) or Swale Borough Council, Swale House, East Street, Sittingbourne, Kent ME10 3HT

by: *(last date for representations being the date 7 days after the date the application is submitted to the local authority (excluding public holidays)*

The application and information submitted with it can be viewed on the Council's website: [www.swale.gov.uk/licensing](http://www.swale.gov.uk/licensing)

Signed .....

Dated: *(date the notice was placed which must be the same date as the date of application)*



## Appendix 2

### PAVEMENT LICENCES CONDITIONS

1. The Council generally will only permit Pavement licences to operate until 23:00hrs
2. It is a condition that clear routes of access along the highway must be maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people **(National Condition relating to clear routes of access)**
3. If barriers are to be used they must be disability compliant barriers. This means that barriers MUST:
  - (a) Be between 1000mm and 1200mm in height
  - (b) Have a continuous tapping rail (150mm to 200mm deep) or panel edge either on the ground or up to a maximum height of 200mm above the ground.
  - (c) Have a colour contrast to ensure they are highly visible.
  - (d) Be continuous around the area of tables, Chairs and temporary street furniture except for the access point
4. No tables, chairs or removable street furniture sited on a footway are to be placed within 1.2m of the edge of an adjacent carriageway. A minimum clear footway width of 1.5m must be obtained at all times and 2m in busy locations or at busy times except in the following circumstances where additional width may be required:
  - A – Proposals which place furniture within 20m of a road junction or roundabout.
  - B – Proposals which place furniture within 15m of a push button, zebra crossing or pedestrian island crossing.
  - C – Proposals which place furniture within 5m of a bus stop

**Additional widths may be required to accommodate social distancing in line with the guidance issued by the Secretary of State.**
5. Furniture should be placed so as not to obstruct driver's sightlines, or road traffic signs. Care should be taken in the use of hanging baskets, awnings, protruding umbrellas etc. Alternative items may not be used without first seeking the written authority of Swale Borough Council.
6. No apparatus such as power cables or water pipes shall be allowed to be laid across or suspended above the highway for the purposes of providing services to outside areas on or off the highway
7. Every table, chair and item of removable street furniture shall be positioned so that it does not impede the surface water drainage of the highway.
8. No wastewater or other substances shall be discharged on to the highway or highway drainage system

9. A licence holder must make reasonable provision for seating where smoking is not permitted so that customers have the option of sitting in a smoking or non-smoking area **(National Condition relating to Smoke Free Regulations)**
10. No items shall be sited as to obstruct access to any premises unless the consent of the occupier of these premises has been obtained. No items shall be sited in such a way that it obstructs any fire exits or dry risers etc.
11. No tables, chairs or removable street furniture shall be left on the highway longer than is necessary.
12. Tables, chairs and removable furniture within a pedestrianised area covered by a traffic Regulation Order shall only be placed on the highway during the hours of pedestrianisation.
13. No tables, chairs or removable street furniture shall remain on the highway pursuant to this permission after the period of this licence has expired.
14. Tables and chairs must not be placed in position outside of the permitted times stated on the licence.
15. Tables, chairs and removable street furniture shall be taken inside and stored during the hours when the business is not trading.
16. During the hours of darkness, suitable and sufficient lighting must be provided to ensure safe use of the area. Any proposals to provide additional lighting to the licensed areas must be agreed with the Highway Authority.
17. The licensee shall be responsible for keeping the designated area as shown on the submitted plan in a clean and tidy condition at all times and shall ensure that any associated debris is removed at the end of each day and make good any damage caused to the surface area.
18. The licensee is responsible for disposing of all waste from the premises and should provide sufficient refuse facilities for customers use. No waste from the premises should be put in public bins either by the owner or customer.
19. In some cases, extra measures may be required. This will be determined when assessing any application, on a case by case basis.
20. The tables, chairs and removable street furniture shall be positioned in the area agreed with Swale Borough Council.
21. Any infringements of the licence or problems arising out of the use of the site must be immediately rectified to the satisfaction of Swale Borough Council, Kent County Council or the Police who reserve the right to revoke a licence without notice.
22. Swale Borough Council requires evidence that the Licence Holder has Public Liability Insurance for the operation of the Pavement Licence. This must indemnify Swale Borough Council and Kent County Council against all claims for injury, damage or loss to users of the public highway, arising from the use of the highway for the permitted purposes. The minimum level of indemnity must be £5million in respect of any one incident.

23. Permission to operate a Pavement Licence does not imply an exclusive right to the area of public highway. The licence holder must be aware that Swale Borough Council and others (e.g. police, highways authority, statutory undertakers) will need access at various times (including emergencies) for maintenance, installation, special events, improvements etc or any other reasonable cause and it is a condition of this licence to provide such access. This may mean that the pavement licence will need to cease operating and/or be removed for a period of time. On these occasions there would be no compensation for loss of business.
24. The licence must be clearly displayed on the premises with a plan of the agreed layout of the Pavement Licence.
25. There should be no external speakers, background music, recorded or live music within or into the licensed pavement area.
26. The use of the area must not create a noise nuisance to surrounding premises.
27. Risk assessments must ensure that the hazard such furniture present e.g. a trip hazard is risk assessed and appropriate control measure are implemented to reduce any risks as far as is reasonably practicable

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## TABLE OF AMENDMENTS MADE TO SWALE BC PAVEMENT LICENCE POLICY 2023-2026

Policy Section No. and Title	Amended Wording	Reasons for Amendment
1. Introduction	<p>The Levelling Up and Regeneration Act 2023 which received Royal Assent on 31<sup>st</sup> March 2024 and these amendments have now been incorporated into this policy.</p> <p>The amendments are to:</p> <ul style="list-style-type: none"> <li>• Amend the fee that councils can charge applicants, increasing it from £100 to £350 for premises which already hold a Pavement Licence, and £500 for new applicants</li> <li>• Extend the public consultation period and council determination period from 7 day to 14 days</li> <li>• Extend the maximum duration of Pavement Licences from 1 year to 2 years. The length of a licence is however at the discretion of the local authority</li> <li>• Provide that Pavement Licences can also be amended by the local authority with the consent of the licence holder if it is considered that the conditions on the licence are not being met</li> <li>• Prohibit a local authority (i.e. KCC) from granting a tables and chairs licence under the old regime (Highways Act 1980) if a Pavement Licence is capable of being granted under this Bill</li> <li>• Insert a new Enforcement schedule providing powers to the local authority to remove furniture if a premises is not abiding by its pavement licence conditions and hours</li> </ul>	To explain the changes made by the Levelling Up and Regeneration Act 2023 (LU&R Act 2023)

<p>2. Application and Determination of Pavement Licences</p>	<p>3.1 <u>Submission of the application</u></p> <p>An application for a NEW Pavement Licence must be made to the Council and the following will be required to be submitted with the application:</p> <ul style="list-style-type: none"> <li>a) a completed application form and the required fee</li> <li>b) a plan showing the location of the premises shown by a red line, so the application site can be clearly identified</li> <li>c) a plan clearly showing the proposed area covered by the licence in relation to the highway, if not to scale, with measurements clearly shown. The plan must show the positions and number of the proposed tables and chairs, together with any other items that they wish to place on the highway. The plan shall include clear measurements of, for example, pathway width/length, building width and any other fixed item in the proposed area. The entrance to the premises must also be shown</li> <li>d) the proposed days of the week on which, and the times of day between which, it is proposed to put furniture on the highway,</li> <li>e) evidence of the right to occupy the premises (e.g. the lease);</li> <li>f) photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied;</li> <li>g) (if applicable) reference of existing pavement licence currently under consideration by the local authority;</li> <li>h) evidence that the applicant has met the requirement to give notice of the application (for example photographs of the notice outside the premises and of the notice itself);</li> </ul>	<p>To clarify the differing requirements between an application for a new pavement licence and an application for a renewal to an existing licence</p>
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	<p>i) a copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million, and</p> <p>j) any other evidence needed to demonstrate how the Council's local conditions, and any national conditions will be satisfied.</p> <p>An application for a RENEWAL of a pavement licence must be made electronically to the Council and be accompanied by the following:</p> <ul style="list-style-type: none"> <li>• a completed application form</li> <li>• the required fee</li> <li>• a copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million, (caveat: there may be rare circumstances where a different minimum value may be agreed in advance before submission of application)</li> <li>• any other information or evidence requested</li> <li>• Note: photographs of furniture are not required on renewal unless the proposed items differ from those currently licensed</li> </ul> <p>NOTE: a renewal cannot be submitted after expiry of the current licence. A new application would be required.</p>	
3.2 Fees	<p>The fee for applying for a licence can be set locally. Please refer to the Council's website to look up current fees</p> <p><a href="https://swale.gov.uk/business-licensing-and-">https://swale.gov.uk/business-licensing-and-</a></p>	To show the current fee levels

	<a href="#">procurement/licences-permits-and-consents/putting-furniture-in-a-public-place</a>	
3.3 Consultation	Applications are consulted upon for 14 days	Consultation has been extended from 7 days to 14 days
3.8 Licence duration	The Council will normally grant applications for a 2 year period	We propose to extend the duration of existing licences from between 3 months and 1 year to 2 years as permitted by the LU&R Act 2023
3.10 Variation of licences	<p>There is no provision in the legislation to apply for variation of a pavement licence. Should the licence holder wish to vary the licence, they would need to submit a new application.</p> <p>As an alternative to revoking the licence the Licensing Authority may, with the consent of the licence holder, <u>amend</u> the licence if it considers that— (a) some or all of the part of the relevant highway to which the licence relates has become unsuitable for any purpose in relation to which the licence was granted or deemed to be granted, (b) as a result of the licence— (i) there is a risk to public health or safety, (ii) anti-social behaviour or public nuisance is being caused or risks being caused, or (iii) the highway is being obstructed (other than by anything done by the licence holder pursuant to the licence),</p>	Added for clarification
5. Enforcement	<p>The Levelling Up and Regeneration Act 2023 states that:-</p> <p>If a condition imposed on a licence either by the Council or via a National Condition is breached the Council is able to issue a notice requiring the breach to be remedied.</p> <p>The authority may revoke a licence in the following circumstances:</p>	<p>Entire section added in line with the provisions of the LU&amp;R Act 2023.</p> <p>Wording is 'lifted' from the Act for sake of clarity</p>



	<ol style="list-style-type: none"> <li>1. For breach of condition, (whether or not a remediation notice has been issued)</li> <li>2. or Where: <ul style="list-style-type: none"> <li>• the highway is being obstructed (other than by anything permitted by the licence);</li> <li>• there is anti-social behaviour or public nuisance – for example, the use is increasing the amount of noise generated late at night and litter is not being cleaned up;</li> <li>• it transpires the applicant has provided false or misleading statements in their application – for example they are operating a stall selling hot food and had applied for tables and chairs on which drinks could be consumed; or</li> <li>• the applicant did not comply with the requirement to affix the notice to notify the public for the relevant period.</li> </ul> </li> <li>3. The Council may also revoke the licence where all or any part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted. For example, the licensed area (or road adjacent) is no longer to be pedestrianised. The Council will give reasons where these powers are used.</li> </ol> <p><b><u>Unlicensed activity</u></b></p> <p>Where a person/business puts removable furniture on a relevant highway and is not authorised to do so, the licensing</p>	
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	<p>authority may, by issuing a notice, require the person/business to:</p> <ul style="list-style-type: none"> <li>• Remove the furniture before the date specified on the notice and</li> <li>• Refrain from putting furniture on the highway unless authorised to do so.</li> </ul> <p>Contravention of such a notice may lead to the authority removing the furniture and storing it, and require the person/business to pay the authority’s reasonable costs in removing and storing the furniture and to refuse to return the furniture until those costs are paid.</p> <p>If, within the period of three months beginning with the day on which the notice is given, the person/business does not pay those reasonable costs, or does not recover the furniture, the local authority may-</p> <ul style="list-style-type: none"> <li>• Dispose of the furniture by sale or in any other way it thinks fit, and</li> <li>• Retain any proceeds of sale for any purpose it thinks fit</li> </ul> <p>In this section, ‘authorised’ means authorised by-</p> <ul style="list-style-type: none"> <li>• A pavement licence</li> <li>• Permission under Part 7A of the Highways Act 1980, or</li> <li>• Permission granted under any other enactment</li> </ul> <p>If the Council considers that a licence holder has breached any condition of the licence it may:</p> <ul style="list-style-type: none"> <li>• Revoke the licence, or</li> </ul>	
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	<ul style="list-style-type: none"><li>• Serve a notice on the licence holder requiring the taking of such steps to remedy the breach as specified in the notice</li></ul> <p>If the licence holder fails to comply with the terms of a notice it may revoke the licence.</p> <p>The Council may also revoke a licence in the following circumstances:</p> <ol style="list-style-type: none"><li>a) Where the highway is being obstructed (other than by anything permitted by the Pavement Licence)</li><li>b) If there is anti-social behaviour or noise nuisance associated with the operation of the Pavement Licence – for example if the use of the Pavement Licence increases the amount of noise generated late at night or litter is not being cleaned up</li></ol> <p>The Council may also revoke a Pavement Licence where all or any part of the area of the highway to which the licence relates has become unsuitable for the purpose that the licence was granted. The Council will give reasons where these powers are used.</p> <p>All enforcement activity will be undertaken in line with the principles set out in the Regulator’s Code and the Council’s Enforcement Policy.</p>	
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<b>Licensing Committee Meeting</b>	
<b>Meeting Date</b>	24 <sup>th</sup> June 2024
<b>Report Title</b>	Scrap Metal Dealers Licensing Policy 2024 - 2027
<b>EMT Lead</b>	Emma Wiggins, Director of Regeneration and Neighbourhoods
<b>Head of Service</b>	Charlotte Hudson, Head of Housing and Community Services
<b>Lead Officer</b>	Johanna Thomas, Licensing Officer
<b>Classification</b>	<b>Open</b>
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. Members are asked to note the comments made in the evaluation grid attached to this report as <b>Appendix II</b></li> <li>2. To approve the draft Scrap Metal Policy as set out as <b>Appendix I</b> to this report following an 8-week consultation.</li> <li>3. To recommend to Policy and Resources Committee that the policy be approved and published</li> </ol>

## 1 Purpose of Report and Executive Summary

- 1.1 At the Licensing Committee meeting of 13<sup>th</sup> February 2024, a draft Scrap Metal Dealers Licensing Policy under The Scrap Metal Dealers Act 2013 was approved for public consultation. This report sets out the consultation feedback and recommends adoption of the policy.

## 2 Background

- 2.1 The Scrap Metal Dealers Act 2013 revised the regulatory regime for the scrap metal recycling and vehicle dismantling industries.
- 2.2 The 2013 Act repealed the Scrap Metal Dealers Act 1964 and the Vehicle Crime Act 2001, replacing them with a more robust licensing regime that gives a local authority the powers to refuse the grant of a licence where the applicant is deemed unsuitable; and the powers to revoke a licence should a licence holder become unsuitable.
- 2.3 The 2013 Act aims are to raise the standards across the scrap metal industry and to help achieve this, licensed operators have to keep detailed records of their transactions and verify the identity of those selling scrap metal to them.
- 2.4 In addition to replacing the Scrap Metal Dealers Act 1964 and the Vehicle and Crime Act 2001, the 2013 Act revised the definition of a 'Scrap Metal Dealer' so

as to take into account the modern way in which people collect and deal in scrap metal. The 2013 Act provides for two types of Scrap Metal Dealer licences. A 'Site Licence' and a 'Collector's Licence' both of which last for three years.

#### 2.4.1 **Site Licence**

A site licence is applicable where the licence holder has a physical site(s) that they use to carry on their business as a scrap metal dealer. This licence allows the licence holder to accept scrap metal from any of the sites listed on the licence and to transport scrap metal to and from the sites listed on the licence.

#### 2.4.2 **Collectors Licence**

A collector's licence is applicable where the licence holders business consists of collecting scrap metal, for example by going from door to door asking for scrap. This licence allows the licence holder to collect scrap metal from within the boundaries of the local authority that a person wishes to operate in.

2.5 There are currently 14 Scrap Metal Collectors and 11 Scrap Metal Sites within the borough.

### **3 Proposals**

3.1 There is no statutory requirement for a local authority to have a formal Scrap Metal Dealers licensing policy; however, a Council can choose to adopt such a policy. This is for the benefit of business owners as well as reassuring the general public and other public bodies. It also reinforces the Regulators Code when dealing with applications by promoting effective practice, and ensuring proportionate, consistent and targeted regulator activity, whilst also developing a transparent and effective dialogue and understanding between regulators and those we regulate.

3.2 Although there is no statutory requirement to undertake a review of the policy statement it is accepted best practice to review it at regular intervals to ensure that policy remains up to date and relevant. It is generally recognised that a period of 3 years is reasonable before a policy should be reviewed. Swale first adopted a policy on 12<sup>th</sup> July 2018, the policy was reviewed in July 2021 and now needs to be reviewed again.

3.6 As the policy is not a statutory requirement there is no need for it to be formally adopted by Council following consideration by Licensing Committee.

3.7 The draft Scrap Metal Dealers Licensing policy is attached as **Appendix I**. As there have been no changes to the legislation the policy remains unchanged from that previously adopted.

## 4 Alternative Options

- 1.1.1 The Council could choose not to have a policy on scrap metal dealers however to do so would be contrary to best practice and may lead to a lack of clarity on the application of the legislation.

## 5 Consultation Undertaken or Proposed

- 5.1 A consultation period of 8 weeks ran between 4<sup>th</sup> March 2024 and 26<sup>th</sup> April 2024. Methods of consultation were by advertising on the Council's website, in the local newspaper and where appropriate by emails and post.

- 5.2. Consultees were:

- Ward Councillors
- Parish and Town Councils
- Kent Police
- Kent Fire and Rescue
- Kent Trading Standards
- Child Protection Services
- Interested Parties (local residents and businesses)
- All existing licence holders

- 5.3 During the consultation period a total of three (3) responses were received. Two (2) were comments and not recommendations for change. The other response was considered but the suggestion is not permissible by the relevant legislation.

- 5.4 The grid and recommendations is attached as **Appendix II**

## 6 Implications

Issue	Implications
Corporate Plan	The service is an important regulatory function undertaken to ensure the safety of the public consumers  Community – Indirect links to:  To work as part of the Community Safety Partnership to delivery priorities to address domestic abuse, crime, and disorder, ASB and support vulnerable people.

Financial, Resource and Property	There are no direct financial implications for Swale Borough Council concerning this draft Policy as the consultation is being carried out by officers. However, if at any time in the future the policy was subject to legal challenge, there could be costs associated with this process.
Legal and Statutory	<p>The 2013 Act introduced a comprehensive licensing regime for all scrap metal dealers. In accordance with the Act the Council must licence all scrap metal dealers. The Council must determine the suitability of applicants to hold licences. The Council also has the powers to impose conditions on licences, revoke licences and take enforcement action against unlicensed operators.</p> <p>Whilst there is no statutory requirement for the Council to have a Scrap Metal Dealers Licensing Policy it provides the framework under which Swale BC will exercise its powers and duties under the 2013 Act and ensures that fair and equitable decisions are taken by Swale Borough Council</p>
Crime and Disorder	It is important that Swale BC has a robust and accountable regulatory regime in relation to scrap metal in order to ensure fair trading, prevent crime and to protect consumers
Environmental Sustainability	No implications
Health and Wellbeing	No implications
Safeguarding of Children, Young People and Vulnerable Adults	There are no specific elements of The Scrap Metal Dealers Act 2013 relating to the safeguarding of children and vulnerable adults, licensing regimes in general provide a means of regulating, which links in with safeguarding duties and responsibilities
Risk Management and Health and Safety	It is important that Swale BC has a robust and accountable regulatory regime in relation to scrap metal in order to ensure fair trading, prevent crime and to protect consumers
Equality and Diversity	<p>The Council has a legal obligation under section 149 of the Equality Act 2010 to have due regard to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different groups.</p> <p>When considering scrap metal applications, only issues provided for in the Scrap Metal Act 2013 and provided for in the Scrap Metal Dealers policy for Swale BC will be taken into account. This will ensure a consistent approach is adopted. Under the terms of the policy, every application will be considered on its own merits.</p>
Privacy and Data Protection	Normal data protection and privacy rules will apply. Under the 2013 Act the Council is obliged to provide certain information to the Environment Agency who compile and keep a public register



## **7 Appendices**

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Draft Scrap Metal Dealers Licensing Policy 2024 - 2027
- Appendix II: Consultation Evaluation Grid

## **8 Background Papers**

Scrap Metal Dealers Act 2013 and related Guidance

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# Scrap Metal Dealers Policy

Scrap Metal Dealers Act 2013

October 2024

Next scheduled review: September 2027

All enquiries relating to this document should be sent to:

Licensing  
Swale Borough Council  
Swale House  
East Street  
Sittingbourne  
ME10 3HT

[Licensing@swale.gov.uk](mailto:Licensing@swale.gov.uk)

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DRAFT

## Issue & Review Register

Summary of changes	Issue number & date	Approved by

All changes to this document are tracked using a different colour and/or marked with a vertical line at the side of the page.

If amendments have been made, this will be redistributed to all named on the distribution list.

Compiled by: Licensing Team, Swale Borough Council

Date:

Approved by: Licensing Committee

Date:

### **Changes and Corrections**

Any changes or corrections required should be notified in writing to:

Licensing  
Swale Borough Council  
Swale House  
East Street  
Sittingbourne  
ME10 3HT

Or

[licensing@swale.gov.uk](mailto:licensing@swale.gov.uk)

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1	1	Introduction
2	2	Background
3	3	Types of Licence
4	4	Applicant Suitability
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8	8	Notification of Requirements
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16	Appendix A	Relevant Offences

## SWALE BOROUGH COUNCIL - SCRAP METAL POLICY 2024 - 2027

### 1. Introduction

- 1.1. Metal theft has had a significant impact upon our communities, businesses and the local authority. Such thefts have seen communications and the train networks disrupted, as well as significant costs to local authorities in relation to stolen drainage gully covers and stolen road signs.

The Scrap Metal Dealers Act 2013 (The Act) was introduced to address these issues, ensuring that the sale, collection, storage and disposal of scrap metal are carried out lawfully.

- 1.2 The Act identifies the local authority as the principal regulator and gives the Council the authority to regulate these industries by the ability to refuse licences to 'unsuitable' applicants and the power to revoke those licences held by licence holders who become 'unsuitable'.
- 1.3 This policy outlines the requirements of the Scrap Metal Dealers Act 2013. It also provides guidance to new applicants, existing licence holders and members of the public as to how the council will undertake its role in the administration and enforcement of the Act.

This policy is intended to reinforce the aims of the policy and the Regulators Code by promoting effective practice, ensuring proportionate, consistent and targeted regulator activity, whilst developing a transparent and effective dialogue and understanding between regulators and those we regulate.

- 1.4 Nevertheless, Swale Borough Council (the licensing authority) may depart from its own policy if individual circumstances warrant such a deviation.
- 1.5 The Council sees the licensing process as an integral part to its approach to achieving its strategic and corporate objectives which encompasses the visionary goals shown within the Corporate Plan [Council - Corporate Plan \(swale.gov.uk\)](https://www.swale.gov.uk/corporate-plan)
- 1.6 The policy will be reviewed every 3 years, and the following will be consulted
- a) Kent Police
  - b) Kent Fire and Rescue
  - c) Kent Trading Standards
  - d) Environment Agency
  - e) Swale Borough Council Environmental Services
  - f) Any relevant trade associations
  - g) Neighbouring local authorities
  - h) Ward, Parish and Town councillors

- 1.7 Equalities

The Council is committed to ensuring that it tackles social inclusion and diversity issues across all its services and as an employer. We recognise that individuals may experience unlawful discrimination as a result of personal characteristics protected in law, and that individuals and communities may also experience discrimination and disadvantage on the basis of wider, social, economic and demographic characteristics. We believe that equality for all is a basic human right and actively oppose all forms of unlawful and unfair discrimination. We recognise and value the diversity of society and are striving to promote and reflect that diversity within this Council.

## **2. Background**

2.1 The Scrap Metal Dealers Act 2013 came into force on 1 December 2013. It repealed previous legislation and created a new regulatory regime for scrap metal recycling and vehicle dismantling.

2.2 The Act defines a “scrap metal dealer” if:

- (a) they wholly or partly buy or sell scrap metal (whether or not sold in the form it was bought); or
- (b) they carry on business as a motor salvage operator (see 2.4)

2.3 The selling of scrap metal as surplus materials or as a by-product of manufacturing articles is not to be regarded as ‘carrying on a business’ as a scrap metal dealer.

2.4 Motor salvage operation is defined in the Act as a business that consists wholly or mainly of:

- (a) recovering salvageable parts from motor vehicles for re-use or sale and selling the remainder of the vehicle for scrap;
- (b) buying written-off vehicles, repairing and reselling them;
- (c) buying or selling motor vehicles which are to be the subject of any of the activities mentioned in (a) or (b)
- (d) wholly or mainly in activities falling within paragraphs (b) and (c)

2.5 Scrap metal includes:



- (a) Any old, waste or discarded metal or metallic material; and
- (b) Any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last holders as having reached the end of its useful life.
- (c) This definition does include platinum and other rare metals now being used in catalytic converters in vehicle exhausts.

2.6 Scrap metal does not include

- (a) Gold;
- (b) Silver;
- (c) Any alloy of which 2% or more by weight is attributable to gold or silver.

### 3. Types of Licence

#### 3.1 Overview

3.1.1 In order for anyone to carry on a business as a scrap metal dealer, or collector they must have a licence. A licence is valid for three years from the date of issue and permits the holder to operate within the boundaries of Swale Borough. Trading without a licence is a criminal offence.

3.1.2 A person may hold more than one licence issued by different local authorities but may not hold more than one licence issued by any one authority.

3.1.3 Anyone wishing to operate a business as a scrap metal dealer will require either:

- (a) a site licence; or
- (b) a collector's licence

A dealer can only hold one type of licence in any one local authority.

#### 3.2. Site Licences

3.2.1 A site under the Act is defined as 'any premises used in the course of carrying on a business as a scrap metal dealer, (whether or not metal is kept there). This means a dealer will require a licence for an office, even if they do not operate a metal store or yard from those premises. A site licence allows the holder to transport scrap to and from the site from any local authority area.

3.2.2 The site licence must include:

- (a) the name of the licensee;
- (b) the name of the authority;
- (c) all the sites in the authority's area at which the licensee is authorised to carry on business;

- (d) the name of the site manager of each site:
- (e) the date of expiry (which is 3 years from the date of issue)

A site licence must be displayed at each site identified on the licence, in a prominent place accessible to members of the public.

### 3.3 Collectors licences

#### 3.3.1 The Act defines a 'collector' as a person who –

- (a) carries on business as a scrap metal dealer otherwise than at a site;
- (b) regularly engages, in the course of that business, in collecting waste materials and old, broken, worn out or defaced articles by means of visits from door to door

This licence does not permit the holder to operate a scrap metal site, nor does it allow collection from outside the area of the issuing licensing authority. If a person collects scrap from numerous local authority areas, a collector's licence will be required from each authority he/she collects scrap within.

#### 3.3.2 A collector's licence must include:

- (a) the name of the licensee;
- (b) the name of the authority;
- (c) the date of expiry (which is 3 years from the date of issue)

## 4. Applicant Suitability

4.1 The Council must determine if an applicant is a suitable person to carry on a business as a scrap metal dealer. 'Applicant' includes sole traders, partners of a partnership and directors, secretary and shadow directors of a company.

4.2 In determining a person's suitability the Council will have regard to:-

- (a) Statutory Guidance;
- (b) Its Policy

4.3 Notwithstanding the existence of this policy, the Council, when determining a person's suitability for the purposes of the Act, will treat each case on its own individual merits.

4.4 In determining suitability the Council will require the applicant to produce a Disclosure and Barring Services records check. Where the applicant has previously lived outside the United Kingdom the Council will not consider the grant of a licence until a relevant check has been completed with the relevant country or countries and

details of such check submitted to the Council. A Certificate of Good Conduct will need to be submitted in such cases.

- 4.5 As well as its policy and statutory guidance, the Council, when determining a person's suitability, may have regard to any other information it considers relevant, in particular, but not limited to:
- (a) whether the applicant or site manager has been convicted of any relevant offence;
  - (b) whether the applicant or site manager has been the subject of any relevant enforcement action;
  - (c) any previous refusal of an application for the issue or renewal of a scrap metal licence (and the reasons for the refusal);
  - (d) any previous refusal of an application for a relevant environmental permit or registration (and the reasons for the refusal)
  - (e) any previous revocation of a scrap metal licence (and the reasons for the revocation);
  - (f) whether the applicant has demonstrated that there will be in place adequate procedures to ensure that the provisions of the Act are complied with;
  - (g) any relevant offences or relevant enforcement action listed under the Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013 as shown as Appendix A to this policy.

The Council must also have regard to any guidance on determining suitability which is issued from time to time by the Secretary of State.

- 4.6 When establishing the applicant's suitability, the Council may consult other persons regarding the suitability of an applicant, including, but not limited to:
- (a) any other local authority
  - (b) the Environment Agency or any successor organisation
  - (c) an officer of a police force
  - (d) HM Revenues and Customs
  - (e) Kent Trading Standards
  - (f) Planning department of Swale Borough Council
  - (g) Environmental Response team of Swale Borough Council

- 4.7 While the Act states that the Council must have regard to the relevant offences laid out in Appendix A of this policy, the Council is not limited to taking into account only

those offences. As such the Council may consider other offences that, in the Council's opinion, may be relevant in determining an applicant's suitability.

4.8 Having regard to the objectives of the Act, the Council has determined it will consider the following offences, or enforcement actions relating to any person relevant to the licence, as being of particular relevance to the suitability of the licence holder:

- (a) written warning relating to scrap metal compliance;
- (b) Waste regulations 2011 – enforcement, compliance and stop notices;
- (c) Permitting regulations notices;
- (d) Planning Breach of Condition/Enforcement notices;
- (e) statutory nuisance abatement notice;
- (f) breach of statutory nuisance abatement notice

4.9 Having regard to the objectives of the Act the Council has determined there will be a presumption to refuse an application where the applicant or any other person required to be named or identified in the application has been convicted of any of the relevant offences laid down in the Act or has been the subject of any of the following forms of enforcement action within the period of three years prior to the application:

- (a) closure notice pursuant to the Act;
- (b) closure order pursuant to the Act;
- (c) action for recovery of possession of out of date or discontinued licences

4.10 Notwithstanding this policy and the matters that the Council may take into account when determining a person's suitability, each case shall be treated on its own individual merits.

## **5. Application Procedure**

5.1 An application form, available from the Licensing Department must be completed and submitted together with the correct fee and a current Basic Disclosure and Barring Service Criminal Convictions check (DBS). The DBS must be less than 3 months old from the date of issue. Information on convictions held by those having lived outside the United Kingdom will also be required.

5.2. The application form must detail the following:

- (a) full name of the applicant (if an individual), date of birth and usual place of residence;
- (b) name and registered number of the applicant (if a company) and registered office;
- (c) if a partnership – full name of each partner, date of birth and usual place of residence;
- (d) proposed trading name
- (e) telephone number and email address (if an) of applicant;

- (f) address of any site within any other local authority at which it is proposed to carry on business as a scrap metal dealer;
- (g) any relevant environmental permit or registration in relation to the applicant;
- (h) details of any other scrap metal licence issued to the applicant within a period of 3 years ending with the date of the application;
- (i) details of the bank account which is proposed to be used in order to comply with section 12 of the Act;
- (j) details of any relevant conviction or enforcement action taken against the applicant;

5.3 For a site licence, the applicant must also provide:

- (a) the address of each site proposed to be identified in the licence (or if renewal, each site identified for which renewal is sought);
- (b) the full name, date of birth and usual place of residence of each individual proposed to be named in the licence as a site manager (other than the applicant);
- (c) the information required under paragraph 12.2.(g) (h) (j) that relate to any individual being proposed as a site manager;

5.4 Please note that a collectors licence issued by Swale Borough Council allows a business or individual to operate within the Swale Borough area only, therefore individuals applying for a collectors licence and wishing to collect scrap metal across borough boundaries will be required to obtain a collectors licence from every local authority where they wish to collect and sell.

## 6. Supply of Information

6.1 The Council has a duty to pass on information in relation to an application for, or relating to a scrap metal licence when requested by:

- (a) any other local authority;
- (b) The Environment Agency;
- (c) An officer of a police force;

This does not limit any other power the Council may have to supply that information.

## 7 Register of licences

7.1 The Environment Agency maintains a register of scrap metal licences issued by authorities in England and each entry will record:

- (a) the name of the authority which issued the licence;
- (b) the name of the licensee;
- (c) any trading name of the licensee;
- (d) the address of the site identified in the licence;
- (e) the type of licence; and

- (f) the date on which the licence is due to expire

The register is open for inspection by members of the public

- 7.2 The register will be up-dated by the Council after an application (new, renewal, variation, revocation etc) has been processed.

## **8. Notification of Requirements**

- 8.1 An applicant for a scrap metal licence, or for the renewal, or for a variation to a licence, must notify the Council of any changes which materially affect the accuracy of the information which the applicant has provided in connection with the application.
- 8.2 A licensee who ceases in carrying on business as a scrap metal dealer must notify the Council within 28 days from the date they are no longer a scrap metal dealer.
- 8.3 If a licence is issued to a business under a trading name the licensee must notify the Council of any change to that name within 28 days of that change occurring.

## **9. Verification of Suppliers Identity**

- 9.1 A scrap metal dealer must verify the name and address of any person they receive scrap metal from.
- 9.2 When verifying the person's name and address, the scrap metal dealer must do so by way of documents, data or other information obtained from a reliable and independent source.
- 9.3 In the course of collecting door to door, it may not be possible for a mobile collector to verify the name and address of the supplier if the waste materials are old, broken, worn out or defaced articles have been left on the roadside.
- 9.4 However, a mobile collector must record the description of the metal, including its type (or types if mixed), form, condition, weight and any marks identifying previous owners or other distinguishing features and the date and time of its receipt.
- 9.5 If suitable verification is not obtained the scrap metal dealer, or site manager, or person who has been delegated responsibility shall be guilty of an offence.

## **10 Payment for Scrap Metal**

- 10.1 Cash cannot be used by any scrap metal collector. It is an offence to buy scrap metal for cash under Section 12 of the Act and there are no exemptions.
- 10.2 Payment must only be made by either:
  - (a) a cheque (which is not transferrable under Section 81A Bills of Exchange Act 1882); or

- (b) electronic transfer of funds (authorised by a credit, debit card or otherwise)

This will mean that the payment will be linked to a readily identifiable account for both the payee and the payer. Payment includes paying in kind with goods and services.

## **11. Records**

11.1 The scrap metal dealer must keep three types of records:

- (a) Receipt of metal
- (b) Disposal of metal
- (c) Supplementary

11.2 Receipt of metal

If metal is received in the course of the dealer's business, the following must be recorded:

- (a) Description of the metal, including its type (or, types if mixed), form, condition, weight and any marks identifying previous owners or other distinguishing features
- (b) Date and time of receipt;
- (c) The registration mark of the vehicle it was delivered by;
- (d) Full name and address of the person delivering it, and
- (e) Full name of the person making payment on behalf of the dealer

11.3 The dealer must keep a copy of the documents used to verify the delivery person's name and address

11.4 If payment is by cheque a copy of the cheque must be retained.

11.5 If payment is by electronic transfer a receipt identifying the transfer must be retained, or the details of the transfer.

11.6 Disposal of Metal

Disposal under the Act covers metal:

- (a) Whether or not it is in the same form when it was purchased
- (b) Whether or not it is to another person; or
- (c) Whether or not it is despatched from a site

11.7 Disposal records must be recorded, including:

- (a) description of the metal, including its type (types if mixed), form, weight
- (b) date and time of disposal

- (c) if to another person, their full name and address
- (d) if payment is received for the metal (sale or exchange) the price
- (e) other consideration received

11.8 If disposal is in the course of business conducted under a collector's licence, the dealer must record:

- (a) date and time of disposal
- (b) if to another person, their name and address

11.9 The information collected during receipt and disposal must be recorded in such a manner that allows the information and the metal to which it relates to be easily identified.

11.10 The records of receipt must be marked so as to easily identify the metal to which they relate.

11.11 Records must be kept for a period of three years beginning on the day of receipt, or disposal

11.12 If suitable records for the receipt or disposal of scrap metal are not kept then the scrap metal dealer, or site manager, or person who has been delegated responsibility by the dealer or site manager for keeping records, shall be guilty of an offence

11.13 A dealer or site manager may have a defence if they can prove arrangements had been made to ensure the requirement to keep records was fulfilled, or that they took all reasonable steps to ensure those arrangements were complied with.

## **12. Right of entry and inspection**

12.1 A police officer or an authorised officer of the Council may enter and inspect a licensed site at any reasonable time, with notice to the site manager.

12.2 Entry and inspection without notice may occur, if:

- (a) reasonable attempts to give notice had been given and had failed; or
- (b) entry to the site is reasonably required for the purpose of ascertaining whether the provisions of the Act are being complied with or investigating offences under it, and, in either case, the giving of the notice would defeat that purpose.

12.3 Sections 12.1 and 12.2 do not apply to residential premises.

12.4 An authorised officer of the Council is not entitled to use force to enter a premises, but may ask a justice of the peace to issue a warrant authorising entry, if they are satisfied there are reasonable grounds for entry to the premises and is reasonably required for the purposes of:



- (a) securing compliance with the provisions of the Act, or
- (b) ascertaining whether those provisions are being complied with.

12.5 'Premises' under this section include:

- (a) licensed site, or
- (b) premises that are not licensed, but there are reasonable grounds for believing the premises are being used as a scrap metal dealing business.

12.6 An authorised officer of the Council may use reasonable force in the exercise of the powers under a warrant obtained under section 12.4.

12.7 An authorised officer of the Council may require:

- (a) production of, and inspect, any scrap metal kept at any licensed premises, and
- (b) require production of, and inspect, any records kept in respect of receipt and disposal of metal, and
- (c) to take copies of or extracts from any such record

12.8 An authorised officer of the Council must produce evidence of their identity and evidence of their authority to exercise these powers, if requested by the owner, occupier, or other person in charge of the premises.

### **13. Display of a Licence**

13.1 A copy of a site licence must be displayed at each site identified in the licence. The copy must be displayed in a prominent place, in an area accessible to the public.

13.2 A copy of the site licence will be available in every vehicle that collects metal in connection with a site licence.

13.3 A copy of the collector's licence must be displayed on any vehicle that is being used in the course of the dealer's business. This must be displayed in a manner which enables it to be easily read by a person outside the vehicle.

### **14. Variation of a Licence**

14.1 A variation application can be made to vary the type i.e. a site licence to collector's licence or vice versa, content, details, site manager etc. on a licence.

14.2 A variation application can only be accepted in respect of an existing licence issued by Swale Borough Council.

14.3 A variation application cannot be used to transfer a licence from one person/partnership/company: this would require a new application for a site or collector's licence.

14.4 Any change of trading name must be notified to the Council within 28 days of the change

## **15. Renewal of a Licence**

15.1 A renewal application must be received before the expiry of the current licence. A renewal application may be commenced three months before the expiration of a current licence and no later than two weeks before the licence expires.

## **16. Further information**

16.1 The Council may request (at the time of application or later) any additional information it considers relevant for the purpose of considering an application.

16.2 Failure to provide such information may result in an application being declined.

## **17. Fee**

17.1 An application must be accompanied by the fee set by the Council. [Scrap Metal Dealers - Apply and pay \(swale.gov.uk\)](#)

17.2 Any fee set will take into account guidance from the Secretary of State.

## **18. Refusals and right to make representations**

18.1 If the Council proposes to refuse an application or to revoke, or to vary a licence by imposing conditions, a notice must be issued to the licence holder setting out the Council's proposals and the reasons for their decision. The notice shall also state that, within the period specified, the applicant or licensee can either:

- (a) make representations about the proposal; or
- (b) inform the authority that the applicant or licensee wishes to do so.

18.2 The period specified in the notice will not be less than 14 days beginning with the date on which the notice is given to the applicant or licensee.

18.3. Within the period specified in the notice the applicant or licensee must notify the Council whether the applicant or licensee wishes to make representations.

18.4 Should this period expire and the applicant or licensee has not made representations, or informed the Council of their wish to do so, the Council may refuse the application, vary the licence or revoke the licence.

18.5 If, within the period specified in the notice, the applicant or licensee informs the Council that they wish to make representations, the Council will allow a reasonable period to make representations and may refuse the application, vary the licence or revoke the licence if they fail to make representations within that period.

18.6 Where there is a representation a hearing will be arranged, and the case will be presented to a Licensing Sub-Committee. The applicant or licensee will be invited to attend. The Council will give at least 10 working days' notice of the date and time of the hearing to the applicant or licensee. The notice will include the appeal procedure.

## **19. Revocation and Imposing Conditions**

19.1 The Council may revoke a scrap metal licence if it is satisfied the licence holder does not carry on a scrap metal business at any of the sites named on the licence.

19.2 The Council may revoke a scrap metal licence if it is satisfied the site manager named on the licence does not act as a site manager at any of the named sites on the licence.

19.3 The Council may revoke a scrap metal licence if it is no longer satisfied the licence holder is a suitable person to carry on the business.

19.4 If the applicant or any site manager has been convicted of a relevant offence, the Council may include in the licence one or both of the following conditions:

- (a) that the dealer must not receive scrap metal except between 09:00 and 17:00 on any day;
- (b) that all scrap metal must be kept in the form in which it is received for a specified period, not exceeding 72 hours, beginning with the time when it is received.

19.5 A proposed revocation or a variation of a licence will be presented to a Licensing Sub-Committee. The applicant or licensee will be invited to attend. The Council will give at least 10 working days' notice of the date and time of the hearing to the applicant or licensee. The notice will include the appeal procedure.

19.6 A revocation or variation only comes into effect when no appeal under the Act is possible, or when such appeal has been determined or withdrawn.

## **20. Appeals**

20.1 An applicant may appeal to magistrates' court against a refusal of an application or variation.

20.2 The licensee may appeal to the magistrates' court against the inclusion on the licence of a condition under Section 3(8) of the Act, or a revocation or variation of a licence under Section 4 of the Act.

20.3 The appeal procedure will be in accordance with current magistrates' court procedures and must be lodged within 21 days of receipt of the decision notice.

20.4 On appeal the magistrates' court may confirm, vary or reverse the Council's decision, and give such directions as it considers appropriate having regard to the provisions of the Act.

## **21. Closure of Unlicensed Sites**

21.1. If an authorised officer of the Council is satisfied premises are being used by a scrap metal dealer in the course of their business and the premises are unlicensed, they may issue a closure notice.

A copy of the notice must be given to:

- (a) a person who appears to be the site manager, and
- (b) any person who appears to be a director, manager, or other officer of the business.

A copy may also be given to any person who has an interest in the business, a person who occupies part of the premises, or where the close may impede a person's access to that other part of the premises.

21.2 After a period of 7 days, the authorised officer may apply to a magistrate's court for a closure order.

The court must be satisfied the premises will continue to be used by a scrap metal dealer, or there is a reasonable likelihood that the premises will be.

A closure order will close the premises immediately, and the premises will remain closed to the public until the Council makes a termination of closure order by certificate. The scrap metal dealer must cease his business immediately. It will require the defendant to pay a sum in the court, which will not be released until the person has complied with the requirements of the order.

Such an order may have a condition relating to the admission of people into the premises or may include a provision the court considers appropriate.

A copy of the order must be placed on the premises in a prominent position by the Council.

21.3 Once the requirements of the order have been complied with and the Council is satisfied the need for the order has ceased, a certificate maybe made. This ceases the order and the sum paid into the court is released.

A copy of the certificate must be given to any person the closure order was made against, give a copy to the court and place a copy on the premises.

A copy must be given to anyone who requests one.

- 21.4 Anyone issued with a closure order may complain to a magistrate. The court may discharge the order, if it is satisfied there is no longer a need for a closure order.

The licensing authority may be required by the court to attend and answer the complaint made.

Notice of the hearing must be given to all people issued with the closure order,

- 21.5. An appeal may be made to Crown Court against:

- (a) a closure order;
- (b) a decision not to make a closure order;
- (c) a discharge order; or
- (d) a decision not to make a discharge order

Any appeal must be lodged within 21 days beginning on the day on which the order or decision was made.

Appeal (a) and (b) may be made by any person who was issued with an order. Appeal (c) and (d) may be made by the Licensing Authority.

- 21.6. A person is guilty of an offence, if they allow the premises to be open in contravention of a closure order, without reasonable excuse, or fails to comply with, or contravenes a closure order.
- 21.7 An authorised officer of the Authority may enter the premises at any reasonable time to ensure compliance with the order. They may use reasonable force if necessary.
- 21.8 An authorised officer must produce evidence of their identity or evidence of their authority to exercise the powers under the Act, if requested to do so.

## **22. Delegation of Functions**

- 22.1 Where there are uncontested applications, or where there are no questions about the suitability of the applicant the determination will be dealt with by the Council Licensing Team.
- 22.2. Contested applications where there is relevant information from any of the consultees, or queries regarding an applicant's suitability, revocation of a licence or the imposition of conditions will be presented to the Licensing Sub-Committee.

## APPENDIX A – RELEVANT OFFENCES

The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013.

### PART 1

#### Primary Legislation

- (a) An offence under section 1, or 7 of the Control of Pollution (Amendment) Act 1989
- (b) An offence under section 170 or 170B of the Customs and Excise Management Act 1979, where the specific offence concerned relates to scrap metal
- (c) An offence under section 110 of the Environment Act 1995
- (d) An offence under sections 33,34 or 34B of the Environmental Protection Act 1990
- (e) An offence under section 9 of the Food and Environmental Protection Act 1985
- (f) An offence under section 1 of the Fraud Act 2006, where the specific offence concerned relates to scrap metal, or is an environment related offence
- (g) An offence under section 146 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012
- (h) An offence under sections 327, 328 or 330 to 332 of the Proceeds of Crime Act 2002
- (i) Any offence under the Scrap Metal Dealers Act 1964
- (j) Any offence under the Scrap Metal Dealers Act 2013
- (k) An offence under sections 1,8,9,10,11,17,18,22 or 25 of the Theft Act 1968, where the specific offence concerned relates to scrap metal, or is an environment related offence
- (l) Any offence under Part 1 of the Vehicles (Crime) Act 2001
- (m) An offence under sections 85, 202 or 206 of the Water Resources Act 1991

### PART 2

#### Secondary legislation

- (a) An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2007
- (b) An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2010
- (c) Any offence under the Hazardous Waste (England and Wales) Regulations 2005
- (d) Any offence under the Hazardous Waste (Wales) Regulations 2005
- (e) An offence under regulation 17(1) of the Landfill (England and Wales) Regulations 2002
- (f) Any offence under the Pollution Prevention and Control (England and Wales) Regulations 2000
- (g) Any offence under the Producer Responsibility (Packaging Waste) Regulations 2007
- (h) Any offence under the Transfrontier Shipment of Waste Regulations 1994
- (i) Any offence under the Transfrontier Shipment of Waste Regulations 2007
- (j) Any offence under the Waste (Electrical and Electronic Equipment) Regulations 2006
- (k) An offence under regulation 42 of the Waste (England and Wales) Regulations 2011

## Offences and Penalties

The following are prescribed by the Act as criminal offences:

- Section 1 – Carrying on business as a scrap metal dealer without a licence (level 5)
- Section 8 – Failure to notify the authority of any changes to details given with the application (level 3)
- Section 10 – Failure to display a site licence or collectors licence (level 3)
- Section 11(6) – Receiving scrap metal without verifying a person’s name and address (level 3)
- Section 11 (7) – Delivering scrap metal to a dealer and giving false details (level 3)
- Section 12 (6) – Buying scrap metal for cash (level 5)
- Section 13 – Failure to keep records regarding receipt of metal (level 5)
- Section 14 – Failure to keep records regarding disposal of metal (level 5)
- Section 15(1) – Failure to keep records which all the information and the scrap metal to be identified by reference to one another (level 5)
- Section 15(2) – Failure to keep a copy of documents used to verify
- Section 15(3) – Failure to keep information and records for three years (level 5)
- Section 16 – Obstruction to right of entry and failure to produce records (level 3)
- Section 17 – Where an offence under this Act is committed by a body corporate and it is proved –
  - (a) To have been committed with the consent or connivance of a director, manager, secretary or other similar officer; or
  - (b) To be attributable to any neglect on the part of any such individual, the individual as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and omissions of a member in connection with that management as if the member were a director of the body corporate.

Levels of Fine:

Level 1 - £200, Level 2 - £500, Level 3 - £1,000, Level 4 - £2,500, Level 5 - Unlimited

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Respondent	Paragraph	Comments made	Response from Council
Licence Holder - Scrap metal Collectors licence		I feel the scrap licence doesn't need to be regulated any more for people/businesses who actually have a scrap licence , these seem to be doing everything above board, the problem is the people/businesses who don't hold a scrap licence that need to be caught and fined, they are often the ones who take things they are not supposed to be taking and fly tipping what they cant scrap. The amount of times I have be called to collect scrap left in people front gardens for me to collect and get there for someone else has already taken without permission, this has a big affect on my business. Costing me money in fuel and time. I've seen the same people in the space of around 8 years of me living in swale doing scrap without a licence and nothing happening. I do appreciate it's difficult to catch them all, but public knowledge of what licences need to be held isn't very good . Most of the public don't realise that somebody needs a scrap licence to collect scrap. It's also common knowledge amongst scrap yards that the local scrap collectors do not declare there earnings. So I feel the people who don't comply with the scrap collectors regulations need to be targeted more. rather than the ones who do have these licenses.	Environmental Response Team do monthly operations in liaison with Kent Police. Where vehicles are stopped and the collector is found to be operating illegally, they are prosecuted, this happens on a regular basis.
Swale Borough Council Ward Councillor		I have found this well written and clear. A v useful document to be able to refer to when needed	Noted
Parish Councillor	19.4	I am responding as an individual Parish Councillor. Overall the policy looks well thought through. However, there are two items that might help suppress specific scrap crimes. Firstly, where catalytic converters are collected or aggregated each one should require the make and registration of the car they have come from. All cars that had them fitted require them to be road legal so it is an easy check as to whether they are taxed and MOT'd. This simple change would enable Police to cross check reported stolen catalytic converters. This is an expensive and very annoying crime against property for individuals. The second item is that scrap yards should refuse to accept already processed metals that have been melted down. We know that copper cabling is prone to theft and often the plastic sheathing is burnt off in the open air before melting down into bars/lumps. The benefits are that the sheathing can be removed in an environmentally better way for recycling and stolen materials cannot be disguised.	The legislation does not allow local authorities to impose conditions on scrap metal licences other than those contained within the Act. We will use these suggestions as best practice guidance and write to licence holders recommending that they adopt these ideas.

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<b>Licensing Committee Meeting</b>	
<b>Meeting Date</b>	24th June 2024
<b>Report Title</b>	Review of the current Statement of Principles under the Gambling Act 2005
<b>EMT Lead</b>	Emma Wiggins, Director of Regeneration and Neighbourhoods
<b>Head of Service</b>	Charlotte Hudson, Head of Housing and Community Services
<b>Lead Officer</b>	Christina Hills, Licensing Team Leader
<b>Classification</b>	<b>Open</b>
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. Members to consider the draft Statement of Principles and advise on any relevant amendments.</li> <li>2. Members to note the consultation process as outlined and to instruct officers to proceed with the same.</li> <li>3. Members to consider whether officers are given delegated authority to refer the Statement of Principles straight to Policy and Resources Committee for consideration and approval at the end of the consultation period, prior to formal adoption by full Council, subject to there being no significant amendments or comments.</li> </ol>

## 1 Purpose of Report and Executive Summary

- 1.1 The Gambling Act 2005 requires the Council as licensing authority to prepare and publish a policy, called a Statement of Principles, under the Gambling Act 2005. The existing Statement of Principles was published in January 2021 and is due for renewal by January 2025.
- 1.2 This report is to provide Members with information and guidance on a new draft Statement of Principles which requires Members comments and approval prior to formal public consultation.

## 2 Background

- 2.1 Swale Borough Council (the Council) is the Licensing Authority under the provisions of the Gambling Act 2005 (the Act). The Council is required to produce a 'Statement of Licensing Principles for Gambling' to demonstrate how applications received under the Act will be dealt with.

- 2.2 Section 153 of the Act requires that when exercising functions under the Act the Licensing Authority shall aim to permit the use of premises for gambling in so far as the authority thinks it is in accordance with:
- a) any relevant code of practice;
  - b) any relevant guidance issued by the Gambling Commission;
  - c) is consistent with the licensing objectives (subject to a and b above), and;
  - d) the statement published by the authority under s.349 (Statement of Principles for Gambling).
- 2.3 The gambling objectives are:
- i) preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime
  - ii) ensuring that gambling is conducted in a fair and open way and
  - iii) protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 2.4 The Gambling Commission 5<sup>th</sup> edition Guidance (as amended) recommended a number of changes for local authorities that fall under three broad themes:
- a) increased focus on risk and regulation
  - b) greater attention to local risk; and
  - c) encouraging partnership and collaboration between stakeholders to mitigate risk
- 2.5 In particular the Commission recommended that local authorities create new and unique localised policies and also carry out an assessment of their local environment called a 'Local Area Profile' (LAP) to identify the local risk of gambling-related harm and to inform the Policy. Risk in this context includes potential and actual risk and can take into account possible future and emerging risks.
- 2.6 Completion of a LAP is not compulsory however the Commission recognises that there are significant benefits for both the Council and operators, in having a better awareness of the local area in relation to gambling-related risks. However, the creation of a LAP is dependent on information and knowledge of the local area and knowledge of the impact gambling may have.
- 2.7 When the existing Statement of Principles was reviewed in 2021 officers carried out an assessment to identify the areas of concern and included a LAP within the policy document that was adopted by full Council on 10<sup>th</sup> November 2021. Members will wish to note that very few local authorities in the country and only one other local authority in Kent have included an LAP within their Statement of Principles but the licensing team felt that it was important that Swale is shown to be an exemplary authority for 'best practice'

- 2.8 The Gambling Commission's Licence Conditions and Codes of Practice (LCCP) formalise the need for operators to consider local risks.
- 2.9 Premises licence holders are required to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in the Statement of Principles and any published Local Area Profile.

### **3 Proposals**

- 3.1 A draft Statement of Licensing Principles has been prepared using a model template as recommended by the Gambling Commission. This is shown as **Appendix I**.

### **4 Alternative Options Considered and Rejected**

- 4.1 It is a statutory requirement for the Council to have a current Statement of Licensing Principles in place covering the principles for its functions under the 2005 Act.

### **5 Consultation Undertaken or Proposed**

- 5.1 It is proposed to undertake a 6 week consultation which will run from 1<sup>st</sup> July 2024 until 9<sup>th</sup> August 2024. Methods of consultation will be by advertising on the Council's website and in a local newspaper, by emails, post and social media.
- 5.2 The Guidance states that the list of persons to be consulted is deliberately wide so as to allow licensing authorities to undertake a comprehensive consultation exercise with anyone who may be affected by or otherwise have an interest in the Licensing Authority Statement of Principles.
- 5.3 The Guidance further advises that, whilst licensing authorities will develop their own practices, they may like to consider consultation with faith groups, voluntary and community organisation working with children and young people, organisations working with people who are problem gamblers, medical practices or primary care trusts, and advocacy organisations such as the Citizens Advice Bureau.
- 5.4 Proposed consultees will therefore be:
- All Councillors
  - Parish Councils
  - Kent Police
  - Kent Fire and Rescue
  - Kent County Council Trading Standards
  - Gambling Commission

- Swale BC Planning Department
- Swale BC Environmental Health Department
- HM Revenue and Customs
- KCC Child Protection Service
- Relevant trade associations
- Any Premises Licence holders issued by Swale Borough Council
- Any Permit holders issued by Swale Borough Council
- Any Small Lottery Licence issued by Swale Borough Council
- GamCare
- Gamblers Anonymous UK
- Kent & Medway Integrated Care Board
- Samaritans
- Citizen Advice Bureau
- Responsible Gambling Trust

5.5 All incoming responses will be entered onto a grid for consideration. The Community Services Manager, together with licensing officers will conduct an evaluation of each response and give a recommendation as to whether or not to amend the policy statement. The grid and recommendations will be put before the Policy and Resources Committee for endorsement at its meeting of \*\*\* 2024 prior to formal adoption by full Council on 4<sup>th</sup> December 2024.

## 6 Implications

Issue	Implications
Corporate Plan	<p>The service is an important regulatory function undertaken to ensure the safety of the public consumers</p> <p>Community – Indirect links to:</p> <p>To work as part of the Community Safety Partnership to delivery priorities to address domestic abuse, crime, and disorder, ASB and support vulnerable people.</p>
Financial, Resource and Property	<p>Under the Act, the council has the power to recover its costs and set fees and charges at such a level that the process is cost neutral to the Council. There is however a statutory maximum fee that can be set for every licence type under the Act.</p> <p>The financial implications associated with the revision of the Statement of Principles will be financed from the Licensing budget.</p> <p>If at any time in the future the policy was subject to legal challenge, there could be costs associated with this process</p>
Legal, Statutory and Procurement	<p>Section 349(1) of the Act requires each licensing authority to prepare and publish a Statement of Principles to cover each period of three years.</p>

	<p>In preparing a Statement of Principles the regulations require licensing authorities to publish a notice of intention to publish a statement. The notice must:</p> <ul style="list-style-type: none"> <li>• specify the date on which the statement is to be published</li> <li>• specify the date on which the statement will come into effect</li> <li>• specify the internet address where the statement will be published and the address of the premises at which it may be inspected</li> <li>• be published on the authority's website and in/on one or more of the following places for at least four weeks before it comes into effect: <ul style="list-style-type: none"> <li>• a local newspaper circulating in the area covered by the statement</li> <li>• a public notice board in or near the principal office of the authority</li> <li>• a public notice board on the premises of public libraries in the area covered by the statement</li> </ul> </li> </ul>
Crime and Disorder	<p>Fulfilling powers and duties under the Gambling Act 2005 is of direct relevance to the Councils duties under Section 17 of the Crime and Disorder 1998 in that the objectives of the Act are:</p> <ul style="list-style-type: none"> <li>• Preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime</li> <li>• Ensuring that gambling is conducted in a fair and open way</li> <li>• Protecting children and other vulnerable persons from being harmed or exploited by gambling</li> </ul>
Environment and Climate/Ecological Emergency	No implications
Health and Wellbeing	In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Gambling Act 2005. The 3rd licensing objective is: Protecting children and vulnerable persons from being harmed or exploited by gambling.
Safeguarding of Children, Young People and Vulnerable Adults	In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Gambling Act 2005. The 3rd licensing objective is: Protecting children and vulnerable persons from being harmed or exploited by gambling.

Risk Management and Health and Safety	It is important that Swale BC has a robust and accountable regulatory regime in relation to gambling in order to ensure fair trading, prevent crime and to protect consumers.
Equality and Diversity	The Council has a legal obligation under section 149 of the Equality Act 2010 to have due regard to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different groups.
Privacy and Data Protection	Normal data protection and privacy rules will apply

## 7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Draft Statement of Principles 2025 - 2028

## 8 Background Papers

Gambling Act 2005

Gambling Commission Guidance to licensing authorities

Gambling Commission's Licence Conditions and Codes of Practice (LCCP)



# Swale Borough Council



## Statement of Principles for Gambling

Section 349 of the Gambling Act 2005

Version 0.1

Effective 31<sup>st</sup> January 2025

Next scheduled review: 31<sup>st</sup> January 2028

All enquiries relating to this document should be sent to:

Licensing

Swale Borough Council

Swale House

East Street

Sittingbourne

ME10 3HT

[Licensing@swale.gov.uk](mailto:Licensing@swale.gov.uk)

## Issue & Review Register

Summary of changes	Issue number & date	Approved by
Draft Policy	V0.1	Presented to Licensing Committee ***

All changes to this document are tracked using a different colour and/or marked with a vertical line at the side of the page.

If amendments have been made, this will be redistributed to all named on the distribution list.

Compiled by: Christina Hills, Licensing Team Leader

Date: \*\*\*

Approved by: General Licensing Committee

Date:

### **Changes and Corrections**

Any changes or corrections required should be notified in writing to:

Licensing

Swale Borough Council

Swale House

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Or:

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# Swale Borough Council's Statement of Principles for Gambling

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# Chapter One

## Introduction and Overview

This Policy document includes the Statement of Principles for Gambling of the Swale Borough Council effective from 1 February 2025.

### Definitions Used in this Policy

- **‘the Act’** means the Gambling Act 2005
- **‘the Council’** means Swale Borough Council
- **‘the Commission’** means the Gambling Commission established under the Gambling Act of 2005
- **‘the Guidance’** means the guidance issued to Licensing Authorities published by the Gambling Commission, regarding the role and responsibilities of licensing authorities in gambling regulation.
- **‘Licensing Authority’** means the Licensing Department or Licensing Committee operating on behalf of Swale Borough Council.
- **‘Licensing Committee’** refers to the Committee of Swale Borough Council to consider overarching licensing matters
- **‘licensable activities’** means those activities that are required to be licensed by the Council under the Gambling Act 2005
- **‘Licensing Sub Committee’** refers to a Sub Committee of the Licensing Committee to consider licence applications
- **‘relevant representations’** means a representation conforming to the legal requirements of the Gambling Act 2005
- **‘Regulations’** refers to Regulations under the Gambling Act 2005 issued by the Secretary of State
- **‘responsible authority’** means the bodies designated under the Gambling Act 2005 and described in the Introduction to this Statement of Principles
- **‘the Statement’** refers to this Statement of Principles for Gambling

### Introduction

1. Under Section 349 of the Gambling Act 2005, the Council is required to publish a Statement of Principles it proposes to apply when exercising its functions under the Act. The form of the Statement of Principles is set out in the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2007 and further guidance on what should be contained in the Statement of Principles can be found in the Gambling Commission’s Guidance to Licensing Authorities.
2. The Licensing Authority is required by virtue of section 153 of the Gambling Act 2005 to aim to permit gambling in so far as it is (a) in accordance with the Gambling Commission’s Licence Conditions and Codes of Practice; (b) in accordance with the Gambling Commission’s Guidance to Licensing Authorities that is in effect at the time the application is considered; (c) reasonably

consistent with the licensing objectives and (d) in accordance with this Statement of Principles.

3. The Gambling Commission issues Licence Conditions and Codes of Practice for gambling operators. Social Responsibility Codes have the force of a licence condition. The Gambling Commission also issue Ordinary Codes, which set out best industry practice. They are not licence conditions, but operators are expected to follow them unless they have alternative arrangements in place which they can demonstrate are equally as effective.
4. The Licensing Authority, when carrying out inspections of gambling operators, reserves the right to assess compliance with such matters set out in the Gambling Commission's Licence Conditions and Codes of Practice as it sees fit, and will share intelligence with the Gambling Commission about any issues of non-compliance in this respect.
5. The licensing objectives under the Gambling Act 2005 are:
  - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
  - Ensuring that gambling is conducted in a fair and open way;
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
6. The Council consulted widely upon this revised Statement of Principles from 1<sup>st</sup> July 2024 until 9th August 2024. A list of persons consulted on the revised Statement can be found at Appendix One..
7. The Act requires the following to be consulted in the revision of the statement:
  - the Chief Officer of Police;
  - people and bodies representing the interests of persons in gambling businesses in the area;
  - People and bodies who represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.
8. Nothing in this policy overrides the right of any person to make an application, make representations about an application or apply for a review of a licence. Each will be considered on its own merits and in accordance with the statutory requirements of the Act.
9. In reviewing this Statement of Principles, the Council has had regard to the licensing objectives under the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission and to the responses arising from our consultation.

## Responsible Authorities

10. The Council is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm.

The principles are:

- the need for the body to be responsible for an area covering the whole of the Council's area; and
  - the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.
11. The Council designates Child Protection Agency to advise on the protection of children from harm under the Gambling Act 2005.
  12. The full list of Responsible Authorities for Swale Borough Council are as follows:

- **Kent Police Licensing Co-ordinator, North Division**
- **Maidstone Group Fire Safety Office**
- **Swale BC Environmental Health Department**
- **Swale BC Planning Department,**
- **KCC Child Protection Services**
- **The Gambling Commission**
- **HM Revenue and Customs**

Contact details are available from Swale licensing team: email [licensing@swale.gov.uk](mailto:licensing@swale.gov.uk)

## Interested Parties

13. Interested parties are persons who may make representations to applications or apply to the Council for the review of an existing licence. These parties are defined in section 158 of the Act as a person who:
  - (a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
  - (b) has business interests that might be affected by the authorised activities, or
  - (c) Represents persons who satisfy paragraph (a) or (b).
14. When determining whether a person is an interested party for the purposes of the Act, the Licensing Authority will not apply rigid rules but will treat each case on its merits.
15. In considering whether a person lives sufficiently close to a premises to be considered to be an interested party the following matters will be taken into account:
  - the size of the premises
  - the nature of the premises
  - the distance of the premises from the habitual residence or workplace of the person making the representation
  - the potential impact of the premises (numbers of customers, routes likely to be taken by those visiting the premises)
  - the circumstances of the person and nature of their interests, which may be relevant to the distance from the premises.
16. In determining whether a person or organisation "has business interests" the authority will adopt the widest possible interpretation and include trade associations, trades unions, partnerships, charities, faith groups and medical practices, as appropriate.
17. The Licensing Authority will regard bodies such as trade associations, trade unions, residents' and tenants' associations and professional advisors such as solicitors, barristers and consultants as capable of representing interested parties where they are satisfied that the interested party has asked for representation.
18. In principle, the Licensing Authority will allow any person to represent an interested party but will seek confirmation that the person genuinely represents the interested party. We will generally require evidence that a person/body (e.g. an advocate or relative) 'represents' an interested party. If persons representing interested parties are Councillors, Members of Parliament or Members of the European Parliament, then no specific evidence of being asked to represent an interested person will be required so long as they represent the area likely to be affected.



19. If individuals wish to approach Councillors to ask them to represent their views those Councillors shall not sit on a Licensing Sub-Committee that meets to determine the licence application. If there are any doubts then either interested parties or Councillors should contact the Licensing Service for advice.

## Geographical Area Covered by this Statement of Principles

20. A map showing the geographical area covered by this Statement of Principles can be viewed at Appendix Two.

## List of Bodies Consulted on this Statement of Principles

- All Councillors
- Parish Councils
- Kent Police
- Kent Fire and Rescue
- Kent County Council Trading Standards
- Gambling Commission
- Swale BC Planning Department
- Swale BC Environmental Health Department
- HM Revenue and Customs
- KCC Child Protection Service
- Relevant trade associations
- Any Premises Licence holders issued by Swale Borough Council
- Any Permit holders issued by Swale Borough Council
- Any Small Lottery Licence issued by Swale Borough Council
- GamCare
- Gamblers Anonymous UK
- Kent & Medway Integrated Care Board
- Samaritans
- Citizen Advice Bureau
- Responsible Gambling Trust

## Exchange of Information

21. The Council will act in accordance with the provisions of Section 350 of the Act in its exchange of information with the Gambling Commission.
22. Section 29 of the Gambling Act 2005 enables the Gambling Commission to require information from licensing authorities (including the manner in which it is compiled, collated and the form in which it is provided), provided that it:
- forms part of a register maintained under the Gambling Act 2005;
  - is in the possession of the Licensing Authority in connection with a provision under the Gambling Act 2005.

23. Section 350 of the Gambling Act 2005 allows licensing authorities to exchange information with other persons or bodies for use in the exercise of functions under the Act. These persons or bodies are:
- A constable or Police force
  - An enforcement officer
  - A licensing authority
  - HMRC
  - The First Tier Tribunal
  - The Secretary of State
  - Scottish Ministers
24. Information requests from such parties should be made to the Licensing Authority in writing, setting out clearly what information is required and the reason the information is required. The requirements of the Data Protection Act 2018 and the General Data Protection Regulations 2018 will be complied with. Freedom of Information requests can be made by emailing [foi@swale.gov.uk](mailto:foi@swale.gov.uk) or in writing to Freedom of Information, Swale Borough Council, Swale House, East Street, Sittingbourne, Kent ME10 3HT.
25. The Licensing Authority will also have regard to Guidance issued by the Gambling Commission to local authorities as well as any relevant regulations issued by the Secretary of State under the powers provided for in the Act.

## Enforcement

26. The primary aim of enforcement is to achieve compliance. Though enforcement may be taken to mean the formal approach, it may also include advice and support to business to achieve compliance.
27. Inspections will be carried out on a risk rated basis. New premises, premises under new management, premises where complaints have been received or intelligence received relevant to the licensing objectives and premises or operators where compliance failings have been identified previously will attract a higher risk rating. Premises located in areas where there have been incidents of crime affecting or relating to gambling premises, or where the premises themselves have been the victims or involved in such crime, shall also attract a higher risk rating.
28. Compliance may be achieved through encouraging a sense of community, improved communication, and proactive work with licensees and businesses. Such proactive work may include project work, giving advice and information, and initiatives that educate, inform and encourage partners and stakeholders to work together efficiently and effectively. The principal objective in taking a holistic approach to managing the gambling industry is to prevent problems from occurring before they begin.
29. However, it is recognised that such aims cannot always be achieved, and that active enforcement of the law may be the only effective means of securing

compliance. To this end the following enforcement options are available to the Licensing Authority:

- verbal or written advice
  - verbal warning
  - written warning
  - mediation between licensees and interested parties
  - licence review
  - simple caution
  - prosecution
30. These actions are not mutually exclusive and it may be that one course of action follows another, depending on the individual circumstances.
31. The Licensing Authority operates a partnership approach to dealing with enforcement matters concerning licensed premises. This may include working with the Police or any of the other responsible authorities under the Act, or working with colleagues from other Council departments or outside agencies.
32. The Licensing Authority needs to be satisfied premises are being run in accordance with the provisions of the Act, the licensing objectives, the Licence Conditions and Codes of Practice issued by the Gambling Commission and any conditions attached to the Premises Licence. To achieve this, the Licensing Authority will inspect premises, meet with licence holders and carry out general monitoring of areas as necessary.
33. Inspection and enforcement under the Act will be based on the principles of risk assessment, a graduated response and the targeting of problem premises. The frequency of inspections will be determined on risk-based criteria with high risk operations receiving more attention than premises carrying lower risk.
34. The Licensing Authority will take appropriate enforcement action against those responsible for unlicensed premises/activity. Action will be carried out in accordance with the Kent and Medway Licensing Compliance and Enforcement Protocol.
35. Before deciding which course of action to take, the Licensing Authority shall consider the following matters:
- the history of the premises
  - the history of the offender
  - the circumstances of the offence
  - whether the offender has a statutory defence to the allegations
  - the impact or potential impact of the breach on the public
  - the quality of the evidence against the offender
  - the likelihood of achieving success in a prosecution
  - the likely punishment that will be incurred if the case goes to Court
  - whether the course of action proposed is likely to act as a deterrent

36. The Licensing Authority will operate within the principles of natural justice and take into account the Human Rights Act 1998. This includes, in particular:
- Every person is entitled to the peaceful enjoyment of his possessions – a licence is a possession in law and persons may not be deprived of their possessions except where it is in the public interest;
  - Every person is entitled to a fair hearing.
37. The Licensing Authority is committed to the principles of good regulation as set out in the Regulators Code. This means our inspection and enforcement activities will be carried out in a way that is:
- Proportionate: only intervening when necessary. Remedies will be appropriate to the risk posed, and costs identified and minimised;
  - Accountable: able to justify our decisions, and be subject to public scrutiny;
  - Consistent: implementing rules and standards fairly in a joined-up way;
  - Transparent: acting in open way, and keeping conditions placed on Premises Licences simple and user friendly; and
  - Targeted: focusing on the problems, and aiming to minimise the side effects.

## The Council's Functions

38. Councils, when acting as Licensing Authorities are required under the Act to:
- license premises where gambling activities are to take place by issuing Premises Licences
  - issue Provisional Statements
  - regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
  - issue Club Machine Permits to commercial clubs
  - grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
  - receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
  - issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
  - register small society lotteries below the prescribed thresholds
  - issue Prize Gaming Permits
  - receive and endorse Temporary Use Notices
  - receive Occasional Use Notices for betting at tracks
  - provide information to the Gambling Commission regarding details of licences, permits and other permissions issued
  - maintain registers of the permits and licences that are issued under these functions.

39. Councils are not involved in licensing online gambling, which is the responsibility of the Gambling Commission.

## Duplication with Other Regulatory Regimes

40. The Licensing Authority will seek to avoid duplication with other statutory and regulatory regimes where possible, including planning. The Licensing Authority will not consider planning permission or building regulations approval when making decisions under the Gambling Act. Nor will it regard the granting of a licence, permit or permission as fettering the Council's ability to consider planning applications independently on their planning merits.

## Gambling Prevalence and Problem Gambling

41. Gambling behaviour is increasingly a subject of public health and policy interest. The Gambling Commission regularly collect data on gambling both in terms of information about the consumer and about the method and frequency with which they gamble.
42. The Gambling Commission collect participation data through quarterly surveys and problem gambling data from the Health survey for England and monitor underage gambling using their young person's survey.
43. Problem gambling can have a detrimental effect on personal finances as the attempt to chase losses becomes unmanageable. Problem gamblers often say they feel isolated. There is often a preoccupation with gambling, a lack of interest in maintaining relationships and a lack of motivation to engage in social activities. There is often reluctance amongst gamblers to spend money on items of clothing, household goods or utility bills as this expenditure is often seen as funds for gambling. Problem gambling can be progressive in nature and problem gamblers can end up engaging in criminal activity to fund their gambling habits. This can lead to lifelong consequences with criminal convictions.

## Chapter Two

### Welcome to the borough of Swale

This section gives a description of Swale Borough Council

#### General Description

Swale is the bridging point between north and east Kent, named after the narrow channel of tidal water between mainland Kent and the Isle of Sheppey. It is close both to London and mainland Europe and well connected to the national motorway network. It is a Borough of some 140,800 people who primarily live in its three main towns, Sittingbourne, Faversham and Sheerness.

Sittingbourne is the main town, acting as a population, employment and service centre for the Borough. These functions and the town's present day character have their roots in past travellers and pilgrims and the industries that settled there.

Faversham is an attractive and historic small market town at the centre of a rich farming hinterland. Faversham and Oare are located at the head of two creeks and surrounded by attractive countryside. The town is best known for its continued links with brewing and food. This and the town's industrial and maritime heritage produce its present day character - an outstanding range of historic buildings, streets and waterways and a town centre with strong independent retail and service sector.

A unique feature within Kent is the Isle of Sheppey, separated from the mainland by the Swale. Its main town is Sheerness. It owes much of its distinctiveness to its role as a traditional seaside town and the past and present industries that established there, particularly the former naval dockyard and the current Port facility. The town centre functions as the main shopping and service centre for the Island's residents and visitors.

## Chapter Three

### Licensing Objectives and Local Area Risk Assessments, Local Area Profiles

44. The Gambling Act 2005 contains three licensing objectives. In this revision of its Statement of Principles, the Licensing Authority seeks to assist applicants by setting out the considerations we will apply when determining applications under the Act.
45. Though licensing authorities are required to 'aim to permit' gambling, there is wide scope for them to impose conditions on Premises Licences or to reject, review or revoke Premises Licences where there is an inherent conflict with the relevant Licence Conditions and Codes of Practice issued by the Gambling Commission, the Guidance to Licensing Authorities issued by the Gambling Commission, the licensing objectives or this Statement of Licensing Policy.
46. Licensing authorities are able to request any information from an operator they may require to make licensing decisions. The Gambling Act 2005 requires a minimum level of information to be provided, but the Gambling Commission state in their Guidance to Licensing Authorities that this does not preclude reasonable requests from licensing authorities for any additional information they may require to satisfy themselves their decisions accord with the licensing objectives and Codes of Practice.

### Risk Assessment and Local Area Profiles

47. The Licensing Authority expects applicants to have a good understanding of the area in which they either operate, or intend to operate. The applicant will have to provide evidence that they meet the criteria set out in this policy and demonstrate that in operating the premises they will promote the licensing objectives.
48. The Gambling Commission introduced a Social Responsibility Code of Practice requiring operators of premises used for gambling to conduct local area risk assessments and an Ordinary Code stating this should be shared with the licensing authority in certain circumstances in May 2016.
49. The Licensing Authority expects applicants for Premises Licences in its area to submit a risk assessment with their application when applying for a new premises licence, when applying for a variation to a premises licence or when changes in the local environment or the premises warrant a risk assessment to be conducted again.
50. The risk assessment should demonstrate the applicant has considered, as a minimum:
  - any problems in the area relating to gambling establishments such as anti-social behaviour or criminal damage;

- the location of any nearby sensitive premises, such as hostels and other facilities used by vulnerable persons e.g. drug and alcohol addictions;
  - whether there is a prevalence of street drinking in the area, which may increase the risk of vulnerable persons using the premises;
  - the type of gambling product or facility offered;
  - the layout of the premises;
  - the external presentation of the premises;
  - the location of nearby transport links and whether these are likely to be used by children or vulnerable persons;
  - the customer profile of the premises;
  - staffing levels;
  - staff training;
  - whether there is any indication of problems with young persons attempting to access adult gambling facilities in that type of gambling premises in the area.
  - Schools, sixth form colleges, youth centres etc., with reference to the potential risk of under-age gambling;
51. Applicants should liaise with other gambling operators in the area to identify risks and consult with any relevant responsible authorities as necessary.
52. This policy does not preclude any application being made and every application will be decided on its individual merits, with the opportunity given for the applicant to show how potential concerns can be overcome.
53. The Licensing Authority expects applicants to keep a copy of the local area risk assessment on the licensed premises and to ensure that all staff have seen the risk assessment, have received training in respect of its content, and are able to produce the risk assessment on request by an authorised officer of the Council, the Police or the Gambling Commission.
54. The Guidance issued by the Gambling Commission suggests that, like operators, licensing authorities complete and map their own assessment of local risks and concerns by developing local area profiles to help shape their statements; although there is no requirement to do this.
55. In simple terms, the objective of a local area profile in this context is to set out what an area is like, what risks this might pose to the licensing objectives, and what the implications of this are for the licensing authority and operators.
56. Licensing authorities can include the local area profiles within their statements. Alternatively they can reference the implications of local area profiles for their regulatory approach in the statement, but maintain the actual profiles separately in order to enable them to be updated without the need to re-consult on amending the full statement of principles. This is the approach that Swale Borough Council wish to take and a local area profile will be published as a separate appendix to this policy.



57. It should be noted that, in assessing local area profiles, Licensing Authorities can take into account the location of:

- Schools, sixth form colleges, youth centres etc., with reference to the potential risk of under-age gambling;
- Hostels or support services for vulnerable people, such as those with addiction issues or who are homeless, given the greater risk of problem gambling among these groups;
- Religious buildings;
- Any known information about issues about problem gambling;
- The surrounding night-time economy, and possible interaction with gambling premises;
- Patterns of crime or anti-social behaviour in the area, and specifically linked to gambling premises;
- The socio-economic makeup of the area;
- The density of different types of gambling premises in certain locations; and
- Specific types of gambling premises in the local area (e.g., seaside resorts may typically have more arcades or FECs)

This Licensing Authority will expect operators to include the above factors, and any local area profiles created by the Council, when carrying out their risk assessments.

### Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

58. The Licensing Authority will consider whether the premises make, or are likely to make, a contribution to the levels of crime and disorder in an area and whether the applicant has demonstrated that they have, or intends to, implement sufficient controls to prevent the premises being a source of, and/or associated with crime or disorder, or being used to support crime, if the application is granted.

59. The licensing authority will give “due regard” to all possible implications and will always consider all the information available and representations made.

60. Where an area is known for high levels of crime (particularly crime associated with premises used for gambling), the Licensing Authority will consider whether gambling premises are suitable to be located there, and whether additional conditions may be necessary, such as the provision of CCTV, minimum levels of staffing and licensed door supervisors.

61. In accordance with Section 17 of the Crime and Disorder Act 1998 the Council is under a duty to exercise its functions with due regard to the likely effect on, and the need to do all it reasonably can to prevent, crime and disorder in its areas. The possible crime and disorder implications are clearly relevant factors

in the consideration of all applications and this is re-emphasised by the Gambling Act 2005 itself.

62. The Council places huge importance on the prevention of crime and disorder. A high standard of control is, therefore, expected to be exercised over licensed premises.
63. In terms of disorder, the Guidance to Licensing Authorities published by the Gambling Commission states, "licensing authorities should generally consider disorder as activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder would include whether Police assistance was required and how threatening the behaviour was to those who could hear or see it.
64. There is not a definitive distinction between nuisance and disorder and the licensing authority may seek legal advice before determining what action to take in circumstances in which disorder may be a factor". The licensing authority will give "due regard" to all possible implications
65. The Licensing Authority will consider whether the layout, lighting, staffing and fitting out of the premises have been designed so as to minimise conflict and opportunities for crime and disorder.
66. The Licensing Authority will consider whether sufficient management measures are proposed or are in place to prevent the premises being a source of, or associated with crime or disorder, or used to support crime either as a place of association or to avoid apprehension.

## Ensuring that gambling is conducted in a fair and open way

67. Though this licensing objective is primarily the responsibility of the Gambling Commission, the Licensing Authority will have a role in respect of the licensing of tracks, where an Operator's Licence from the Gambling Commission is not required. Matters to be taken into account will include:
  - whether the layout, lighting and fitting out of the premises have been designed so as to ensure gambling is conducted in a fair and open way.
  - whether sufficient management measures are proposed or are in place to ensure that gambling is conducted in a fair and open way.
  - whether the management and operation of the premises is open and transparent.
  - whether the operators of the premises have been or will be fully cooperative with enforcement agencies.
  - whether the Gambling Commission's Licence Conditions and Codes of Practice have been complied with.

## Protecting children and other vulnerable persons from being harmed or exploited by gambling

68. The Licensing Authority will consider the following when taking this licensing objective into account:
- whether the operator has a specific training programme for staff to ensure they are able to identify children and vulnerable people and take appropriate action to promote this objective to exclude them from the premises or parts of the premises;
  - The Council will require that any gambling establishment must give space to advertisements publicising details of organisations and support groups providing assistance to anyone addicted to gambling
  - if the premises is an adult only environment, whether the operator has taken effective measures to implement a proof of age scheme such as Think 21 to ensure no one under the age of 18 is admitted to the premises or restricted areas;
  - whether the layout, lighting and fitting out of the premises have been designed so as to not attract children and other vulnerable persons who might be harmed or exploited by gambling;
  - whether sufficient management measures are proposed or are in place to protect children and other vulnerable persons from being harmed or exploited by gambling;
  - whether any promotional material associated with the activities authorised at the premises, is not aimed or could encourage the use of gambling products at the premises, by children or young people;
  - whether the operator can produce a record of underage challenges and action taken to establish age and prevent underage persons from being able to gamble;
  - whether the premises are located near to facilities that may encourage their use by vulnerable people, such as hostels for those with mental illness and/or addiction problems.
69. The Licensing Authority expects applicants to consider the measures necessary to promote the licensing objective of protecting children and other vulnerable persons from being harmed or exploited by gambling. It is noted that neither the Act nor the Gambling Commission Guidance defines the term 'vulnerable persons'. The Licensing Authority consider the term 'vulnerable persons' to include people who gamble more than they want to; people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, changes in circumstances such as bereavement, loss of employment or ill health or due to alcohol or drugs.
70. The Council may consult with Kent County Council's Children Social Services on any application that may give cause for concern over access for children or vulnerable persons.

## Chapter Four

### Premises Licences

71. Any person or business that wishes to offer gambling for which an Operating Licence from the Gambling Commission is required, and which is premises based, must apply to the Licensing Authority for a Premises Licence.
72. Premise is defined in the Act as ‘any place’. Different premises licences cannot apply in respect of a single premise at different times. However, it is possible for a single building to be subject to more than one premises licence, provided that are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can be reasonably regarded as different premises will depend on the circumstances of the individual building and how any division is proposed
73. Premises Licences can authorise the provision of facilities on:
- casino premises,
  - bingo premises,
  - betting premises including tracks and premises used by betting intermediaries,
  - adult gaming centre premises, or
  - family entertainment centres.
74. Matters the Licensing Authority may not take into account include:
- the expected demand for gambling premises in the area;
  - planning or building law restrictions;
  - moral or ethical objections to gambling as an activity;
  - dislike of gambling;
  - a general notion that gambling is undesirable.
75. All licences will be subject to mandatory and/or default conditions and conditions imposed by the Licensing Authority. The Licensing Authority may consider that conditions other than the mandatory or default conditions are necessary to ensure the premises are reasonably consistent with the licensing objectives, the Gambling Commission’s Codes of Practice and this Statement of Principles.
76. The Licensing Authority will take decisions in accordance with the Gambling Commission’s Guidance and Licence Conditions and Codes of Practice and will have regard to the advice which it issues from time to time. The Licensing Authority will monitor the operation of premises and report any potential breach of Operating Licence conditions to the Gambling Commission. Applicants for new Premises Licences or variations to existing ones should be clear that the premises are intended to be used for the primary gambling activity proposed. For example a betting Premises Licence application that has four gaming machines but no betting counter or associated betting facilities shown on the

proposed plans would not be considered as offering the primary gambling activity in accordance with that indicated on the application.

77. The majority of Premises Licences will have mandatory and/or default conditions attached to the licence. The Licensing Authority can attach its own conditions to a Premises Licence if it believes this will promote the licensing objectives. Any conditions attached will be:
- relevant to the need to make the proposed building suitable as a gambling facility;
  - directly related to the premises and the type of licence applied for;
  - relate to the scale and type of premises; and
  - reasonable in all respects.
78. Certain matters are set out in the Act may not be the subject of conditions. These are:
- conditions which make it impossible to comply with an Operating Licence
  - conditions as to gaming machines that contradict the provisions in the Act
  - conditions making activities, premises or parts of them operate as a membership club
  - conditions on fees, winnings, stakes or prizes.
79. Conditions will be attached to individual licences on the basis of their merits. However, there will be a number of measures the Licensing Authority will commonly consider utilising in order to pursue the licensing objectives. These may include measures such as:
- the supervision of entrances;
  - separation of gambling from non-gambling areas frequented by children;
  - the supervision of gaming machines in premises not specifically for adult gambling and
  - appropriate signage for adult only areas.

The Licensing Authority will expect the applicant to propose how the licensing objectives can be met effectively through the use of conditions.

## Split Premises

80. The Gambling Commission's Guidance states that a building can, in principle, be divided into more than one premises and be subject to more than one Premises Licence provided they are for different parts of the building, and the different parts of the building can reasonably be regarded as being different premises. An example is given of units within a shopping mall, where each unit is separate self-contained premises contained within one building. It is also possible for licensed premises to be located next to each other.

81. The Gambling Commission state they do 'not consider that areas of a building that are artificially separated, for example by ropes or moveable partitions, can properly be regarded as separate premises'.
82. To agree to accept applications to grant or vary a licence for a building which has been divided, the Licensing Authority will need to be satisfied the premises are genuinely separate premises, and not an artificially created additional part of single premises.
83. In considering whether different areas of a building are genuinely separate premises the Licensing Authority may take into account factors which could include:
  - whether there are separate registrations for business rates in place for each premises;
  - whether separate sets of staff work in the individual premises;
  - whether there is a separate cash desk/reception for each of the premises;
  - whether each premises has its own postal address;
  - whether the premises are owned or operated by the same person;
  - whether each of the premises can be accessed from a street or public passageway;
  - whether the premises can only be accessed from any other gambling premises.
84. When considering proposals to divide a building into separate premises, the Licensing Authority will also need to be satisfied that the form of separation between the premises is appropriate.
85. The separation between one premises and another must be clearly defined. Any barrier used to separate one premises from another must be permanent and constructed so the public cannot go from one premises to another.
86. It may be acceptable for staff working in adjacent premises to have access through barriers between premises. The applicant must demonstrate that in providing staff access there are suitable control measures in place that will ensure the safety and security of staff and will prevent the public from using the same access point to enter the other premises.
87. The Gambling Act 2005 (Mandatory and Default Conditions) Regulations 2007 restrict access to different types of licensed gambling premises. In considering proposals to divide a building into different premises, the Licensing Authority will have to be satisfied that proposals to divide buildings are compatible with the mandatory conditions relating to access between premises.
88. The Guidance at paragraph 7.22 states "There is no definition of 'direct access' in the Act or Regulations, but licensing authorities may consider that there should be an area separating the premises concerned (for example a street or

café), which the public go to for purposes other than gambling, for there to be shown to be no direct access.”

89. It is the Licensing Authority’s opinion that any area which separates licensed premises, and from which those premises can be accessed, must be genuinely separate premises which are habitually and actually used by members of the public other than those using the licensed premises.
  
90. Where the Licensing Authority is satisfied that a building can be divided into separate premises it will expect applicants to ensure that:
  - the premises are configured so that children are not invited to participate in, have accidental access to, or closely observe gambling to which they are prohibited from taking part;
  - the premises are not configured so children are likely to enter an adult only area to join a parent gambling in that adult only area,
  - entrances and exits from parts of a building covered by one or more Premises Licences are separate and identifiable so the separation of different premises is not compromised and people do not ‘drift’ into a gambling area. In this context it should be possible to access the premises without going through another licensed premises or premises with a permit;
  - customers should be able to participate in the activity named on the Premises Licence.

This is not an exhaustive list and the Licensing Authority will consider other aspects based on the merits of the application.

## Access to Premises

91. The Gambling Act 2005 (Mandatory and Default Conditions) Regulations set out access provisions for each type of licensed gambling premises. The broad principle is there can be no direct access from one licensed gambling premises to another, except between premises which allow those aged under-18 to enter and with the further exception that licensed betting premises may be accessed via other licensed betting premises.
  
92. ‘Direct access’ is not defined, but the Licensing Authority will consider there should be an area such as a street or café to which the public attend for purposes other than gambling for there to be no direct access.

Type of Premises	Access Provisions
Casino	<ul style="list-style-type: none"> <li>• The principal access to the premises must be from a ‘street’;</li> <li>• No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons;</li> </ul>

	<ul style="list-style-type: none"> <li>No customer must be able to access a casino directly from any other premises which holds a gambling premises licence.</li> </ul>
Adult Gaming Centre	<ul style="list-style-type: none"> <li>No customer must be able to access the premises directly from any other licensed gambling premises.</li> </ul>
Betting Shop	<ul style="list-style-type: none"> <li>Access must be from a 'street' or from other premises with a betting licence;</li> <li>No direct access is permitted from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be any entrance to a betting shop from a shop of any kind unless that shop is in itself a licensed betting premises.</li> </ul>
Track	<ul style="list-style-type: none"> <li>No customer must be able to access the premises directly from a casino or Adult Gaming Centre.</li> </ul>
Bingo Premises	<ul style="list-style-type: none"> <li>No customer must be able to access the premises directly from a casino, an Adult Gaming Centre or a betting premises, other than a track.</li> </ul>
Family Entertainment Centre	<ul style="list-style-type: none"> <li>No customer must be able to access the premises directly from a casino, an Adult Gaming Centre or a betting premises, other than a track.</li> </ul>

## Plans

93. The Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007 state that a plan to accompany an application for a Premises Licence must show:

- the extent of the boundary or perimeter of the premises
- where the premises include, or consist of, one or more buildings, the location of any external or internal walls of each such building
- where the premises forms part of a building, the location of any external or internal walls of the building which are included in the premises
- where the premises are a vessel or a part of a vessel, the location of any part of the sides of the vessel, and of any internal walls of the vessel which are included in the premises
- the location of each point of entry to and exit from the premises, including in each case a description of the place from which entry is made or to which exit leads.

94. The Regulations also state that other than in respect of a track, the plan must show 'the location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence'. The Licensing Authority may, however, consider that these minimum requirements are



insufficient to satisfy them in respect of the licensing objectives at tracks, Gambling Commission Guidance, Codes of Practice or its own Statement of Licensing Policy. In such cases, the Licensing Authority may ask for such additional information to be shown on the plan as it deems necessary to enable it to discharge its duties effectively. Information shown on the plan that is not required by Regulations will not form part of the Premises Licence and will only be used by the Licensing Authority to help it make a considered decision on the application.

95. If plans change in any material respect during the lifetime of the licence, the applicant will be in breach of their licence and would either need to make a fresh application under s.159 or to seek an amendment to the licence under s.187 of the Gambling Act 2005. If the changes are substantial, this may, in the opinion of the Licensing Authority, render the premises different to those to which the licence was granted. In such cases, variation of the licence under s.187 would not be possible and an application for a new application would be required under s.159.

## General Requirements for All Premises

96. The Licensing Authority expects all applicants for gambling Premises Licences to ensure there is adequate provision for staff to supervise persons using the licensed premises. This is to identify those who have self-excluded, vulnerable persons, under age persons, persons gambling beyond limits they have set for themselves, person who may be involved in crime, persons who may be prone to anti-social behaviour, persons who are drinking alcohol where this is prohibited and persons who are showing signs of distress in respect of their gambling.
97. Applicants must take the structure and layout of the premises into account when considering their own policies and procedures. For example, where it is not possible for counter staff to supervise persons using gambling facilities such as gaming machines, the Licensing Authority would expect applicants to volunteer conditions that floor walkers will be used or that counter staff will be able to view all areas of the premises on CCTV provided to the counter area where it can be clearly seen.
98. Arrangements must be made for how staff will deal with customers who become aggressive and for ejecting patrons who are, for example, self-excluded, vulnerable or under age. This will include staff training and ensuring there are appropriate numbers of staff to deal with problems.
99. Staff should be in a position to monitor entrances and gaming machines and challenges should be initiated at the earliest opportunity.
100. Where access to premises is age restricted, the Licensing Authority expects applicants to have a Think 21 policy in place and to train its staff in recognising acceptable forms of identification. Posters should also be displayed stating that the relevant policy is in place and that users may be challenged.

101. Licence holders should record details of persons who have self-excluded, persons who have been ejected or refused admission, persons who have been barred by the operator, and any instances of crime or disorder that occurs on, or in association with, the licensed premises.

102. Applicants should demonstrate how they will identify self-excluded persons.

## Casinos

103. Under Section 166 of the Act the Council may pass a resolution not to issue any casino premises licences. The Council has not passed such a resolution but should it decide to do so in the future, it will update this Policy Statement..

## Bingo

104. This policy applies to applications for a Bingo Premises Licence. Bingo has its ordinary and natural meaning and includes any version of the game irrespective of by what name it is described. A holder of a bingo Premises Licence will be able to offer bingo in all its forms.

105. Children and young persons are permitted in bingo premises, but may not participate in the bingo. If any category B or C machines are made available for use, these must be separated from areas where children and young people are allowed.

106. The Licensing Authority expects that where children are permitted in bingo premises, any category B or C machines are located in an area which is separated from the rest of the premises by barriers or in a separate room, where it is made clear that entry is permitted only for those aged 18 or over. Appropriate signage should be provided to this effect and the area should be monitored by staff, either through direct supervision or by monitored CCTV.

107. Young persons, aged 16 and 17, may be employed in bingo premises provided their duties are not connected with the gaming or gaming machines. The Licensing Authority will not grant licences unless the applicant demonstrates how they intend to meet this licensing objective and identify appropriate measures they will take to protect young employees.

108. Where hand held gaming devices are to be used on bingo premises, the Licensing Authority expects applicants to demonstrate how use of these devices will be monitored by staff.

## Betting Premises

109. This policy applies to applications for off-course betting premises. This is betting that takes place other than at a track, typically in a betting shop.
110. The Licensing Authority must be satisfied that the primary use of the premises is to operate as betting premises. The applicant will be expected to demonstrate they are offering sufficient facilities for betting or otherwise should not make gaming machines available on the premises.
111. In determining applications for betting premises, the Licensing Authority shall consider the following:
- proof of age schemes
  - CCTV
  - entry control system
  - staff numbers
  - staff training
  - counter layout
  - supervision of entrances/ machine areas
  - machine privacy screens
  - notices/ signage
  - opening hours
  - provision of responsible gambling information

This list is not exhaustive, and is merely indicative of example measures the Licensing Authority will expect applicants to offer to meet the licensing objectives.

112. Betting machines made available at betting premises that accept bets on live events such as horse racing (SSBT's or self-service betting terminals) are not gaming machines and therefore do not count towards the total number of gaming machines that may be permitted at betting premises. However, where a machine is made available to take bets on 'virtual' races (e.g. results/images generated by a computer to resemble a real race or event), that IS a gaming machine and counts towards the maximum permitted number of gaming machines, and is subject to the relevant statutory limits on stakes and prizes.
113. Section 181 of the Gambling Act 2005 permits the Licensing Authority to restrict the number of SSBT's, their nature and the circumstances in which they may be made available by attaching a relevant condition to a Premises Licence for a betting office. When considering whether to do so, the Licensing Authority will consider, among other things, the ability of employees to monitor the use of the machines by children and young persons or by vulnerable people.
114. The Licensing Authority when considering the number, nature and circumstances of self-service betting terminals an operator wants to offer will take into account the size of the premises, the number of counter positions

available for person-to-person transactions, and the ability of staff to monitor the use of the machines.

115. Where an SSBT includes functionality to be marketed or presented in languages other than English, the Licensing Authority will seek to ensure the operator has considered the ordinary code provision set by the Gambling Commission about making the following information also available in the relevant languages:
- information on how to gamble responsibly and access the help referred to in the Gambling Commission's Licence Conditions and Codes of Practice;
  - the player's guide to any game, bet or lottery under the provisions of the Gambling Commission's Licence Conditions and Codes of Practice;
  - the summary of the contractual terms on which gambling is offered, which is a condition of the licence holder's Operating Licence issued by the Gambling Commission.

## Betting Tracks and Other Sporting Venues

116. Tracks include premises where a race or other sporting event takes place, or is intended to take place. These may be subject to one or more than one Premises Licence, provided each licence relates to a specified area of the track. The Gambling Commission Guidance identifies that operators of track betting premises will not necessarily hold an Operating Licence issued by the Commission. The Licensing Authority will have particular regard to proposals and measures to ensure the environment in which betting takes place is suitable for betting and that betting is conducted in a fair and open way.
117. Examples of tracks include:
- Horse racecourses
  - Greyhound tracks
  - Point to point horserace meetings
  - Football, cricket and rugby grounds
  - Athletics stadia
  - Golf courses
  - Venues hosting darts, bowls or snooker tournaments
  - Premises staging boxing matches
  - Sections of river hosting fishing competitions
  - Motor racing events
118. The offence of permitting a child or young person to enter gambling premises under section 47 of the Act does not apply to tracks. Therefore the Licensing Authority will consider the impact upon the objective of protection of children and vulnerable persons, the need to ensure that entrances to each type of licensed premises within the sporting venue are distinct, and that children are excluded from gambling areas which they are not permitted to enter.

119. The possibility of multiple licences at tracks is noted in Part 20 of the Gambling Commission Guidance. The Licensing Authority will expect the applicant for a Premises Licence to demonstrate suitable measures to ensure that children do not have access to adult-only gaming facilities. Children and young persons are permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but are still prevented from entering areas where gaming machines (other than category D machines) are provided. Children and young persons are not prohibited from playing category D machines on a track.
120. In determining applications for betting at tracks, consideration will be given to appropriate measures/licensing conditions to address the matters listed below:
- proof of age schemes such as Think 21
  - CCTV
  - entry control system
  - supervision of entrances/ machine areas
  - physical separation of areas
  - notices/ signage
  - opening hours
  - provision of responsible gambling information
  - provision of policies and procedures in relation to social responsibility measures as set out below
  - staffing levels
  - staff training and records of staff training
  - recording of incidents such as underage challenges, customer interactions for problem gambling, self-exclusions and complaints and disputes relating to gambling
  - details of action to be taken where an on course bookmaker has breached their Gambling Commission Operating Licence conditions repeatedly, for example where children have been able to gamble.

This list is not exhaustive, and is merely indicative of example measures the Licensing Authority will expect applicants to offer to meet the licensing objectives.

121. Track betting operators must be able to demonstrate their adoption of socially responsible gambling policies and procedures. Such policies and procedures must ensure that track betting activities promote the licensing objectives of ensuring that gambling is conducted in a fair and open way and children and other vulnerable people are not harmed or exploited by gambling.
122. A track Premises Licence does not in itself entitle the holder to provide gaming machines. However, by virtue of section 172(9) of the Act, track owners who hold both a track Premises Licence AND a pool betting Operating Licence issued by the Gambling Commission (this currently only applies to greyhound tracks) may provide up to four Category B2 to D gaming machines on the track.

123. The Licensing Authority will consider the location of gaming machines at tracks, and applicants for track Premises Licences will need to demonstrate that, where the applicant holds or seeks a pool betting Operating Licence and is going to use their full entitlement to gaming machines, these machines are located in areas from which children are excluded. The applicant will be required to provide information as to what measures it will put in place around the gaming machines to ensure that children are excluded.
124. The Licensing Authority will expect applicants to include detailed plans for the race track itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”), pool betting, and any other proposed gambling facilities. Plans should make clear what is being sought for authorisation under the track betting Premises Licence and what, if any, other areas are to be subject to a separate application for a different type of Premises Licence. Any such plans must also contain the information prescribed by regulations.
125. In respect of staff training, the Licensing Authority would expect staff involved with the provision of gambling facilities at the track to be trained in social responsibility measures including, but not limited to, age verification, problem gambling indicators and action to be taken, self-exclusion, complaints procedures and money laundering indicators and action to be taken. Records of such training should be retained by the track management showing the subjects the staff member was trained in and the date training took place. These should be signed off by the staff member and training should be refreshed at least annually.
126. The Licensing Authority expects track operators to have policies and procedures in place to deal with age verification, self-exclusion, money laundering, complaints and disputes and problem gambling as a minimum and to ensure that all staff involved in the provision of gambling facilities are aware of these policies and procedures and have been trained in their implementation.
127. The Licensing Authority expects track management to ensure appropriate problem gambling information is provided commensurate to the size and layout of the premises. This should be in the form of posters and also leaflets which a customer can take away. Leaflets should be provided in areas where they can be taken away discreetly by the customer.
128. Section 152 of the Act permits tracks to be the subject of multiple Premises Licences.
129. Access between premises licensed for gambling and non-gambling areas will be considered carefully by the Licensing Authority for the following reasons:
  - To prevent operators from attempting to circumvent the Act by artificially sub-dividing premises and securing separate Premises Licences for its composite parts;

- To ensure operators do not circumvent the regulations governing the maximum number of gaming machines that may be provided at specific premises;
- To ensure people who have entered premises to take part in one form of gambling are not exposed to another form of gambling;
- To ensure there is no direct access between gambling premises to which children have access and those which they are prohibited from entering;
- To ensure all gambling premises have publicly accessible entrances;
- To ensure gambling premises are not developed in 'back rooms' of other commercial premises.

## Adult Gaming Centres (AGC's)

130. Adult gaming centre (AGC) Premises Licences allow the holder of the licence to make gaming machines available for use on the premises. Persons operating an AGC must hold a relevant Operating Licence from the Gambling Commission and must seek a Premises Licence from the Licensing Authority. Gaming machines are a form of gambling attractive to children and AGC's may contain machines of a similar format to the Category D machines on which children are allowed to play. However, persons under the age of 18 are not permitted to enter an AGC.
131. Because gaming machines provides opportunities for solitary play and immediate pay-outs, they are more likely to engender repetitive and excessive play. The Licensing Authority in considering Premises Licences for AGC's will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds are not attracted to, or gain access to, the premises.
132. The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives; however appropriate measures / licence conditions may cover issues such as:
- proof of age schemes
  - CCTV
  - entry control system
  - supervision of entrances/ machine areas
  - physical separation of areas
  - notices/ signage
  - opening hours
  - staffing levels
  - staff training
  - provision of problem gambling information
  - self-exclusion schemes

This list is not exhaustive, and is merely indicative of example measures the Licensing Authority will expect applicants to offer to meet the licensing objectives.

## Family Entertainment Centres (FEC's)

133. Generally, FEC's must be operated by a person or body having an Operating Licence from the Gambling Commission. Unlicensed Family Entertainment Centres do not require the operator to have a Gambling Commission Operator's Licence or Premises Licence from the Licensing Authority, but do need to have a gaming machine permit as set out in the section on Permits. Unlicensed Family Entertainment Centres may only be used to provide category D gaming machines.
134. Gaming machines are a form of gambling which is attractive to children and licensed FEC's will contain both Category D machines on which they are allowed to play, and category C machines on which they are not. Because gaming machines provide opportunities for solitary play and for immediate payouts, they are more likely to engender repetitive and excessive play. The Licensing Authority, in considering applications for FEC Premises Licences, will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.
135. The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/ licence conditions may cover issues such as:
- CCTV
  - supervision of entrances/ machine areas
  - physical separation of areas for category C machines
  - location of entry
  - notices/ signage
  - opening hours
  - staffing levels
  - staff training
  - self-exclusion schemes
  - provision of problem gambling information
  - measures & training for dealing with children on the premises suspected of truanting.

This list is not exhaustive, and is merely indicative of example measures the Licensing Authority will expect applicants to offer to meet the licensing objectives.

136. The Licensing Authority expects applicants to demonstrate adequate separation between the area in which category C gaming machines are made available and areas of the premises to which children may have access. This will include whether physical separation is provided, staff supervision, signage and layout and presentation of the premises as a minimum. Operators should be aware of the risk of children entering adult only areas to speak to a parent



who may be gambling in that area for example and have appropriate controls in place to reduce the risk of this.

## Door Supervisors

137. The Gambling Commission Guidance advises that licensing authorities may consider whether there is a need for door supervision in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, but there can also be a need for supervision to stop premises becoming a source of crime. Door supervisors at casinos or bingo premises are not required to be registered by the Security Industry Authority (SIA) under the Private Security Industry Act 2001. Door supervisors not directly employed by a casino or bingo operator do however have to be SIA registered.
138. For betting offices and other premises, the operator and/or the Licensing Authority may decide that supervision of entrances or machines is appropriate in particular cases. The Licensing Authority will make door supervision a requirement where there is evidence, from the history of trading at the premises or in the area, that the premises cannot be adequately supervised by counter staff or that problem customers cannot be dealt with effectively by counter staff alone and that door supervision is both necessary and proportionate.

## Provisional Statements

139. Following the grant of a provisional statement, no further representations from responsible authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, the authority may refuse the Premises Licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- (a) which could not have been raised by objectors at the provisional licence stage; or
  - (b) which in the authority's opinion reflect a change in the operator's circumstances.

## Reviews

140. Requests for a review of a Premises Licence can be made by interested parties or responsible authorities, including the Licensing Authority. However, it is for the Licensing Authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below:
- any relevant Code of Practice issued by the Gambling Commission;
  - any relevant guidance issued by the Gambling Commission;
  - the licensing objectives;
  - this Statement of Principles.

141. The Licensing Authority may reject an application for review if it thinks the grounds on which the review is sought:
- a) are not relevant to the relevant code of practice or guidance issued by the Gambling Commission, the licensing objectives or the Licensing Authority's statement of principles;
  - b) are frivolous;
  - c) are vexatious;
  - d) 'will certainly not' cause the Licensing Authority to revoke or suspend the licence or to remove, amend or attach conditions on the Premises Licence;
  - e) are substantially the same as grounds cited in a previous application relating to the same premises (the Licensing Authority will consider the length of time that has passed since the earlier application in deciding whether this is a reasonable reason to reject the review application);
  - f) are substantially the same as representations made at the time the application for the Premises Licence was considered. While the Licensing Authority will consider the length of time that has passed since the representations were made, it will not normally review a licence on the basis of the same arguments considered on the grant of the Premises Licence.
142. General objections to gambling as an activity are not likely to be considered relevant reasons for a review. Other examples of irrelevant considerations include demand for gambling premises, issues relating to planning, public safety and traffic congestion.
143. The Licensing Authority can initiate a review of a particular Premises Licence, or any particular class of Premises Licence, for any reason it believes is appropriate. This includes reviewing a Premises Licence on the grounds that a Premises Licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
144. The Licensing Authority may review any matter connected with the use made of a particular premises if it has reason to believe the Premises Licence conditions are not being observed, or for any other reason which gives it cause to believe a review may be appropriate.
145. A responsible authority or interested party may apply to the Licensing Authority to review a Premises Licence. Such reviews can be made in relation to, amongst other things if there are repeated incidents of crime and disorder associated with the premises or the gambling activity which the premises operator has failed to adequately address, where incidents that have adversely effected one or more licensing objectives have occurred at premises that could have been prevented if advice and guidance from a responsible authority had been heeded, or if the premises due to the activities being undertaken is either attracting children or people likely to be involved in crime and disorder.
146. As a review of a Premises Licence can lead to its revocation, the Licensing Authority will consider whether informal actions to ensure timely or immediate

compliance have been exhausted prior to an application being made. The Licensing Authority accepts that an application for review may be appropriate without informal measures being taken, but will seek to establish that all options have been considered in determining review applications.

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## Chapter Five

### Travelling Fairs and Permits

#### Travelling Fairs

147. The Act defines a travelling fair as 'wholly or principally' providing amusements and they must be on a site that has been used for fairs for no more than 27 days per calendar year. Travelling fairs do not require a permit to provide gaming machines but must comply with legal requirements about the way the machines are operated.
148. It will fall to the Licensing Authority to decide whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
149. The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair. The 27 day statutory maximum for the land being used as a fair each calendar year applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Licensing Authority will keep a record of any travelling fairs that take place in within the borough of Swale, that offer gambling as an ancillary use to the fair. The authority will ensure the 27 day statutory maximum for the land being used is not breached. The Licensing Authority will advise travelling fair operators if requested of the statutory time period remaining for the land they intend to use.

#### Permits

150. Permits regulate gambling and the use of gaming machines in a premises which do not hold a Premises Licence. They are required when a premises provides gambling facilities but either the stakes are very low or gambling is not the main function of the premises.

The Licensing Authority is responsible for issuing the following permits:

- a) unlicensed family entertainment centre gaming machine permits;
  - b) alcohol licensed gaming machine permits;
  - c) prize gaming permits;
  - d) club gaming permits and club machine permits.
151. The Licensing Authority can only grant or reject an application for a permit and cannot attach conditions. Therefore, the Licensing Authority will consider a number of factors before determining an application for a permit to ensure that the permit holder and the premises are suitable for the proposed gambling activities.

## Unlicensed family entertainment centre gaming machine permits

152. This policy applies to those premises that are proposed to be used as Unlicensed Family Entertainment Centres (uFEC's). uFEC's are those that offer only category D machines and a permit allows any number of these machines to be made available at the premises (subject to other considerations such as health and safety and fire regulations). Given that category D machines have no age restrictions, these premises particularly appeal to children and young persons. Therefore, the Licensing Authority will give particular weight to matters relating to child protection issues.
153. The Licensing Authority will grant an application for a permit only if it is satisfied that the premises are used wholly or mainly for making gaming machines available for use, and following consultation with the Police.
154. The Licensing Authority will not grant uFEC permits where the premises are not primarily used for making gaming machines available for use in accordance with section 238 of the Gambling Act 2005. This will preclude granting permits to lobbies in shopping centres or motorway service areas for example.
155. In cases where an existing uFEC permit has been granted to premises not primarily used for making gaming machines available, the Licensing Authority shall generally refuse to renew such permits. Decisions however will be made on a case by case basis.
156. Applicants for uFEC permits are expected to provide a scale plan of the premises with their application showing entrances/exits, location of CCTV cameras, cash desk, and machine locations as well as other features such as a bowling alley for example or play area which may form part of the premises.
157. The Licensing Authority will require applicants to demonstrate as a minimum:
  - a full understanding of the maximum stakes and prizes of gambling that is permissible in unlicensed FECs;
  - that problem gambling information will be provided in the premises commensurate with its size and layout;
  - that the applicant has a written policy in place to deal with complaints and disputes which can be given to a customer on request;
  - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act);
  - that staff are trained to recognise problem gambling and signpost a customer to problem gambling information;
  - that staff have been trained in how to deal with complaints and disputes in line with the applicant's policy.
158. The Licensing Authority will expect the applicant to show there are policies and procedures in place to protect children and vulnerable people from harm. Harm in this context is not limited to harm from gambling but includes wider child

protection considerations. The efficiency of such policies and procedures will each be considered on their merits. However, they may include:

- measures/training for staff regarding suspected truant school children on the premises;
- measures/training covering how staff will deal with unsupervised very young children being on the premises;
- measures/training covering how staff would deal with children causing perceived problems on or around the premises.

## Automatic entitlement to two gaming machines

159. Premises licensed to sell alcohol on the premises under the Licensing Act 2003 are automatically entitled to provide two gaming machines of category C and/or D. The holder of the Premises Licence under the Licensing Act 2003 must notify the Licensing Authority of their intention to make the gaming machines available for use and must pay the prescribed fee.
160. This entitlement only relates to premises with a Licensing Act 2003 Premises Licence that authorises the sale of alcohol for consumption on the premises and which contain a bar at which alcohol is served without the requirement that alcohol is only sold ancillary to the provision of food.
161. Licensees siting gaming machines must comply with the relevant Gambling Commission Code of Practice.
162. Licensees must be aware that gaming machines can only be supplied by a person holding an Operating Licence from the Gambling Commission enabling them to do this. A register of licensed suppliers can be found on the Gambling Commission's website at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk).
163. In the event that the relevant authorisation under the Licensing Act 2003 is transferred, lapses or is revoked, the automatic entitlement to two gaming machines ceases to have effect and a new notification will need to be served on the Licensing Authority.
164. The Licensing Authority will remove the automatic authorisation in respect of any particular premises if:
  - provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
  - gaming has taken place on the premises that breaches a provision of section 282 of the Gambling Act (i.e. that written notice has been provided to the Licensing Authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
  - the premises are mainly used for gaming; or
  - an offence under the Gambling Act has been committed on the premises.

## Permit for three or more gaming machines

165. This policy applies to alcohol licensed premises that propose to have three or more gaming machines. Licensed premises wishing to have three or more gaming machines of category C or D must apply to the Licensing Authority for a permit. This permit will replace the automatic entitlement to two gaming machines rather than be in addition to it and the holder must comply with the relevant Gambling Commission Code of Practice.
166. As gaming machines provide opportunities for solitary play and immediate pay-outs, they are more likely to engender repetitive and excessive play. The Licensing Authority, on considering an application, will consider whether granting a permit would be appropriate on a case by case basis, but will specifically have regard to:
- the need to protect children and vulnerable people from harm or being exploited by gambling;
  - measures taken by the applicant to satisfy the Licensing Authority that there are sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines;
  - whether the applicant has an effective policy in place for handling customer complaints or disputes about the gaming machines.
167. The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives. However, appropriate measures may cover issues such as:
- the adult machines being in the sight of staff who will monitor that the machines are not being used by those under 18 and look for signs of problem gambling, attempts to cheat the machine, or suspected money laundering;
  - notices and signage;
  - the provision of information leaflets or helpline numbers for organisations who can assist with problem gambling.
168. If the Licensing Authority is not satisfied that appropriate measures have been taken by the applicant to comply with this policy, it may refuse to grant the permit, or it may vary the number or category of gaming machines authorised by the permit.
169. The Licensing Authority may cancel a permit or may vary the number or category (or both) of gaming machines authorised by it if:
- (a) it would not be reasonably consistent with pursuit of the licensing objectives for the permit to continue to have effect,
  - (b) gaming has taken place on the premises in purported reliance on the permit but otherwise than in accordance with the permit or a condition of the permit,

- (c) the premises are mainly use or to be used for making gaming machines available, or,
  - (d) an offence under the Gambling Act 2005 has been committed on the premises.
170. Before the Licensing Authority cancels or varies a permit it will give the permit holder 21 days' notice of its intention and allow him/her the opportunity to make a representation. If the permit holder requests a hearing the Licensing Authority will arrange a Licensing Sub-Committee hearing to consider the permit holder's representation and any other evidence available before making its determination.
171. When determining an application for an alcohol-licensed premises gaming machine permit, the Licensing Authority will consider each application on its own merits.

## Prize Gaming Permits

172. This policy applies to applications for, or renewals of, prize gaming permits. Gaming is prize gaming "if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming". Normally the prizes are determined by the operator before play commences.
173. Prize gaming may take place without a permit in various premises. These are casinos, bingo halls, adult gaming centres, licensed and unlicensed family entertainment centres and travelling fairs.
174. Given that the prize gaming will particularly appeal to children and young persons, the Licensing Authority will give weight to child protection issues.
175. The applicant will be expected to set out the types of gaming that they are intending to offer and will also be expected to demonstrate:
- an understanding of the limits to stakes and prizes set out in regulations;
  - that the gaming offered is within the law;
  - clear policies that outline the steps to be taken to protect children and vulnerable persons from harm.
176. The Licensing Authority will only grant a permit after consultation with the Police. This will enable the Licensing Authority to determine the suitability of the applicant in terms of any convictions that they may have that would make them unsuitable to operate prize gaming, the suitability of the premises in relation to their location, and issues about disorder.
177. There are conditions in the Act with which the permit holder must comply, though the Licensing Authority cannot attach conditions. The conditions in the Act are:
- the limits on participation fees, as set out in regulations, must be complied



- with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

## Club Gaming and Club Machine Permits

178. Members clubs and miners' welfare institutes (but not commercial clubs) may apply for a club gaming permit or a club machine permit. Commercial clubs such as snooker clubs run on a profit basis may apply for a club machine permit. Each type of permit allows the provision of different types of gaming and provision of game machines. The current entitlements can be found by visiting the Gambling Commission's website ([www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)).
179. A commercial club is defined as a club where membership is required but the club is operated for commercial gain.
180. A non-commercial club is a club where no commercial gain is made. A non-commercial club must meet the following criteria to be considered a members' club:
- it must have at least 25 members;
  - it must be established and conducted wholly or mainly for purposes other than gaming (with the exception of bridge or whist);
  - it must be permanent in nature;
  - it must not be established to make a commercial profit;
  - it must be controlled by its members equally.

Examples of these include working men's clubs, branches of the Royal British Legion and clubs with political affiliations.

181. The Licensing Authority may only refuse an application on the grounds that:
- a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
  - b) the applicant's premises are used wholly or mainly by children and/ or young persons;
  - c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;

- d) a permit held by the applicant has been cancelled in the previous ten years; or
  - e) an objection has been lodged by the Gambling Commission or the Police.
182. There is also a “fast-track” procedure available under the Act for premises that hold a club premises certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police, and the grounds upon which a Licensing Authority can refuse a permit are reduced. The grounds on which an application under this process may be refused are that:
- (a) the club is established primarily for gaming, other than gaming prescribed under schedule 12;
  - (b) in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
  - (c) a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.
183. There are statutory conditions on club gaming permits that no child may use a category B or C gaming machine on the premises and that the holder complies with any relevant provision of a Gambling Commission Code of Practice about the location and operation of gaming machines.
184. The Licensing Authority will need to satisfy itself that the club meets the requirements of the Gambling Act 2005 to hold a club gaming permit. In order to do this, it may require proof of additional information from the operator such as:
- is the primary activity of the club something other than gaming?
  - are the club’s profits retained solely for the benefit of the club’s members?
  - are there 25 or more members?
  - are the addresses of members of the club genuine domestic addresses and do most members live reasonably locally to the club?
  - do members participate in the activities of the club via the internet?
  - do guest arrangements link each guest to a member?
  - is the 48 hour rule being applying for membership and being granted admission being adhered to?
  - are there annual club accounts available for more than one year?
  - how is the club advertised and listed in directories and on the internet?
  - are children permitted in the club?
  - does the club have a constitution and can it provide evidence that the constitution was approved by members of the club?
  - is there a list of Committee members and evidence of their election by the club members?
185. When examining the club’s constitution, the Licensing Authority would expect to see evidence of the following:

- Who makes commercial decisions on behalf of the club?
- Are the aims of the club set out in the constitution?
- Are there shareholders or members? Shareholders indicate a business venture rather than a non-profit making club.
- Is the club permanently established? (Clubs cannot be temporary).
- Can people join with a temporary membership? What is the usual duration of membership?
- Are there long term club membership benefits?

186. Aside from bridge and whist clubs, clubs may not be established wholly or mainly for the purposes of gaming. The Licensing Authority may consider such factors as:

- How many nights a week gaming is provided;
- How much revenue is derived from gambling activity versus other activity;
- How the gaming is advertised;
- What stakes and prizes are offered;
- Whether there is evidence of leagues with weekly, monthly or annual winners;
- Whether there is evidence of members who do not participate in gaming;
- Whether there are teaching sessions to promote gaming such as poker;
- Where there is a tie-in with other clubs offering gaming through tournaments and leagues;
- Whether there is sponsorship by gaming organisations;
- Whether participation fees are within limits.

## Chapter Six

### Notices

#### Temporary Use Notices

187. This policy applies to applications for Temporary Use Notices. Temporary Use Notices allow the use of premises for gambling where there is no Premises Licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for gambling would include hotels, conference centres and sporting venues.
188. The Licensing Authority can only grant a Temporary Use Notice to a person or a company holding a relevant Operating Licence.
189. Currently, Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner.
190. The Licensing Authority, in considering applications for Temporary Use Notices, will consider whether gambling should take place, or should only take place with modifications to the TUN. In doing so, the Licensing Authority will consider:
  - the suitability of the premises;
  - the location of the premises, paying particular attention to its proximity to any schools, hostels or other sensitive premises;
  - the CCTV coverage within the premises;
  - the ability of the premises to provide sufficient staff and/or licensed door supervisors for the notice period;
  - whether the premises or the holder of the Operating Licence have given the Licensing Authority any cause for concern at previous events in relation to the licensing objectives, the guidance issued by the Gambling Commission, the relevant code of practice or this Statement of Principles.

#### Occasional Use Notices

191. The Licensing Authority has very little discretion on Occasional Use Notices for betting at tracks aside from ensuring the statutory limit of eight days a calendar year is not exceeded. The Licensing Authority will consider the definition of a “track” and whether the applicant can demonstrate they are responsible for the administration of the “track” or an occupier, and thus permitted to avail themselves of the notice. The definition of “track” in the Act is wider than dog tracks or horse racecourses and includes places where races or other sporting events take place. This could include major halls, hotels and other venues. If notices are given for a single track which would permit betting to occur for more than eight days per year, the Licensing Authority is obliged to issue a counter notice preventing such a breach occurring.

## Chapter Seven

### Small Society Lotteries

192. The Gambling Act 2005 provides that promoting or facilitating a lottery is illegal, unless it falls into one of two categories of permitted lottery, namely:
- licensed lotteries – these are large society lotteries and lotteries run for the benefit of local authorities that are regulated by the Commission and require operating licences
  - exempt lotteries – there are four types of exempt lottery that are expressly permitted under Schedule 11 of the Act, including the small society lottery.

#### Definition of lottery

193. A lottery is any arrangement that satisfies all of the criteria contained within the statutory description of either a simple lottery or a complex lottery, under s.14 of the Gambling Act 2005.

194. An arrangement is a simple lottery if:

- persons are required to pay to participate
- one or more prizes are allocated to one or more members of a class
- the prizes are allocated by a process which relies wholly on chance.

195. An arrangement is a complex lottery if:

- persons are required to pay to participate
- one or more prizes are allocated to one or more members of a class
- the prizes are allocated by a series of processes
- the first of those processes relies wholly on chance.

#### Definition of society

196. A 'society' is the society, or any separate branch of such a society, on whose behalf a lottery is to be promoted. Section 19 of the Gambling Act 2005 defines a society as such if it is established and conducted:

- for charitable purposes, as defined in s.2 of the Charities Act 2006
- for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity
- for any other non-commercial purpose other than that of private gain.

197. It is inherent in this definition that the society must have been established for one of the permitted purposes as set out in s.19 of the Act, and that the proceeds of any lottery must be devoted to those purposes. It is not permissible to establish a society whose sole purpose is to facilitate lotteries.

198. Participation in a lottery is a form of gambling. Lotteries must be conducted in a socially responsible manner and in accordance with the Act.
199. The minimum age for participation in a lottery is sixteen. The holder of a small society lottery registration must take reasonable steps to ensure that all those engaged in the promotion of their lottery understand their responsibilities for preventing underage gambling, returning stakes and not paying prizes to underage customers.

## External Lottery Managers

200. External lottery managers (ELMs) are required to hold a lottery operator's licence issued by the Gambling Commission to promote a lottery on behalf of a licensed society.
201. However, individuals or firms can and do provide services to a society or local authority lottery without assuming the role of an ELM. When determining whether a third party is a 'service provider' only, or has assumed the role of an ELM, the degree of management undertaken by both the promoter and the sub-contractor will be crucial factors. Key indicators will include:
  - who decides how the lottery scheme will operate
  - who appoints and manages any sub-contractors
  - the banking arrangements for handling the proceeds of the lottery
  - who sells the tickets and pays the prizes
  - who controls promotional aspects of the lottery.
202. Societies employing an unlicensed ELM may be committing an offence and they will need to satisfy themselves that any ELM they employ holds the relevant operator's licence issued by the Commission. The Commission publishes a register of operating licences on its website at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk).

## Lottery Tickets

203. Lotteries may involve the issuing of physical or virtual tickets to participants (a virtual ticket being non-physical, for example in the form of an email or text message). All tickets must state:
  - the name of the promoting society
  - the price of the ticket, which must be the same for all tickets (e.g. there can be no option to 'buy two tickets, get one free')
  - the name and address of the member of the society who is designated as having responsibility at the society for promoting small lotteries or, if there is one, the ELM
  - the date of the draw, or information which enables the date to be determined.

204. The requirement to provide this information can be satisfied by providing an opportunity for the participant to retain the message electronically or print it.
205. The society should maintain written records of any unsold and returned tickets for a period of one year from the date of the lottery draw. The Licensing Authority may wish to inspect the records of the lottery for any purpose related to the lottery.

## Where tickets may be sold

206. The Licensing Authority expects holders of small society lottery registrations not to sell lottery tickets to a person in any street. For these purposes 'street' includes any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping malls) whether a thoroughfare or not. Tickets may, however, be sold in a street from a static structure such as a kiosk or display stand. Tickets may also be sold door to door. Licensees must ensure that they have any necessary local authority permissions, such as a street trading licence, in order to do this.

## Prizes

207. Prizes awarded in small society lotteries can be either cash or non-monetary. Prizes declared on returns must not exceed the limits on prizes set out by the Act - in effect that combined with any expenses incurred with the running of the lottery, such as managers' fees, they must not comprise more than 80% of the total proceeds of the lottery. Donated prizes would not be counted as part of this 80% (as no money would be withdrawn from the proceeds to cover their purchase) but are still subject to the limit on a single maximum prize of £25,000 and should be declared on the return following the lottery draw.
208. Alcohol should not be offered as a prize in a lottery without the society first ensuring that no Licensing Act 2003 consent is required for this from the Licensing Authority. If such consent is required, then alcohol shall not be offered as a prize unless such consent has been obtained.

## Small society registration

209. The promoting society of a small society lottery must, throughout the period during which the lottery is promoted, be registered with a licensing authority. Parts 4 and 5 of Schedule 11 of the Act set out the requirements on both societies and licensing authorities with respect to the registration of small society lotteries.
210. The Licensing Authority with which a small society lottery is required to register must be in the area where their principal office is located.
211. Applications for small society lottery registrations must be in the form prescribed by the Secretary of State and be accompanied by both the required registration fee and all necessary documents required by the Licensing Authority to assess

the application. This information shall include a copy of the society's terms and conditions and their constitution to establish that they are a non-commercial society.

212. Societies may not circumvent the requirement to hold a Gambling Commission Lottery Operating Licence by obtaining two or more registrations with the same or different Licensing Authorities. As set out previously, the Act states that a society lottery is a large lottery if the arrangements for it are such that its proceeds may exceed £20,000 in a single lottery, or if the aggregate proceeds in a calendar year exceed £250,000.
213. In cases where a society has separate branches with different aims and objectives, it is acceptable for them to hold more than one licence or registration. However, in cases where a society holds more than one registration and the aims and objectives of those societies are the same, this may constitute a breach of the threshold limits for small society lotteries set out in Schedule 11 of the Act.
214. By virtue of Schedule 11 paragraph 31(5) of the Act, societies may not hold an Operating Licence with the Gambling Commission and a local authority registration with the same aims and objectives at the same time. This paragraph also provides for a statutory period of three years during which a large society cannot convert to small society status.
215. Registrations run for an unlimited period, unless the registration is cancelled.

## Refusal of registration

216. The Licensing Authority may propose to refuse an application for any of the following reasons:
  - An operating licence held by the applicant for registration has been revoked or an application for an operating licence made by the applicant for registration has been refused, within the past five years. The Commission will be able to advise the details of people and organisations that have been refused an operating licence or have had an operating licence revoked in the past five years. Licensing authorities should consult the Commission as part of their consideration process.
  - The society in question cannot be deemed non-commercial.
  - A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence, listed in Schedule 7 of the Act.
  - Information provided in or with the application for registration is found to be false or misleading.
217. The Licensing Authority may only refuse an application for registration after the society has had the opportunity to make representations. These can be taken at a formal hearing or via correspondence. The Licensing Authority shall inform the society of the reasons why it is minded to refuse registration and provide it



with at least an outline of the evidence on which it has reached that preliminary conclusion, in order to enable representations to be made.

## Revocation of a small society's registered status

218. The Licensing Authority may revoke the registration of a society if it thinks that they would have had to, or would be entitled to, refuse an application for registration if it were being made at that time. The Licensing Authority will inform the society of the reasons why it is minded to revoke the registration and provide them with the evidence on which it has reached that preliminary conclusion. The society may make representation as to why revocation should not take place, which will be discussed with the Licensing Manager and a decision made on how the representation will be handled.

## Administration and returns

219. The Act requires that a minimum proportion of the money raised by the lottery is channelled to the goals of the society that promoted the lottery. If a small society lottery does not comply with these limits it will be in breach of the Act's provisions, and consequently be liable to prosecution.

220. The limits are as follows:

- at least 20% of the lottery proceeds must be applied to the purposes of the society (Schedule 11, paragraph 33)
- no single prize may be worth more than £25,000 (Schedule 11, paragraph 34)
- rollovers between lotteries are only permitted where every lottery affected is also a small society lottery promoted by the same society, and the maximum single prize is £25,000 (Schedule 11, paragraph 35)
- every ticket in the lottery must cost the same and the society must take payment for the ticket fee before entry into the draw is allowed (Schedule 11, paragraph 37).

221. Paragraph 39 of Schedule 11 in the Act sets out the information that the promoting society of a small society lottery must send as returns to the Licensing Authority with which it is registered, following each lottery held. This information allows licensing authorities to assess whether financial limits are being adhered to and to ensure that any money raised is applied for the proper purpose. The following information must be submitted:

- the arrangements for the lottery - specifically the date on which tickets were available for sale or supply, the dates of any draw and the value of prizes, including any donated prizes and any rollover
- the total proceeds of the lottery
- the amounts deducted by the promoters of the lottery in providing prizes, including prizes in accordance with any rollovers

- the amounts deducted by the promoters of the lottery in respect of costs incurred in organising the lottery
- the amount applied to the purpose for which the promoting society is conducted (this must be at least 20% of the proceeds)
- whether any expenses incurred in connection with the lottery were not paid for by deduction from the proceeds, and, if so, the amount of expenses and the sources from which they were paid.

222. Paragraph 39 of Schedule 11 in the Act also requires that returns must:

- be sent to the Licensing Authority no later than three months after the date of the lottery draw, or in the case of 'instant lotteries' (scratchcards) within three months of the last date on which tickets were on sale
- be signed (electronic signatures are acceptable if the return is sent electronically) by two members of the society, who must be aged 18 or older, are appointed for the purpose in writing by the society or, if it has one, its governing body, and be accompanied by a copy of their letter or letters of appointment.

223. The Gambling Commission may inspect a society's returns, although it will not routinely do so. The Licensing Authority is required to retain returns for a minimum period of three years from the date of the lottery draw. They must also make them available for inspection by the general public for a minimum period of 18 months following the date of the lottery draw.

224. Small Society Lottery returns are available for inspection, on request by the general public, from the Licensing Department.

225. The Licensing Authority will monitor the cumulative totals of returns to ensure that societies do not breach the annual monetary limit of £250,000 on ticket sales. The Licensing Authority must notify the Commission if returns reveal that a society's lotteries have exceeded the values permissible, and such notifications will be copied to the society in question. The Gambling Commission will contact the society to determine if they are going to apply for a lottery operator's licence, thereby enabling them to run large society lotteries lawfully, and will inform the Licensing Authority of the outcome of its exchanges with the society.

## Appendix One Consultation

A public consultation was carried out in respect of this Statement of Principles from date 5<sup>th</sup> July 2021 until 20<sup>th</sup> August 2021. As well as sending consultation letters and emails directly to all persons affected by gambling, a public notice was displayed at the Council offices at Swale House (East Street, Sittingbourne), Gateway Sheerness (High Street, Sheerness) and Alexandra Centre (Preston Street, Faversham), for the duration of the consultation and an advertisement of the consultation was published in (insert name of local newspaper and date published).

\*\*\* responses were received to the consultation.

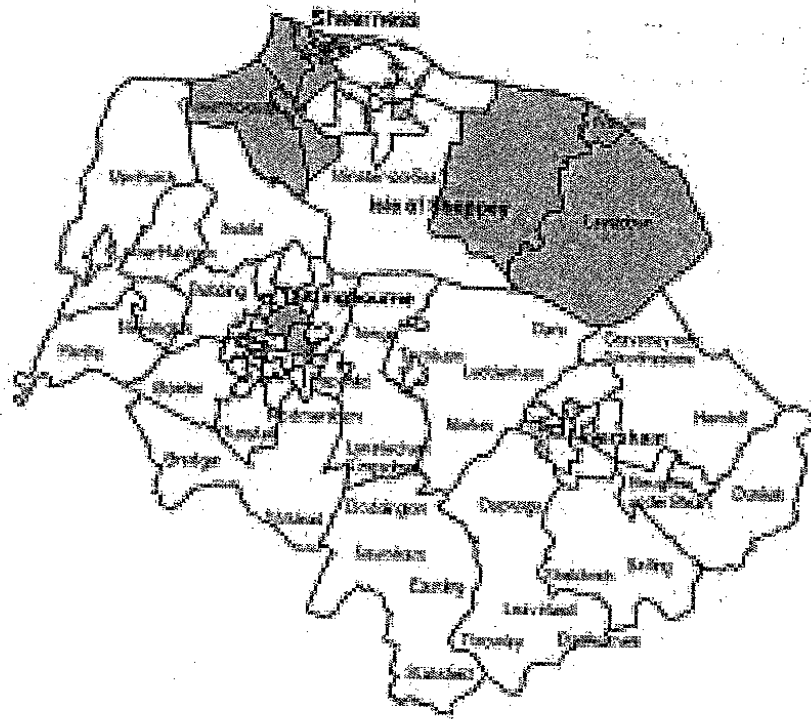
Summarise the responses here.

The draft Statement of Principles was published on the Council's website for a period of seven weeks commencing date and was also made available at the following public libraries for the same period:

This Statement of Principles was considered by the Council's General Licensing Committee on \*\*\* and \*\*\* and approved by Full Council on \*\*\*

A notice was published on the Council's website and at Swale House (Sittingbourne), Gateway (Sheerness) and Alexander Centre (Faversham) on \*\*\* stating where the Statement of Principles could be inspected [www.swale.gov.uk/licensing](http://www.swale.gov.uk/licensing) the date the Statement of Principles would be published, and the date it would take effect.

Appendix Two  
Map of the Area Covered by this Statement of  
Principles



## Swale Borough Council - Appendix 3

### Statement of Gambling Principles – Local Area Profile

#### 1. Introduction

This profile has been produced by Swale Borough Council as an appendix to the Borough Council's Gambling Policy following the recommendations of the Gambling Commission and the Local Government Association. Data has been included from a number of published sources together with information from the Responsible Authorities. The profile is intended to assist local Gambling Operators prepare their local assessments.

Since 6<sup>th</sup> April 2016 gambling operators have been required to undertake risk assessments for their premises which should take into account the nature and characteristics of the locality in which they are situated, e.g. proximity of schools or churches. Such risk assessments should give due consideration to this Local Area Profile which is compiled with respect to any reported gambling –related problems in the area.

The general aims of the following Gambling Act 2005 local area profile are:

- a) to identify the areas within Swale Borough mostly likely to be at risk of gambling related harm, which may help to identify possible persons who could be at risk of gambling related harm
- b) to provide sufficient and relevant information to inform local authorities where current and potential gambling related issues are present so controls and measures can be put in place to minimise these issues/risks
- c) to inform the local authority of information relevant to Swale in order to provide a footing for the decision-making process in gambling contexts

#### Our Approach

We have used spatial analysis to identify potential vulnerability to gambling-related harm in Swale and to visualise this on maps.

We identified the available local data that best represents these characteristics in Swale and combined this with other local information to identify areas of higher or lower potential risks.

We have based our approach on the 'possible' risk to gambling-related harm. This does not mean that just because an area is 'seen' as being at higher risk that all people in that area will suffer harm or be at risk of suffering harm.

#### 2. Geography

Swale is a local government district with borough status in Kent, England and is bounded by Medway to the west, Canterbury to the east, Ashford to the south and Maidstone to the southwest.

Swale is the bridging point between north and east Kent, named after the narrow channel of tidal water between mainland Kent and the Isle of Sheppey. It is a Borough of some 152500 people who primarily live in its three main towns, Sittingbourne, Faversham and Sheerness

Swale is close both to London and mainland Europe and well connected to the national motorway network. The M2 runs east-west across the Borough, providing access to destinations between the Channel Ports and London. Via the A249 there is alternative access along the M20. London is accessible in a little over an hour by high-speed rail services. As a coastal Borough, the Port of Sheerness gives access, via its deep-water berths, to the largest ships in the world; its imports distributed to all corners of the UK. Swale is also within easy reach of other major Kent centres - Canterbury, Ashford, Maidstone and the Medway Towns.

Sittingbourne is the main town, acting as a population, employment and service centre for the Borough. These functions and the town's present-day character have their roots in past travellers and pilgrims and the industries that settled there. It is a product of its location on the London-Dover road and at the head of an inlet of the Swale, Milton Creek.

A unique feature within Kent is the Isle of Sheppey, separated from the mainland by the Swale. Its main town is Sheerness. It owes much of its distinctiveness to its role as a traditional seaside town and the past and present industries that established there, particularly the former naval dockyard and the current Port facility. The town centre functions as the main shopping and service centre for the Island's residents and visitors.

Faversham is an attractive and historic small market town at the centre of a rich farming hinterland. Faversham and Oare are located at the head of two creeks and surrounded by attractive countryside. The town is best known for its continued links with brewing and food. This and the town's industrial and maritime heritage produce its present-day character - an outstanding range of historic buildings, streets and waterways and a town centre with a strong independent retail and service sector.

Outside the towns, from Hartlip in the west to Dunkirk in the east, Sheldwich in the south to Shellness in the north, are the Borough's extensive rural areas. There is a great diversity of settlements and landscapes, many of great charm and character. Larger villages along the main transport routes like Newington, Teynham and Boughton have a range of local facilities and services. Away from the main routes are smaller, more isolated settlements and hamlets like Conyer, Warden and Throwley Forstal.

Over the last 20 years most of the villages and towns in Swale have experienced growth, with growth in the towns the most rapid. Over the last 60 years population growth has been amongst the most rapid in Kent. Now, Swale has the third largest district population in Kent and built development has similarly physically grown - in the last 10 years more employment floorspace has been built than anywhere else in the county and Swale has the fourth highest level of dwelling completions over the 10 years to 2014.

### **3. Diversity**

The diversity of its communities - ages, ethnicity, skills and trades - has been Swale's strength for centuries. The area has been a draw to many people throughout history, from Iron Age settlers, Roman and Saxon invaders and Flemish refugees, through to 20th Century arrivals from London and today's communities from Eastern Europe and Africa along with others who seek the area's cheaper housing and good transport links. All bring their own cultures and skills which further enrich and diversify the Borough. Ethnic minorities are still a small proportion of the population, although Swale is becoming more ethnically diverse, mostly to those from Black African, Black British, Asian or British Asian backgrounds.

Although a very small proportion of the population, Swale also has one of the larger Gypsy and Traveller communities in Kent, both on their own sites and in permanent housing.

Almost 47.2% of the population of Swale regard themselves as Christian. Other religious communities such as Hindu, Muslim and Jewish, although not well represented, are likely to rise in line with the increase in the diversity of ethnicity in the Borough.

Swale has a wide mix of household types - married couples, families, lone parents and single older persons. The proportion of older people and those co-habiting has increased while the number of married and one person households is relatively stable.

### **4. Deprivation Areas**

The most common types of housing within Swale are semi-detached houses/bungalows and terraced properties and this is reflected across private, rented and registered social landlord properties. Swale has a higher proportion than the Southeast average of those owning their own homes (68.4%) and this has increased by 0.4%

There are wide contrasts between neighbourhoods in the Borough, from the most prosperous parts of Faversham and rural areas in the south of the Borough, to some of England's most deprived neighbourhoods in Sheerness, Bluetown, Queenborough, Rushenden, Leysdown and Warden, Davington, Murston and Milton Regis. This deprivation displays itself particularly in the poorer levels of educational attainments, ability to access jobs and health of these communities.

### **5. Economy**

Many present-day Swale industries - paper, brick, brewing, cement, steel and maritime - have roots in the past. Swale makes things, grows things, imports things and moves them around but there are relatively fewer offices, financial and high-tech businesses than most other parts of the Southeast

The town centres and industrial estates at Sittingbourne, Faversham, Sheerness and Queenborough are our main centres of economic activity. The largest industrial centre is at Eurolink, Sittingbourne, whilst Sheerness is a deep-water port with rail freight

connections and one of the UK's largest import points for fruit, timber, paper products and vehicles.

The largest private sector employers in Swale are in the industrial and transportation sectors including DS Smith Paper Ltd, Aesica (pharmaceuticals), Medway Ports and Shepherd Neame (brewers). There are more recent additions to employment in the Borough including major distribution and logistics firms (such as Morrisons) as well as growth in environmental, renewable resources and science-based industries such as those at the Kent Science Park, near Sittingbourne. Less recognised as a significant employer, is the public sector, including from the prisons on the Isle of Sheppey.

Within the rural area there are many, mostly small, businesses which significantly contribute towards employment in the Borough. Whilst this aspect of the local economy is sometimes overlooked,

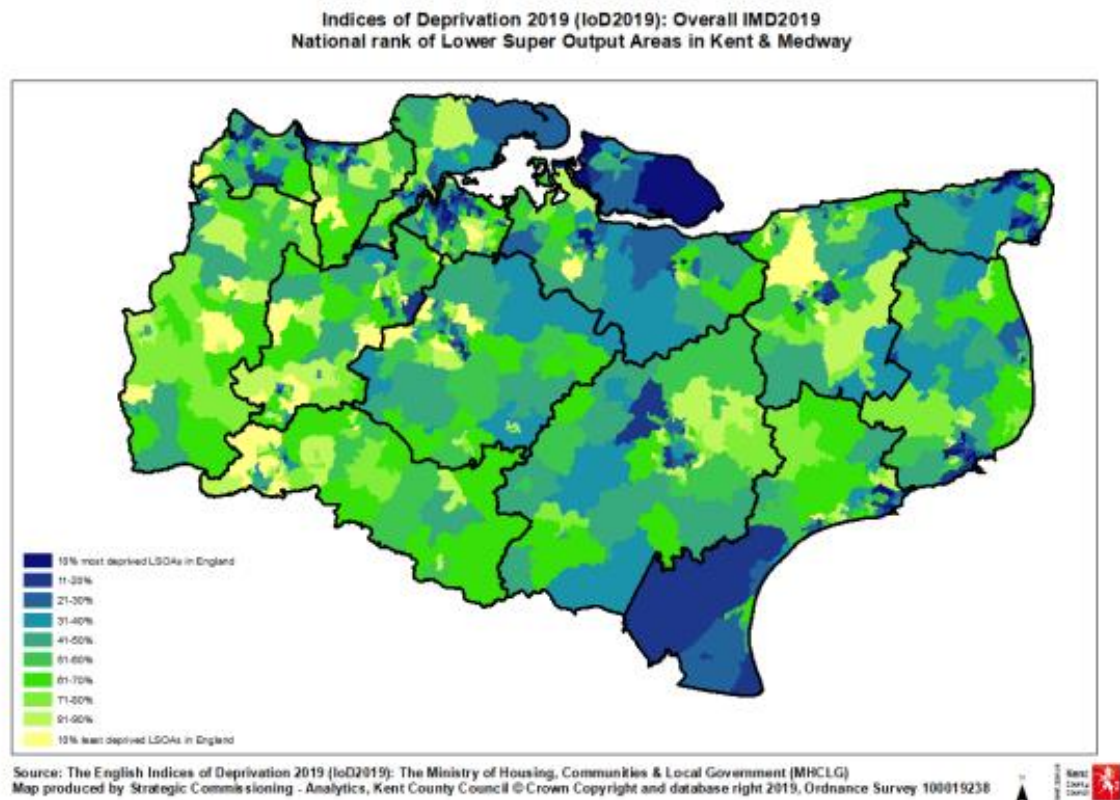
Swale has the second largest agricultural workforce in Kent and makes a significant contribution to UK food supplies, particularly in fruit and cereals. Another understated and undervalued employment resource is tourism. Swale has an inviting built and natural environment which attracts visitors who explore Swale itself and further afield. During 2009, it was estimated that the expenditure of day and overnight visitors brought over £200m into Swale.

Some 44% of Swale's working residents are employed in the Borough, whilst the remaining 56% commute to areas outside. Of these around 26% work in the main towns of Kent with 18% within Medway, Canterbury and Maidstone, a further 8% travel to London. Some 70% of the journeys to Canterbury are generated from Faversham alone.(2.14) The main reason for working outside Swale is the lack of availability of certain types of jobs within the Borough and the higher salaries available elsewhere.

Swale has the third highest number of international migrant workers of all Kent local authorities and has seen significant growth in economic migration from within the EU (particularly Lithuania, Poland, and Bulgaria) not only for agricultural work but for an increasing number of other work opportunities.



**Deprivation Map:** This map illustrates how deprivation is divided across the Borough



Source: The English Indices of Deprivation 2019 (IoD2019) The Ministry of Housing, Communities and Local Government.

Based on the English Indices of Deprivation 2019, Sheerness tops the list of the most deprived area in Kent.

Between 2015 and 2019, the names of the wards change. In the old divisions sheerness was split into two wards. But in 2019 it just became Sheerness.

**Table 4: The 10% most deprived LSOAs by IMD2019 in Kent: (Rank 1 to 45 out of 90)**

2011 LSOA Name	2019 Ward Name	National rank			Kent Rank	
		position out of 32,844 LSOAs	Within top 10% most deprived 2019	Within top 10% most deprived 2015	Position out of 902 LSOAs	Within top 10% most deprived
Swale 001A	Sheerness	48	Yes	Yes	1	Yes
Thanet 003A	Margate Central	67	Yes	Yes	2	Yes
Thanet 001A	Cliftonville West	117	Yes	Yes	3	Yes
Thanet 001E	Margate Central	139	Yes	Yes	4	Yes
Thanet 013B	Newington	284	Yes	Yes	5	Yes
Swale 006A	Sheppey East	322	Yes	Yes	6	Yes
Swale 010C	Murston	337	Yes	Yes	7	Yes
Thanet 006D	Dane Valley	423	Yes	Yes	8	Yes
Swale 002C	Sheerness	457	Yes	Yes	9	Yes
Swale 006D	Sheppey East	591	Yes	Yes	10	Yes
Shepway 014A	Folkestone Harbour	614	Yes	Yes	11	Yes
Swale 002A	Sheerness	708	Yes	Yes	12	Yes
Swale 002B	Sheerness	771	Yes	Yes	13	Yes
Thanet 006E	Dane Valley	932	Yes	Yes	14	Yes
Thanet 013E	Northwood	933	Yes	Yes	15	Yes
Dover 011F	St Radigunds	994	Yes	Yes	16	Yes
Thanet 001B	Cliftonville West	1,033	Yes	Yes	17	Yes
Thanet 016D	Eastcliff	1,038	Yes	Yes	18	Yes
Swale 005C	Queenborough & Halfway	1,159	Yes	Yes	19	Yes
Swale 001B	Sheerness	1,205	Yes	Yes	20	Yes
Swale 004E	Sheppey Central	1,309	Yes	Yes	21	Yes
Thanet 001D	Cliftonville West	1,326	Yes	Yes	22	Yes
Shepway 003C	East Folkestone	1,356	Yes	Yes	23	Yes
Thanet 003E	Westbrook	1,563	Yes	Yes	24	Yes
Thanet 016E	Eastcliff	1,597	Yes	Yes	25	Yes
Swale 015D	Priory	1,639	Yes	Yes	26	Yes
Shepway 014B	Folkestone Central	1,761	Yes	Yes	27	Yes
Swale 001C	Sheerness	1,878	Yes	Yes	28	Yes
Dover 013B	Town & Castle	2,105	Yes	Yes	29	Yes
Dartford 001A	Temple Hill	2,133	Yes	Yes	30	Yes
Thanet 013A	Newington	2,242	Yes	Yes	31	Yes
Gravesham 001C	Northfleet North	2,278	Yes	Yes	32	Yes
Thanet 003D	Salmestone	2,342	Yes	Yes	33	Yes
Swale 002D	Sheerness	2,383	Yes	No	34	Yes
Swale 001D	Sheerness	2,411	Yes	Yes	35	Yes
Dover 011A	Buckland	2,450	Yes	No	36	Yes
Dover 012F	Town & Castle	2,473	Yes	Yes	37	Yes
Ashford 008C	Stanhope	2,474	Yes	No	38	Yes
Dover 011D	Whitfield	2,545	Yes	Yes	39	Yes
Thanet 005A	Garlinge	2,616	Yes	No	40	Yes
Thanet 004A	Cliftonville West	2,620	Yes	Yes	41	Yes
Gravesham 007A	Westcourt	2,760	Yes	Yes	42	Yes
Canterbury 001C	Heron	2,768	Yes	No	43	Yes
Maidstone 013A	Park Wood	2,915	Yes	Yes	44	Yes
Thanet 016C	Central Harbour	2,976	Yes	Yes	45	Yes

LSOAs were created in 2011 so LSOAs in Folkestone & Hythe Local Authority are still named Shepway  
Source: English Indices of Deprivation 2019, Ministry of Housing, Communities and Local Government

A rank of 1 is the most deprived

Table presented by Strategic Commissioning - Analytics, Kent county Council

Source: KCC website ([https://www.kent.gov.uk/\\_data/assets/pdf\\_file/0006/7953/Indices-of-Deprivation-headline-findings.pdf](https://www.kent.gov.uk/_data/assets/pdf_file/0006/7953/Indices-of-Deprivation-headline-findings.pdf))

## **5. Sittingbourne**

Fails to provide the range and quality of public, cultural and commercial services expected for its size and growth area status with insufficient spending retained within the Borough.

The largest town in Kent without a dedicated further education facility. Poor transport conditions and public transport facilities in central areas of the town.

Has an indistinct cultural and architectural identity and a poor quality green urban environment in the centre and north of the town, including notable deficiencies in parks and gardens, street trees, natural and semi-natural green space, amenity green space, provision for children and young people and allotments. Pockets of deprivation, particularly in the north of the town in Murston, Milton Regis and Kemsley.

Out-commuting from Sittingbourne (49% of resident workforce)  
Has a potential under supply of employment sites for industrial uses if the remaining land bank is used by land-hungry uses.

## **6. Isle of Sheppey**

Sheerness struggles to maintain its role as the main commercial and service centre for the Island. The health of the town centre needs to be improved, but there are limited opportunities available within its confines or at its edges, although there are regeneration and enhancement opportunities at its centre.

Pockets of deprivation at Sheerness, Queenborough and western communities. Queenborough/Rushenden has major regeneration opportunities. Undeveloped transport network. Unmade roads and cul-de-sacs to the eastern end of the Island and deprived communities increase isolation and promote unsustainable travel patterns. Significant off-Island commuting (59% of resident workforce).

The Island's tourism offer is unique to Kent, but under-exploited, whilst the traditional 'bucket and spade' product faces challenges to meet modern demands and expectations. Sustainable rural tourism, the Island's historic assets and links with aviation pioneers are potential growth areas. Deficiencies in natural and semi-natural green space, formal outdoor sport facilities and allotments.

## **7. Faversham**

A typically Kentish market town, rich in-built heritage and unique for its morphology north of the A2 (Watling Street).

Despite the town's prosperous image, Davington is amongst the most deprived neighbourhoods in England. The town centre is healthy but needs to further consolidate its character and role as the primary service centre for eastern Swale and further widen its development as a local tourism and cultural centre.

Existing employment allocations need to be developed or replaced, but there needs to be an improved quality of employment sites commensurate to its scale and location.

Faversham Creek is under used and silting up but has regeneration opportunities. Out-commuting (46% of resident workforce), mostly the short distance to Canterbury. Deficiencies in parks and gardens, formal outdoor sport facilities and amenity green space.

## 8. Swale

The area served by the Council covers 373.5 square kilometres. The 2021 Census revealed that the population for Swale was 151,677. The estimated population for Swale in 2022 is shown below:

**Table 12 2022 MYPE by 5-year age group and sex - Swale**

Age group	Total Persons	% of total population	Males	% males	Females	% females
<b>All Ages</b>	<b>154,600</b>		<b>76,700</b>	<b>49.6%</b>	<b>77,900</b>	<b>50.4%</b>
0-4	8,900	5.8%	4,600	51.0%	4,400	49.0%
5-9	9,700	6.3%	5,000	51.3%	4,700	48.7%
10-14	9,900	6.4%	5,100	51.2%	4,800	48.8%
15-19	8,500	5.5%	4,500	52.6%	4,000	47.4%
20-24	7,800	5.0%	4,000	51.4%	3,800	48.6%
25-29	9,500	6.1%	4,800	50.6%	4,700	49.4%
30-34	10,600	6.9%	5,200	49.2%	5,400	50.8%
35-39	10,300	6.6%	5,100	49.6%	5,200	50.4%
40-44	9,900	6.4%	4,900	50.0%	4,900	50.0%
45-49	9,100	5.9%	4,500	49.3%	4,600	50.7%
50-54	10,600	6.9%	5,300	49.7%	5,300	50.3%
55-59	10,900	7.1%	5,400	49.6%	5,500	50.4%
60-64	9,400	6.1%	4,600	49.5%	4,700	50.5%
65-69	7,800	5.1%	3,900	50.2%	3,900	49.8%
70-74	7,700	5.0%	3,700	47.7%	4,000	52.3%
75-79	6,700	4.3%	3,100	47.0%	3,600	53.0%
80-84	3,900	2.5%	1,800	45.5%	2,100	54.5%
85-89	2,200	1.4%	900	40.8%	1,300	59.2%
90+	1,200	0.8%	400	30.1%	900	69.9%

## 9. What is Gambling Related Harm?

Gambling related harm is a broad concept that impacts a wide range of people including families, colleagues and those within the wider community who may not have been involved in gambling themselves.

Harms may include financial hardship, relationship breakdown, domestic violence, mental health problems and suicidal thoughts.

The most recent Health Survey statistics for England found that 56 per cent of the population in England have spent money on at least one gambling activity in the past year. The Health Survey statistics also indicate that in 2016, 0.7 per cent of people in England (approximately 300,000 people) identified as problem gamblers, with 3.6 per

cent (approximately 1,610,000 people - 6.6% of gamblers) at low or moderate risk based on their gambling

Recent research by Leeds Beckett University for Leeds City Council has concluded that gambling behaviour and problem gambling are not equally distributed across England and that certain areas experience higher rates of problem gambling.

### Definition of Problem Gambling

Problem Gambling (or ludomania, but usually referred to as 'gambling addiction' or 'compulsive gambling') is defined as:

'an urge to gamble continuously despite harmful negative consequences or a desire to stop'

### Nature of harms

The following represents the nature of harms to individuals which can be broadly grouped as follows:

- a) Detriments to the person's health, both morbidity and mortality
- b) Emotional or psychological distress
- c) Financial difficulties diverted financial resources, bankruptcy or reduction of financial situation.
- d) Reduced performance / loss of role at employment or study
- e) Relationship conflict or breakdown
- f) Criminal activity. While a rare outcome of gambling problems, entering the judicial system creates acute harm to individuals as well as the community. This includes (but is not limited to) incarceration, along with psychological harms of shame and stigma.
- g) Harm to family and friends (in terms of the partner (or spouse) and the children of people with gambling problems.
- h) Harm to the community (poverty, poor health, lower levels of social and human capital)
- i) Financial loss to the community

### Who can be vulnerable to gambling – related harm?

The Gambling Commission has stated that whilst they did not want to explicitly define who vulnerable people are, this is likely to include people who gamble more than they want to.

The following represents those persons who can be vulnerable to gambling-related harm:

- a) Young people (youth)
- b) Students
- c) Those with mental health problems
- d) Those afflicted with substance use/misuse issues
- e) Those with learning difficulties / disabilities
- f) Immigrants
- g) Ethnic Minorities
- h) Homeless people

- i) Those living in constrained economic circumstances
- j) Those living in deprived areas
- k) Prisoners
- l) Older People
- m) Those with personality /cognitive impairments
- n) Women potentially vulnerable to harm
- o) Other groups/ people

#### What councils can do

- a) Contribute data and insight to the development of local area profiles to support licensing statements of policy.
- b) Ensure public health teams are aware of harmful gambling and can support services to screen, assess and signpost to appropriate support.
- c) Identify local organisations providing treatment and support, to assist signposting.
- d) Identify appropriate referral pathways.
- e) Work through the Health and Wellbeing Board to develop a coherent approach to problem gambling, include focused prevention work with potential high-risk groups.
- f) Clinical Commissioning Groups should be encouraged to raise awareness of harmful gambling amongst primary care professionals and work with local authorities to signpost to local and national support services
- g) Mental health service providers should consider how they can best identify harmful gambling and provide access to specialist support, particularly for young people presenting through child and adolescent mental health services (CAMHS).

### **10. The Changing Environment of Gambling**

The gambling landscape has changed exponentially in the past 10 years due to online/internet gambling – hand-held technology has spawned a whole new customer base. Gambling is now 24/7, anonymous and engages a higher volume of users.

Recent statistics has shown that 1 in 5 of the United Kingdom are now gambling on-line. However, the most alarming statistic is that over 500,000 children are reported to gamble each week. The most predominant demographic however is professional males aged between 18-35 years old who invariably are in uncontrolled environments where warnings and control are very limited. Television gambling advertisements have risen 600% from 234,000 in 2007 to 1.4m in 2012

These advertisements produced 30.9bn ‘impacts’ – i.e. the number of times a commercial was seen by viewers. Gambling advertising on social media has also increased as the gambling industry owns a ‘freedom’ on the internet that it has never been able to fully realise in the actual physical world.

## 11. Gambling Premises

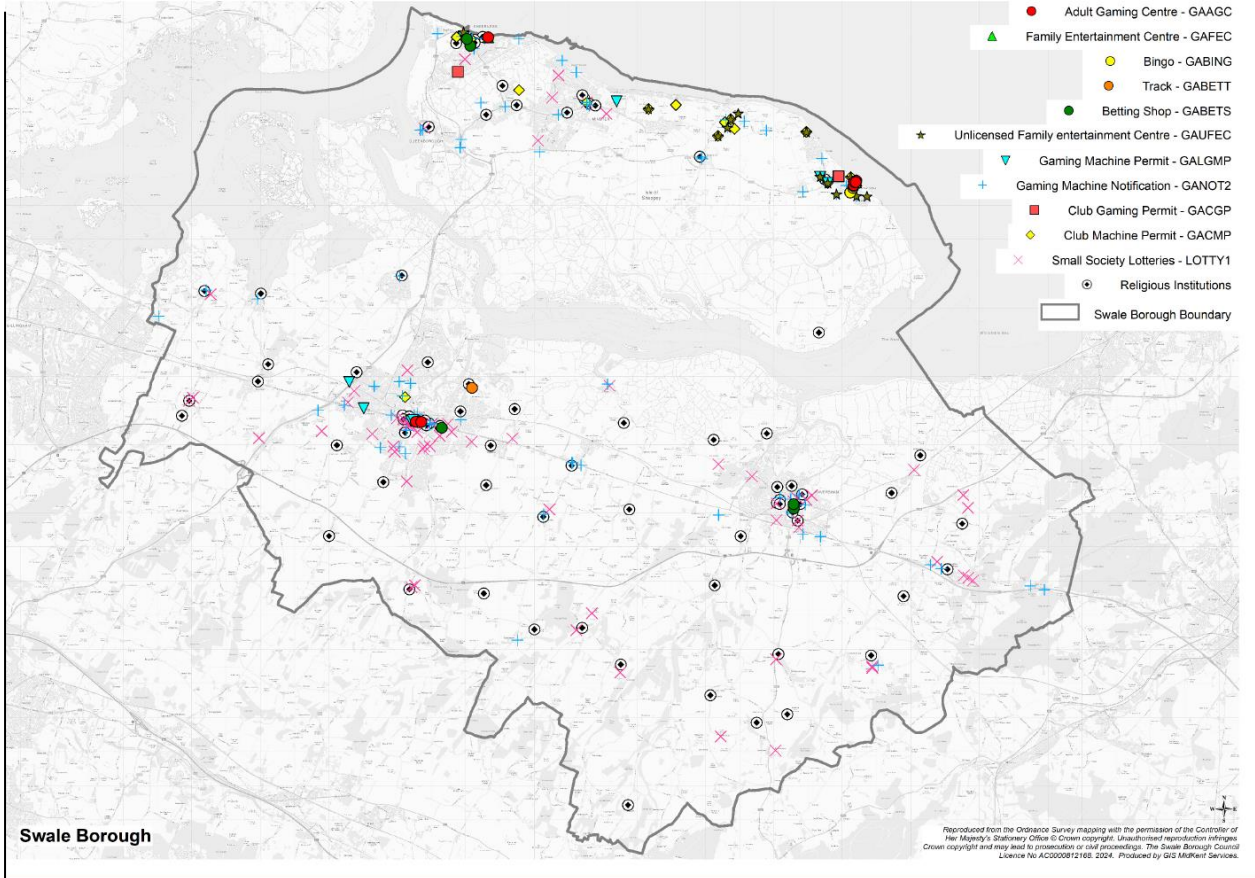
The 6 maps below show the distribution of Gambling premises licensed per postcode sector in the Swale area.

<b>Type of premises</b>	<b>Numbers</b>
Casinos	Nil
Adult Gaming Centre (AGC)	10
Family Entertainment Centre (FEC's)	4
Betting Premises	8
Bingo Premises	2
Tracks	1

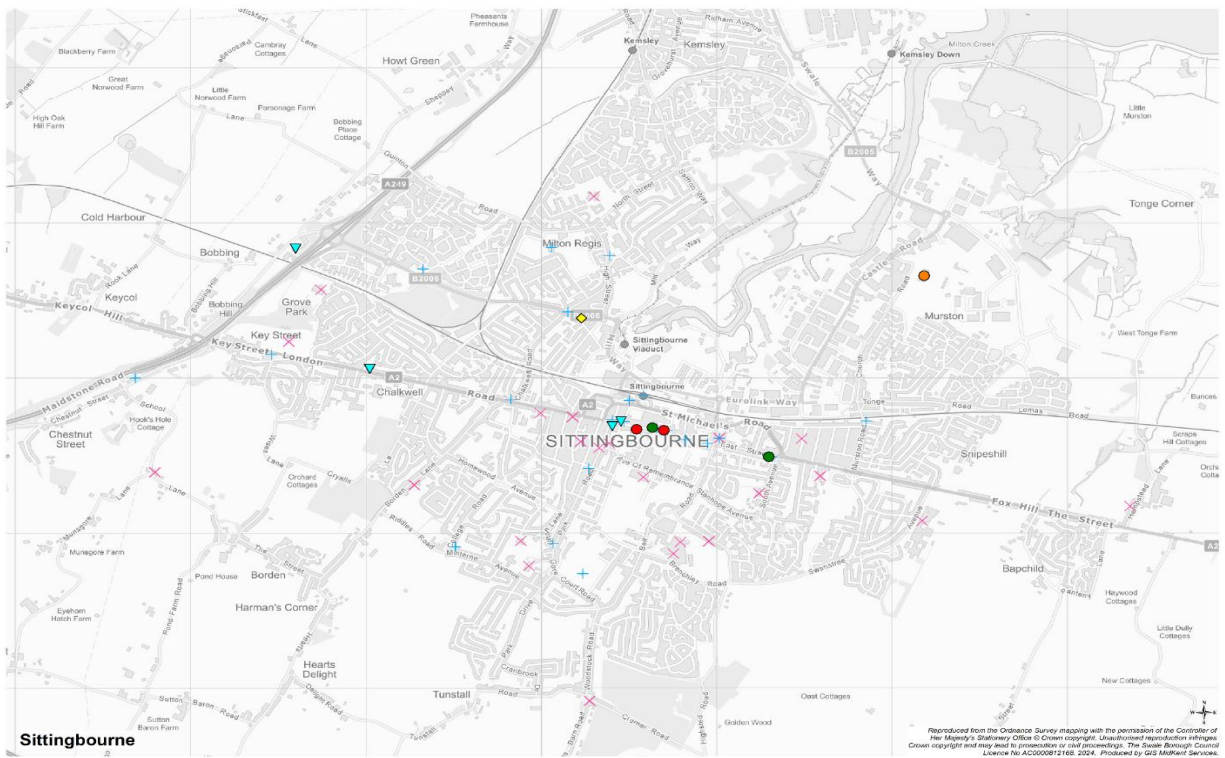
Where a premise does not hold a premises licence but wishes to provide gaming machines, it may apply to the Council for a permit. These regulate gambling and the use of gaming machines in premises where the stakes are low or gambling is not the main function of the premises.

<b>Type of premises</b>	<b>Numbers</b>
Unlicensed Family Entertainment Centre (uFEC)	20
Gaming Machine Permit	9
Gaming Machine Notification	90
Club gaming Permit	2
Club machine Permit	17
Small Society Lotteries	67

# Overview Legend



# Map 1 – Sittingbourne

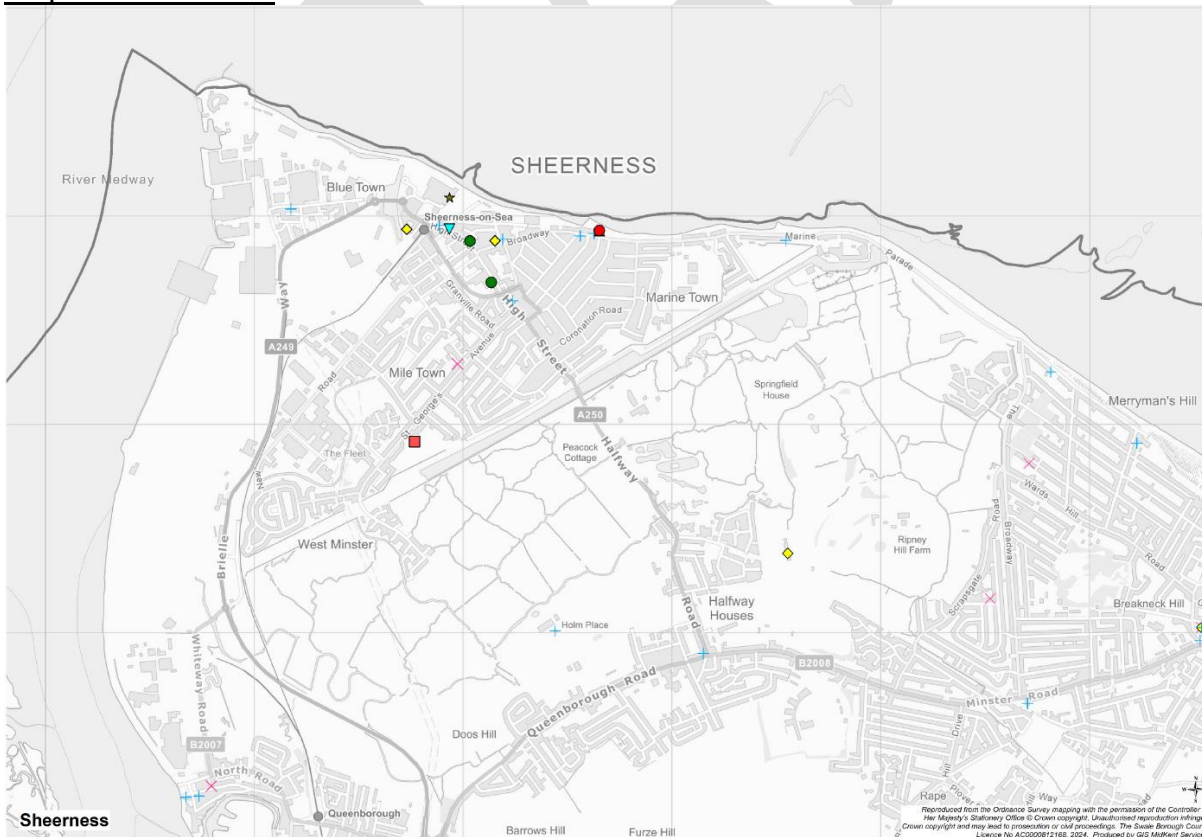




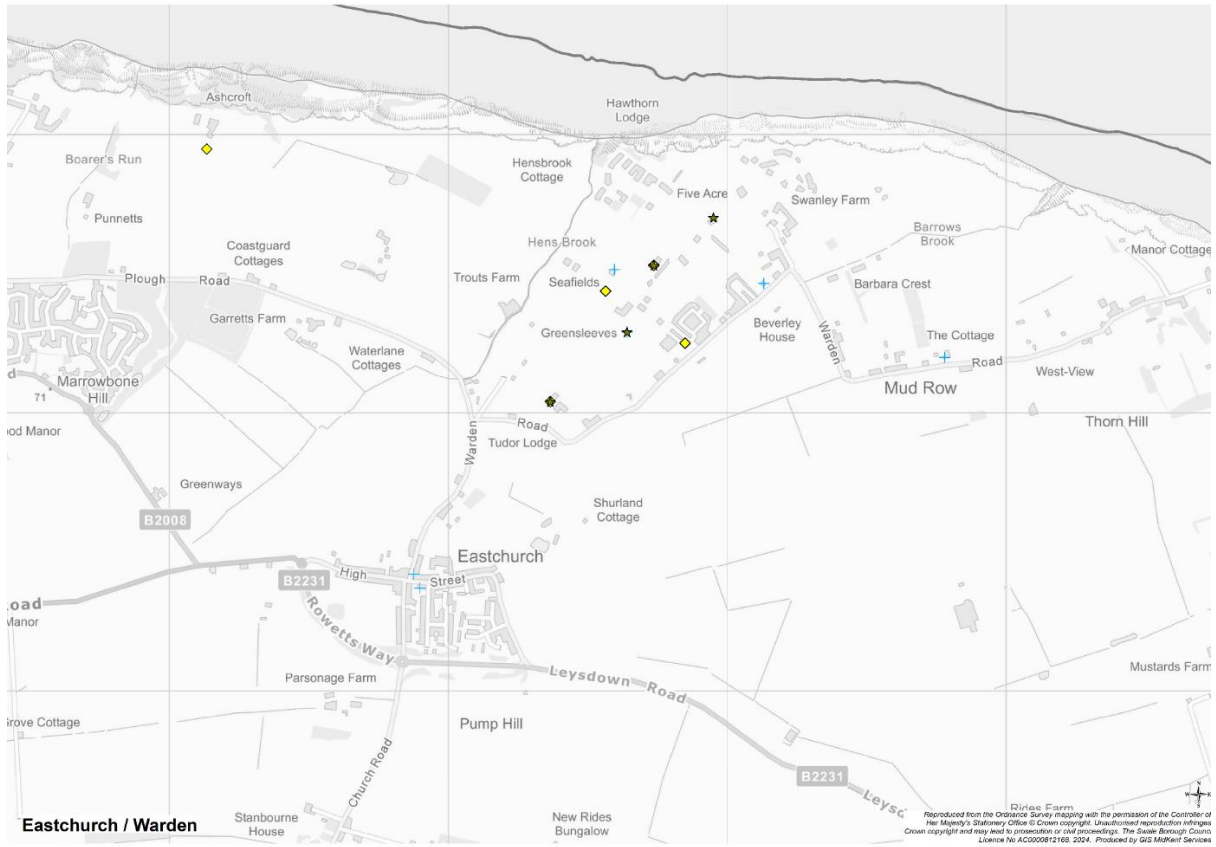
## Map 2 – Faversham



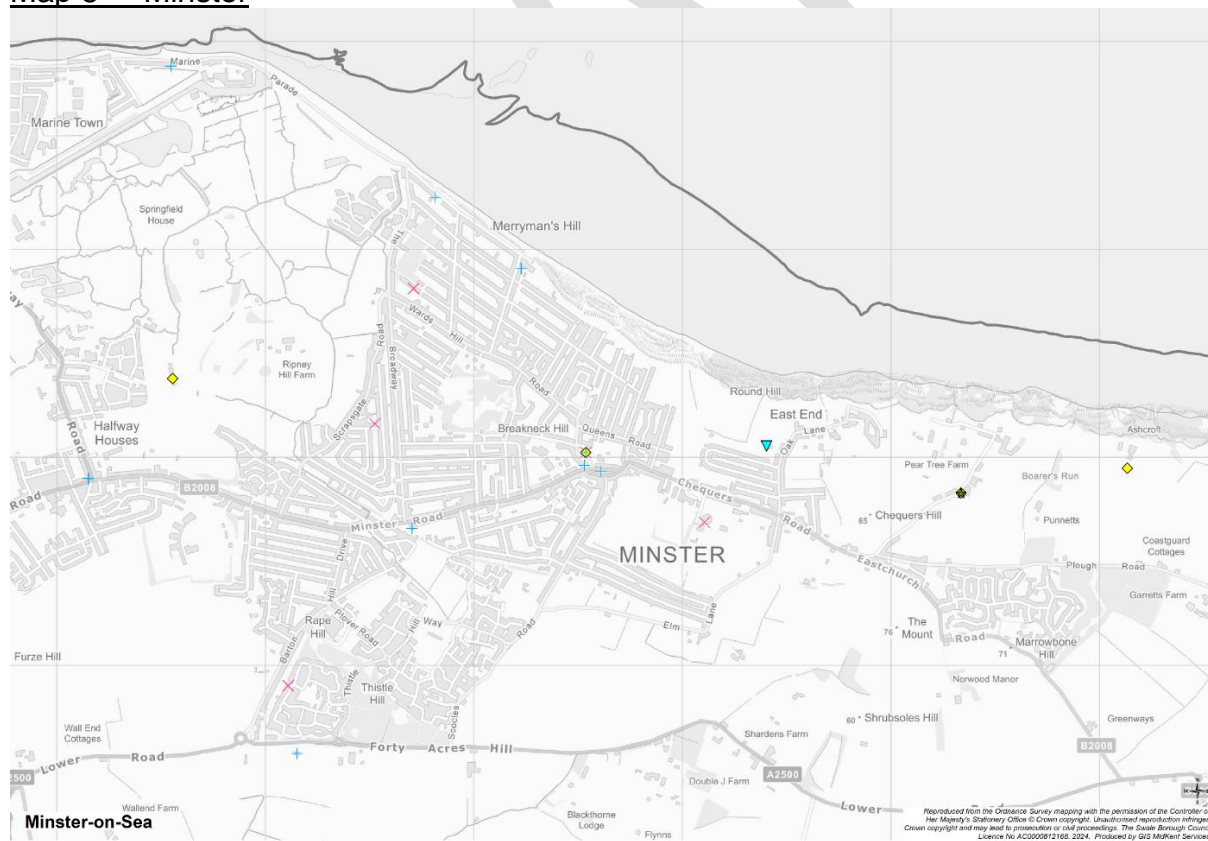
## Map 3 - Sheerness



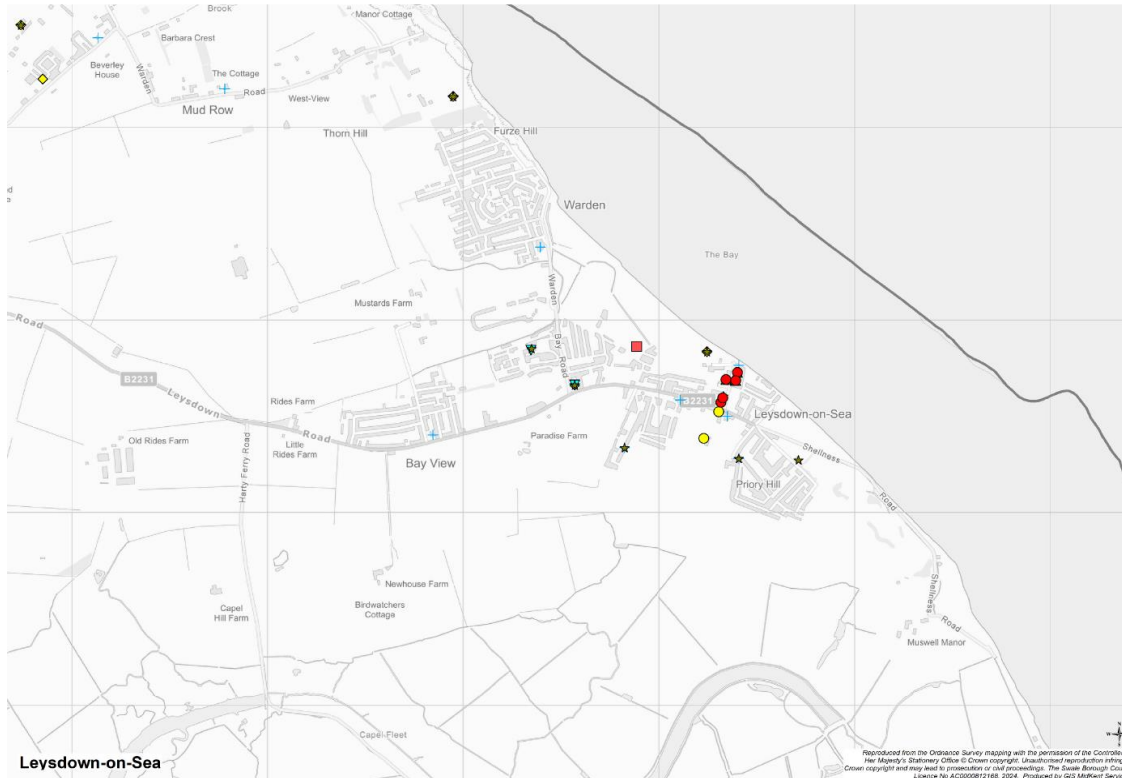
## Map 4 – Eastchurch / Warden



Map 5 – Minster



## Map 6 – Leysdown on Sea



## Map 7: Medical Institutions

Risk Factor: People with poor mental health

Datasets used: Mental health treatments and recovery centres/clinics within GP surgeries.





## 12. Risk Factor: Anti-Social Behaviour

### Map 9: Crime and Disorder

We acknowledge that crime and anti-social behaviour occur at or near gambling premises. However, the data is not available to identify those events that relate directly to gambling activity or that show a direct link to people who are vulnerable to the risk of gambling related harm. The tables show a list of offences in the three areas of Swale in relation to location of the gambling premises, but do not infer that the events are directly linked to gambling activity or gambling-related related harm

## Offences that took place around gambling locations in Swale

### Sittingbourne

Offence group	Fin Yr			Grand Total
	2022	2023	2024	
BURGLARY - BUSINESS AND COMMUNITY		1		1
CRIMINAL DAMAGE	1	1	1	3
PUBLIC FEAR, ALARM OR DISTRESS				0
RAPE				0
THEFT FROM A VEHICLE				0
THEFT OR UNAUTH TAKING OF A MOTOR VEH				0
<b>Grand Total</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>4</b>

## Faversham

Offence group	Fin Yr			Grand Total
	2022	2023	2024	
CRIMINAL DAMAGE	1			1
OTHER THEFT				0
THEFT FROM A VEHICLE				0
<b>Grand Total</b>	<b>1</b>			<b>1</b>

## Sheerness

Offence group	Fin Yr			Grand Total
	2022	2023	2024	
BICYCLE THEFT	1	2		3
BURGLARY - BUSINESS AND COMMUNITY	1	1		2
BURGLARY - RESIDENTIAL				0
CRIMINAL DAMAGE	3		1	4
OTHER OFFENCES PUBLIC ORDER				0
OTHER THEFT	5	5	1	11
POSSESSION OF WEAPONS		1		1
PUBLIC FEAR, ALARM OR DISTRESS	3	1		4
ROBBERY OF PERSONAL PROPERTY		1		1
STALKING AND HARASSMENT	2			2
THEFT FROM THE PERSON	2			2
VIOLENCE WITH INJURY		2		2
VIOLENCE WITHOUT INJURY		3		3
<b>Grand Total</b>	<b>17</b>	<b>16</b>	<b>2</b>	<b>35</b>

The data has been separated out as there was a large date set for Holiday parks

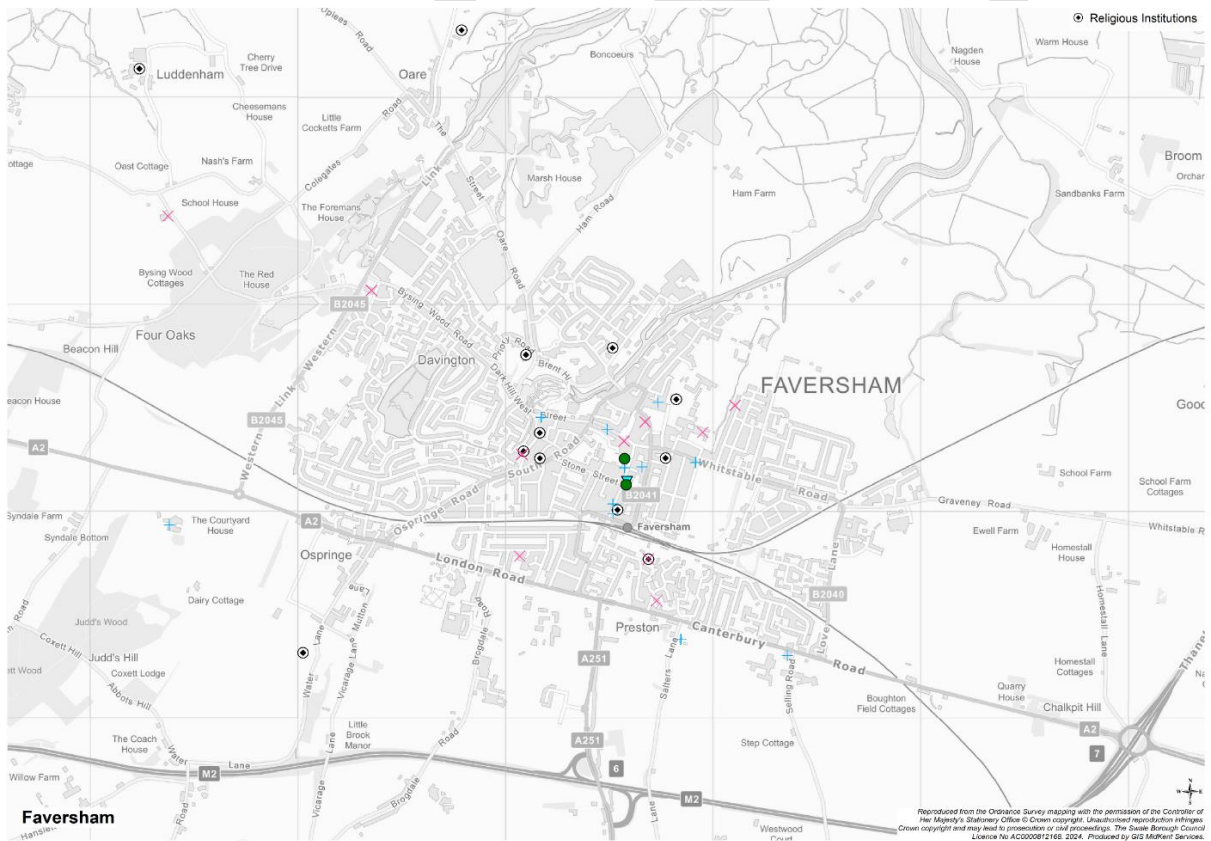
### Sheerness - Holiday Parks

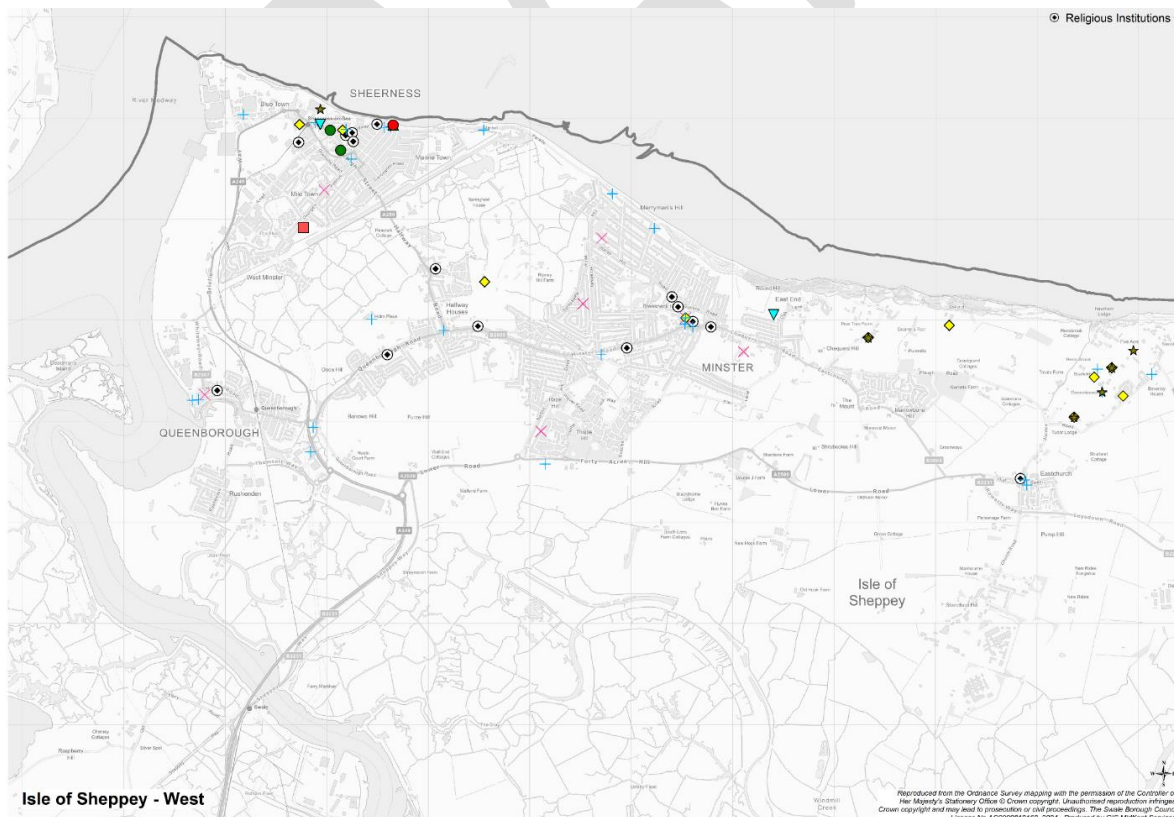
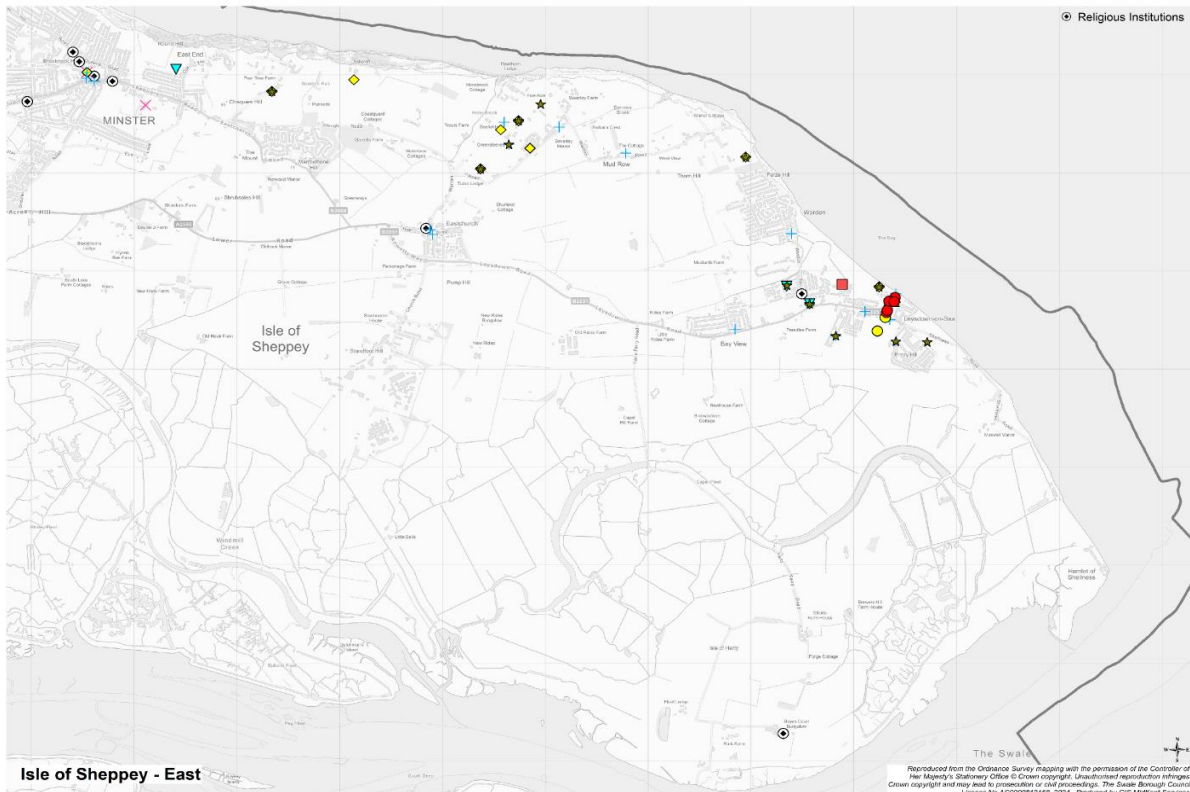
Offence group	Fin Yr			Grand Total
	2022	2023	2024	
AGGRAVATED VEHICLE TAKING				0
ARSON	1			1
BICYCLE THEFT		1		1
BURGLARY - BUSINESS AND COMMUNITY	2	2		4
BURGLARY - RESIDENTIAL	7			7
CRIMINAL DAMAGE	11	6		17
INTERFERING WITH A MOTOR VEHICLE				0

MISC CRIMES AGAINST SOCIETY	6	2	1	9
OTHER OFFENCES PUBLIC ORDER	4			4
OTHER SEXUAL OFFENCES	6		1	7
OTHER THEFT	12	5	1	18
POSSESSION OF DRUGS		1		1
POSSESSION OF WEAPONS	1			1
PUBLIC FEAR, ALARM OR DISTRESS	7	2		9
RACE OR RELIGIOUS AGG PUBLIC FEAR		1		1
RAPE	5	4	1	10
RESIDENTIAL BURGLARY-HOME		1		1
ROBBERY OF PERSONAL PROPERTY		1		1
STALKING AND HARASSMENT	21	7	2	30
THEFT FROM A VEHICLE	1	1		2
THEFT FROM THE PERSON				0
THEFT OR UNAUTH TAKING OF A MOTOR VEH	1	2		3
TRAFFICKING OF DRUGS				0
VIOLENCE WITH INJURY	35	20		55
VIOLENCE WITHOUT INJURY	34	28	3	65
VIOLENT DISORDER				0
<b>Grand Total</b>	<b>154</b>	<b>84</b>	<b>9</b>	<b>247</b>

#### Map 10: Religious Institutions

The location of the religious institutions of Swale is listed on the maps. The licensed gambling premises are also included.







### 13. Summary

Although not a statutory requirement, a Local Area Profile will increase awareness of any identified risks in order to inform operators to provide sufficient detail when completing their risk assessments. This will facilitate constructive engagement with operators and a greater coordinated response to any identified local risks.

There are a few benefits of the Local Profile:

- It enables licensing authorities to better serve their local community, by better reflecting the community and the risks within it
- It provided greater clarity for operators as to the relevant factors in licensing authority decision making, will lead to improved premises licence applications, with the operator already incorporating controls and measures to mitigate risk in their application
- It should enable licensing authorities to make robust but fair decisions, based on a clear, published set of factors and risks, which are therefore less susceptible to challenge
- It encourages a proactive approach to risk that is likely to result in reduced compliance and enforcement action.

It is expected that the Local Area Profile will develop over time and will be influenced by information and intelligence supplied by researchers, key partners and other stakeholders.

## List of gambling treatment helplines and contact details

### National Gambling Helpline

[www.gamcare.org.uk/support-and-counselling/frontline-services/netline](http://www.gamcare.org.uk/support-and-counselling/frontline-services/netline)

Telephone: 0808 8020 133

### Gamblers Anonymous

[www.gamblersanonymous.org.uk](http://www.gamblersanonymous.org.uk)

### GamAnon

[www.gamanon.org.uk](http://www.gamanon.org.uk)

Email: [contact@gamanon.org.uk](mailto:contact@gamanon.org.uk)

Telephone: 08700 50 88 80

### Gordon Moody Association

Email: [help@gordonmoody.org.uk](mailto:help@gordonmoody.org.uk)

Telephone: 01384 241292

### National Problem Gambling Clinic

Email: [gambling.cnwl@nhs.net](mailto:gambling.cnwl@nhs.net)

Telephone: 020 7381 7722

### Sources of data:

- (1) Swale Crime figures – Kent Police
- (2) Kent County Council Website
- (3) Gambling Commission website
- (4) Local Government Association guidance – Tackling gambling related harm
- (5) Corporate Equality Scheme 2024-2028

If you would like the Statement of Principles for Gambling in large print, or in another language, please contact the Licensing Team.

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Licensing Department  
Swale House  
East Street  
Sittingbourne  
Kent ME10 3HT

Phone: 01795 417286  
Email: [licensing@swale.gov.uk](mailto:licensing@swale.gov.uk)

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