

Kent and Medway Licensing Compliance and Enforcement Protocol

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1. INTRODUCTION

1.1 This joint Licensing Compliance and Enforcement Protocol seeks to cover all relevant licensing functions and all related topics, in as much as it applies to each individual organisation in Kent and Medway.

1.2 These include but are not exclusive to the following organisations:

Kent Police

Kent Fire and Rescue Service

Kent County Council Trading Standards

Gambling Commission

Securities Industry Authority

Public Health

Social Services

Licensing Operations at the Local Authorities in Kent and Medway

2. AIM OF THIS PROTOCOL

2.1 This protocol is intended to reinforce the aims of the published guidance to all relevant legislation (as shown in appendix A) by promoting effective practice, and the Regulators Code ensuring proportionate, consistent and targeted regulator activity, whilst developing a transparent and effective dialogue and understanding between regulators and those we regulate.

3. PRINCIPLES OF OPERATION

3.1 In adopting this document the parties agree to:

- Continue to promote the spirit of co-operation that exists between the relevant agencies;
- Recognise the benefits to be derived from developing close working relationships;

- Seek to enhance the understanding of the advantages and opportunities which joint activity can bring to effective enforcement and community safety;
- Promote the legitimate exchange of information and operational co-operation in support of shared objectives.

3.2 Each party to this protocol undertakes:

- To regularly consult with each other upon matters of policy and strategy;
- To ensure that the information it holds is accurate and up to date;
- That information disclosed by any party will be kept secure by the partner to whom it has been provided.

3.3 All parties to this protocol agree when handling the media:

- To be fair to other organisations and maintain their integrity;
- When providing information to do so honestly and fairly;
- Statements must reflect the multi-agency decision process or, clearly identify the statement as the independent position of an individual organisation;
- Consent of the data owner will be sought prior to releases of information to all third parties.

4. LIAISON ARRANGEMENTS

4.1 There will be regular contact and liaison between the parties to:

- Provide access to appropriate sources of information;
- Provide a consistent approach to communication, operations and investigations;
- Encourage early contact and liaison in specific cases;
- Allow for advice or guidance to be given in relation to a specific case;
- Ensure that any national or regional campaigns or investigations are considered;
- Enable relevant officers to be kept informed of the progress of cases that are being investigated;

- Ensure that information and intelligence being passed between the agencies is in accordance with the Kent and Medway Information Sharing Agreement (see Appendix B) and data protection legislation.

4.2 To this end, officers from parties will seek to:

- Ensure the effective exchange of information between the agencies;
- Consider the need for joint visits;
- Implement co-ordinated actions as necessary;
- Co-ordinate the supply of evidence and information to any other agency taking formal action;
- Work together where practicable, to promote stated objectives;
- Discuss and liaise in the event of uncertainty over lead roles.

5. EFFECTIVE PRACTICE

5.1 The parties to this agreement will ensure that they will carry out the work undertaken in accordance with the legislation, government guidance and all reasonable aspects of effective practice. In doing so each party will:

- Focus primarily on premises/activities that are determined by consultation between the parties to be a high risk of contravening the legislation and the objectives of the legislation;
- Ensure all guidance and information is in a clear, accessible and concise format, using media appropriate to the business;
- Ensure that service delivery is provided in a non-discriminatory manner;
- Highlight those matters that are legal requirements to separate them from matters that are recommendations or good practice;
- Provide information in a timely manner and where required, advise recipients of their legal rights in such matters;
- Ensure, wherever possible, that responsible persons do not undertake work that is unnecessary in terms of duplication with other legislation and has regard to cost/benefit; available technology; consistency in application with enforcement action proportionate to risk in each case;

- Deal with the public, licensees and businesses in a fair and honest way;
- Provide a courteous, efficient responsive and helpful service, responding promptly and appropriately to service requests and complaints;
- Attend court in support of partner agencies where it is agreed that evidence/information will be of mutual assistance having due regard to liability.

6. RISK RATING OF LICENSED PREMISES

- 6.1 The Licensing Authority will assess the risk rating of licensed premises and will base their regulatory activity on risk, prioritising high risk premises and activities.

7. COMPLIANCE

- 7.1 Parties will regularly discuss applications, reviews, complaints and intelligence that have been received concerning licensed premises and other matters.
- 7.2 Routine visits/inspections may be made on the basis of risk assessments, as well as intelligence led operations.
- 7.3 The parties when inspecting premises will draw the appropriate authority's attention to any contraventions of any relevant legislation which are found to exist.
- 7.4 Non compliance with the relevant legislation may lead to the appropriate proportionate enforcement action.

8 ENFORCEMENT

- 8.1 Enforcement action may include the following:

- No further action
- Verbal warning
- Written warning
- Prosecution
- Other legal action

- 8.2 The relevant organisation considering enforcement action will:

- Give an early indication to all relevant parties of their intended course of action.
- Liaise with those parties as necessary to ensure a co-ordinated and thorough approach.
- Have considered that alternative approaches to dealing with the situation have been previously attempted and/or deemed to be inappropriate.

9. REVIEW OF THIS PROTOCOL

- 9.1 The parties shall periodically review this Protocol, at least once every five years, to ensure that it maintains a suitably responsive and practical arrangement for all licensing functions.

Appendix A

Relevant legislation

The following list, though not exhaustive, details the legislation under which organisations issue licences, permits and registrations and enforce the same

For alcohol, regulated entertainment and late night refreshment

Licensing Act 2003

Criminal Justice and Police Act 2001

Policing and Crime Act 2009

Crime and Security Act 2010

Police Reform and Social Responsibility Act 2011

Live Music Act 2012

For gambling

Gambling Act 2005 (as amended)

For sex establishments and sexual entertainment venues

Local Government (Miscellaneous Provisions) Act 1982

Policing and Crime Act 2009

For scrap metal dealers and motor salvage operators

Scrap Metal Act 2013

For taxi licensing

Town Police Clauses Act 1847

Local Government (Miscellaneous Provisions) act 1976

Road Safety Act 2006

Transport Act 1985

Road Vehicles (Construction and Use) Regulations 1986

Various Road Traffic Acts

For street collections

Police, Factories etc. (Miscellaneous Provisions) Act 1916

For house to house collections

House to House Collection Act 1939

House to House Regulations 1947

For street trading, market stall licences and car boot sales

Local Government (Miscellaneous Provisions) Act 1982

For caravans and mobile homes

Public Health Act 1936

Caravan Sites and Control of Development Act 1960

Mobile Homes Act 2013

Pleasure Boats

Public Health Acts Amendment Act 1907

Animal Boarding

Animal Boarding Establishments Act 1963

Pet shops

Pet Animals Act 1951

Riding Establishments

Riding Establishments Act 1964

Zoo licence

Zoo Licensing Act 1981

Performing Animals registration

Performing Animals (Regulation) Act 1925

Food Premises registration

EC Regulations 852/2004 (Food Premises)

Tattooists, piercing and electrolysis licence

Local Government (Miscellaneous Provisions) 1982

Massage and special treatment premises licensing

Byelaw under the Local Government (Miscellaneous Provisions) act 1982

Hypnotism permit

Hypnotism Act 1952

Environmental permitting

Environment Permitting (England and Wales) Regulations 2007

Safety certificates for regulated stands at sports grounds

Part III of the Fire Safety and Safety of Places Sport Act 1987

Ability to place tables and chairs in the road, to use the street or pavement space for displays, licences and consents for structures over, along and under the highway and skip licences

Highways Act 1980

Other legislation and codes of practice to which organisations must have due regard when making licensing and enforcement decisions. Locally set byelaws may also apply.

Crime and Disorder Act 1998

Human Rights Act 1998

The Anti-Social Behaviour Act 2003

The Equalities Act 2010

Environmental Protection Act 1990

Health Act 2006 and Smoke-free Regulations 2006/7

Legislative and Regulatory Reform Act 2006

Health and Safety (First Aid) Regulations 1981

Regulatory Reform (Fire Safety) Order 2006

Security Industry Act 2001

European Service Directive 2006/123/EC (Services in the Internal Market) and the Provision of Services Regulations 2009

Data Protection Act 1998

Freedom of Information Act 2000