

**TO:** LICENSING COMMITTEE

**DATE:** 26<sup>TH</sup> MAY 2006

**SUBJECT:** LICENSING ACT 2003

**BY:** SENIOR SOLICITOR

**Classification:** Unrestricted

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**Summary:** This report details the requirement and recommendations for members to approve the revised Licensing Policy for consultation purposes.

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**Implications:** Human Resources Implications, Minimal

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Finance Implications, Minimal

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Legal Implications, statutory requirement

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Crime & Disorder Implications, None

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Sustainability Implications, None

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Risk Implications, None

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**Decision Required:** **To approve the revised policy, to be published for mandatory consultation.**

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### Introduction/Background

We have to revise our Licensing Policy to take into account of the High Court decision in the Canterbury City Council case, where the court decided that the Canterbury Policy was over-prescriptive. We need to pay attention to our policy to ensure that we do not fall foul of the issues raised. In a number of places the Canterbury policy stated that applicants "must" present applications in a certain way, when that way was not prescribed by the Licensing Act 2003 or the regulations. The Canterbury Policy also failed to make clear that if there were no objections to an application, the licence applied for had to be granted.

We worked together across the county to obtain a degree of consistency to all Kent policies and in some places the Swale Policy might be subject to similar criticism.

I have prepared the revised document so that members can see it before it goes out for consultation. Members will have the opportunity to discuss the document and any representations received after the end of the consultation period. (Note: the policy MUST be reviewed again in 2007 in time for the expiry of the current policy on 6<sup>th</sup> February 2008)

### Issue for decision

Approval of the revised policy to be published for mandatory consultation.

### Options (where appropriate) and why they are not recommended

None.

### Recommendation

I recommend that Members agree that the revised Licensing Policy be published for consultation purposes.

### Reasons for the Recommendation

To correct existing Policy in line with the High Court ruling in the Canterbury City Council case.

Author: Mike Hawkins - Ext. 7325

Date: 11<sup>th</sup> May 2006

List of background documents –

Licensing Act 2005 and guidance issued by DCMS