

## AGENDA

### GENERAL LICENSING COMMITTEE MEETING

Date: Thursday, 20 February 2020

Time: 7.00pm

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

Membership:

Councillors Cameron Beart, Derek Carnell (Chairman), Roger Clark, Richard Darby, Mark Ellen, Simon Fowle, Lee McCall, Paul Stephen, Eddie Thomas and Tony Winckless (Vice-Chairman).

Quorum = 3

---

Pages

#### 1. Emergency Evacuation Procedure

The Chairman will advise the meeting of the evacuation procedures to follow in the event of an emergency. This is particularly important for visitors and members of the public who will be unfamiliar with the building and procedures.

The Chairman will inform the meeting whether there is a planned evacuation drill due to take place, what the alarm sounds like (i.e. ringing bells), where the closest emergency exit route is, and where the second closest emergency exit route is, in the event that the closest exit or route is blocked.

The Chairman will inform the meeting that:

(a) in the event of the alarm sounding, everybody must leave the building via the nearest safe available exit and gather at the Assembly points at the far side of the Car Park. Nobody must leave the assembly point until everybody can be accounted for and nobody must return to the building until the Chairman has informed them that it is safe to do so; and

(b) the lifts must not be used in the event of an evacuation.

Any officers present at the meeting will aid with the evacuation.

It is important that the Chairman is informed of any person attending who is disabled or unable to use the stairs, so that suitable arrangements may be made in the event of an emergency.

2. Apologies for Absence and Confirmation of Substitutes

3. Minutes

To approve the [Minutes](#) of the Meeting held on 31 July 2019 (Minute Nos. 174 – 178) as a correct record.

4. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves or their spouse, civil partner or person with whom they are living with as a spouse or civil partner. They must declare and resolve any interests and relationships.

The Chairman will ask Members if they have any interests to declare in respect of items on this agenda, under the following headings:

(a) Disclosable Pecuniary Interests (DPI) under the Localism Act 2011. The nature as well as the existence of any such interest must be declared. After declaring a DPI, the Member must leave the meeting and not take part in the discussion or vote. This applies even if there is provision for public speaking.

(b) Disclosable Non Pecuniary (DNPI) under the Code of Conduct adopted by the Council in May 2012. The nature as well as the existence of any such interest must be declared. After declaring a DNPI interest, the Member may stay, speak and vote on the matter.

(c) Where it is possible that a fair-minded and informed observer, having considered the facts would conclude that there was a real possibility that the Member might be predetermined or biased the Member should declare their predetermination or bias and then leave the room while that item is considered.

**Advice to Members:** If any Councillor has any doubt about the existence or nature of any DPI or DNPI which he/she may have in any item on this agenda, he/she should seek advice from the Monitoring Officer, the Head of Legal or from other Solicitors in Legal Services as early as possible, and in advance of the Meeting.

5. Public Session

The Council operates a scheme of public speaking at meetings of the General Licensing Committee. Requests to speak at the meeting must be registered with Democratic Services by 4.30pm on Friday 14 February 2020 and must be related to an item on the agenda. Each speaker has a maximum of three minutes to speak.

**Part B items for the General Licensing Committee to decide**

6. Gambling Act 2005: Local Area Profile

7. Street Trading Policy

37 - 76

8. Taxi Road Safety - discussion item

**Issued on Monday, 10 February 2020**

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact DEMOCRATIC SERVICES on 01795 417330**. To find out more about the work of this Committee please visit [www.swale.gov.uk](http://www.swale.gov.uk)

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

This page is intentionally left blank

<b>General Licensing Committee Meeting</b>	
<b>Meeting Date</b>	20 <sup>th</sup> February 2020
<b>Report Title</b>	Gambling Act 2005: Local Area Profile
<b>Cabinet Member</b>	Cllr Richard Palmer, Cabinet member for Community
<b>SMT Lead</b>	David Clifford
<b>Head of Service</b>	Della Fackrell, Resilience & Licensing Manager
<b>Lead Officer</b>	Mohammad Bauluck, Licensing Officer
<b>Key Decision</b>	No
<b>Classification</b>	Open
<b>Recommendations</b>	1. That the Committee recommends to the Council the revision of the Gambling Act 2005 Statement of Principles 2019 – 2022 to include the Local Area Profile.

## **1 Executive Summary**

- 1.1 The Gambling Act 2005 requires the Council as licensing authority to prepare and publish a Statement of Principles every three years. The existing Statement of Principles was published in February 2019 and will be due for renewal in February 2022. The Statement can be revised at anytime.
- 1.2 During the development of the current statement, there were some changes in the recommended approach to gambling licensing and regulation, as expressed in Guidance published by the Gambling Commission, which recommended that Local Authorities produce a local area profile examining the risks associated with gambling in the area.
- 1.3 A draft Local Area Profile for the Swale Borough has been produced. The Council has a duty to consult on the proposed addition to the Policy and officers are seeking approval to conduct the consultation.
- 1.4 Following consultation a further report will be presented to the next session of the Licensing Committee with the results of the consultation and seeking approval to the draft Local Area Profile for inclusion with the current Statement of Principles

## **2 Recommendation to Licensing Committee**

- 2.1 That the Committee approves the draft Local Area Profile for public consultation and instructs officers to carry out the consultation over a 12 week period.

### **Reasons for recommendation**

- 2.3 To obtain the views of interested parties on the proposed Local Area profile to be included within the current Statement of Principles and use these views to formulate any changes to the profile.

### **3 Proposals**

- 3.1 The report informs the Committee of the proposed addition of a Local Area profile to the current Gambling Act 2005 Statement of Principles.
- 3.2 It asks for the Committee to approve the public consultation exercise on the proposed Local Area Profile in Appendix I

### **4 Strategic Framework**

- 4.1 Adopting a Local Area profile to accompany the Gambling Act Statement of Principles 2019 – 2022 will contribute to our fundamental themes and priorities as follows:

Economy – Supporting business, growth and employment  
Sustainability – Safe Borough

- 4.2 The statement of principles balances the right of an applicant to make an application under the Gambling Act 2005 (the Act) and to have the application considered on its merits, against the right of any person to make representation on an application or to seek a review of an existing licence.
- 4.3 An appropriate balance will help gambling businesses to develop successfully whilst proving assurance to the public and protecting children and vulnerable persons.
- 4.4 The Local Area Profile will assist industry operators in the Borough to identify localised risk gambling venues pose to the licensing objectives, including the protection of young and vulnerable people; and take preventative controls.

### **5 Background**

- 5.1 The Council is the licensing authority for the purposes of the Act which requires the Council to prepare a Statement of Gambling Principles that it proposes to apply in exercising its functions under the Act.
- 5.2 The Statement of Principles sets out the general approach the Council will take when carrying out its regulatory role under the Act and promoting the three licensing objectives:
  - 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.
- 5.3 The Act was designed to be a light touch piece of legislation covering a wide range of licensable activities such as adult gaming centre and betting premises.

## **6. Proposed Changes**

6.1 During the development of the current statement, there were some changes in the recommended approach to gambling, licensing and regulation, as expressed in guidance published by the Gambling Commission (5<sup>th</sup> Edition, September 2015)

These changes can be summarised into three broad themes:

- Increased focus on risk and regulation.
- Greater attention to local area risk.
- Encouragement of partnership and collaboration between stakeholders to mitigate risk.

6.2 From April 2016 all industry operators have to undertake local area risk assessments to explore what risks gambling venues pose to the licensing objectives, including the protection of young and vulnerable people.

6.3 The 5<sup>th</sup> edition of guidance to Local Authorities from the Gambling Commission recommends that Local licensing Authorities develop a Local Area Profile.

6.4 We are seeking the permission of the Licensing Committee to undertake public consultation on this proposed addition to the current statement of principles.

## **7. Consultation**

7.1 Consultation is critical to ensure any changes to the Statement of Principles are clear and transparent for businesses, responsible authorities and the public.

7.2 The Legislation specifies those persons and groups that the Council has a duty to consult with.

7.3 If the Committee approves the revision to the Statement of Principles, we will follow our consultation standards over a 12 week period to ensure we consult with the all the Statutory Consultees.

7.4 Methods of consultation will be by advertising on the Council's website and in a local newspaper, by emails, post and social media.

7.5 Proposed Consultees will 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
- Children's Safeguarding Services
- 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
- NHS Swale CCG
- Samaritans
- Citizen Advice Bureau
- Responsible Gambling Trust

7.6 All incoming responses shall be entered onto a grid for consideration. The Resilience and Licensing Manager together with licensing officers will conduct an evaluation of each response and give a recommendation as to whether or not to amend the Local Area Profile. The grid and recommendations will be put before General Licensing Committee prior to formal adoption.

## 8. Implications

Issue	Implications
Corporate Plan	Making Swale a better place A Council to be proud of
Financial, Resource and Property	There are no financial implications arising from this report.
Legal and Statutory	Section 349(1) of the Gambling Act 2005 requires the Council, as licensing authority to prepare and publish a statement of principles to cover each successive period of three years. Section 349(2) requires the Council to review the statement from time to time, revise the statement if thought necessary as result of the review and publish the revision before giving effect to it.
Crime and Disorder	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: <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>
Environmental Sustainability	No implications
Health and Wellbeing	No implications

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	As the register will involve the processing of personal data, GDPR and Data Protection Act 2018 principles will need to be followed

## 7 Appendices

Appendix I: Draft Gambling Act 2005 Swale Local Area Profile

## 8 Background Papers

Gambling Act 2005

Gambling Commission Guidance to licensing authorities 5th edition September 2015

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

This page is intentionally left blank

## Swale Borough Council

### Statement of Gambling Principles – Local Area Profile

#### 1. Introduction

This profile has been produced by Swale Borough Council as an associate document or 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 south west.

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 140,800 people who primarily live in its three main towns, Sittingbourne, Faversham and Sheerness

Swale has strong communication links. It 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 (population 49,300) 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 (population 12,500). 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 (population 19,600) 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.

### **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 Gypsies and Traveller communities in Kent, both on their own sites and in permanent housing.

Almost 63% 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.

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 South East average of those owning their own homes (68%) and this has increased in the last 10 years by 2%.(2.9)

### **Deprivation areas**

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.

### **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 South East

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.

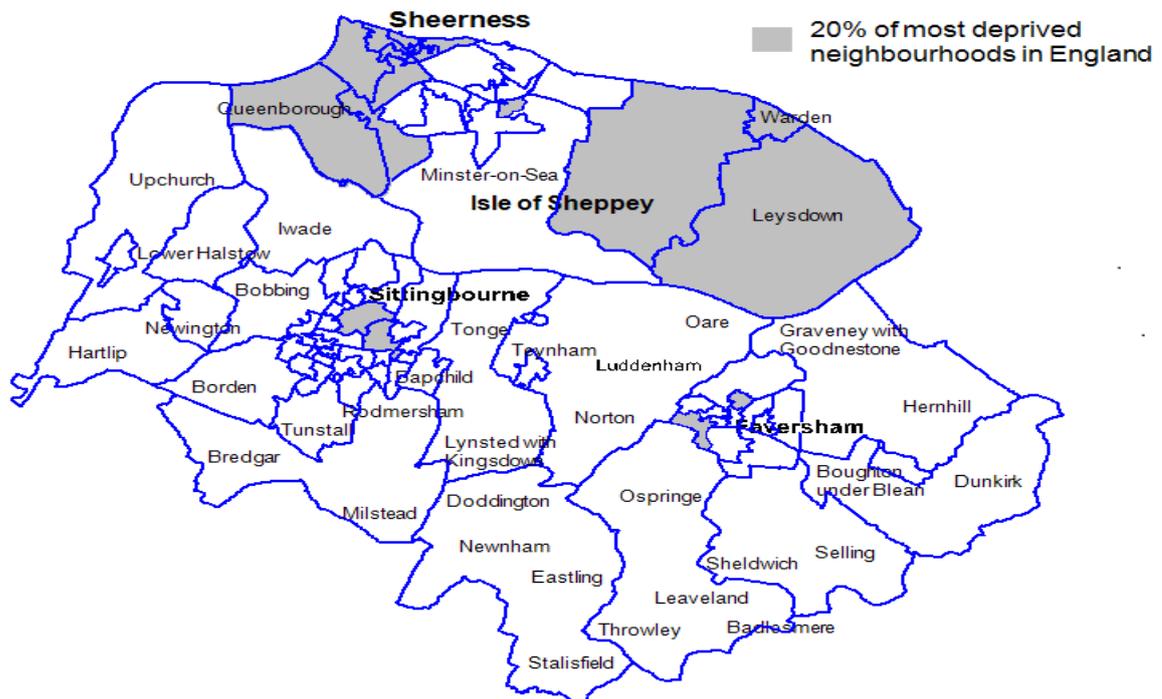
Within the rural area there are many, mostly small, businesses which significantly contribute towards employment in the Borough. Whilst this aspect of the local economy is sometimes overlooked,

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



Based on the English Indices of Deprivation 2015, Sheerness East tops the list of the most deprived area in Kent.

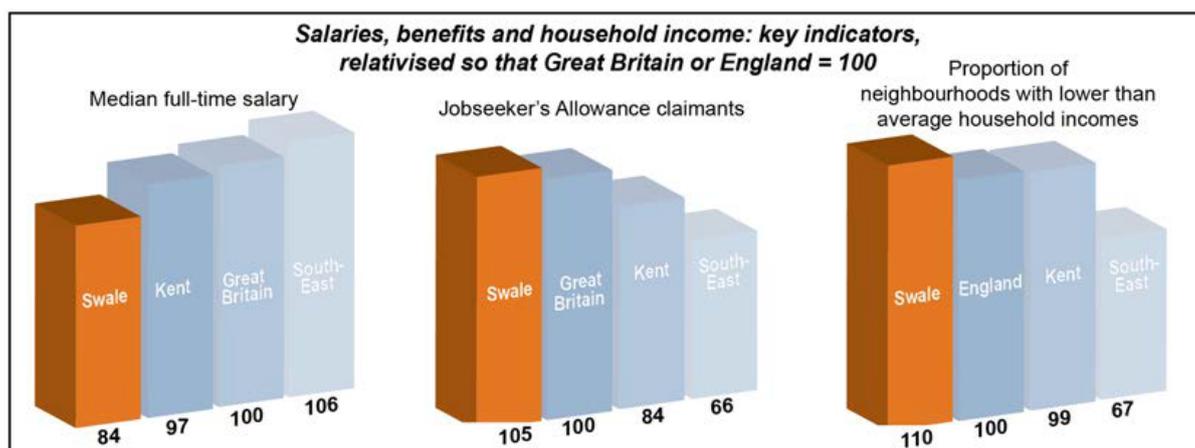
### Table 14: IDACI (ID2015): top 20 most deprived areas in Kent

The top 20 most deprived areas within Kent: ID2015: Income Deprivation Affecting Children Index (IDACI) domain

Source: English Indices of Deprivation 2015, DCLG:Department for Communities and Local Government

Table presented by Strategic Business Development & Intelligence, Kent County Council

Lower Super Output area	Electoral Ward	Local Authority	IDACI score	National Rank out of 32,844 LSOAs	Within top 10% most deprived in England	Kent rank out of 902 LSOAs
Swale 001A	Sheerness East	Swale	0.59	166	yes	1
Thanet\001E	Margate Central	Thanet	0.55	360	yes	2
Shepway 014A	Folkestone Harbour	Shepway	0.55	369	yes	3
Thanet 004A	Cliftonville West	Thanet	0.54	420	yes	4
Thanet 001D	Cliftonville West	Thanet	0.54	440	yes	5
Thanet 001A	Cliftonville West	Thanet	0.53	451	yes	6
Thanet 006D	Dane Valley	Thanet	0.52	566	yes	7
Swale 001B	Sheerness East	Swale	0.52	606	yes	8
Swale 005C	Queenborough and Halfway	Swale	0.51	615	yes	9
Swale 002C	Sheerness West	Swale	0.51	652	yes	10



#### 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.

### **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.

### **Faversham**

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

Despite 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.

The area served by the Council covers 373.5 square kilometres.

The population of Swale is distributed as follows:

Table 1 – Mid 2017 total population estimate for Swale

Local Authority	<b>2017 Mid-Year population Estimates</b>				
	Total Persons	Males		Females	
		Number	%	Number	%
Swale	148500	73500	49.5	75,100	50.5

Breakdown of Swale population – Age

<b>Swale, 2017</b>						
	<b>% of total Total population</b>		<b>% of total Males population</b>		<b>% of total Females population</b>	
<b>All Ages</b>	<b>146,700</b>	<b>100%</b>	<b>72,500</b>	<b>49.5%</b>	<b>74,200</b>	<b>50.5%</b>
0-4	9,200	6.3%	4,800	3.2%	4,500	3.0%
5-9	9,800	6.7%	5,000	3.4%	4,800	3.3%
10-14	8,800	6.0%	4,500	3.1%	4,200	2.9%
15-19	8,500	5.8%	4,400	3.0%	4,100	2.8%
20-24	8,100	5.5%	4,300	2.9%	3,800	2.6%
25-29	8,900	6.1%	4,500	3.1%	4,400	3.0%
30-34	8,900	6.1%	4,300	2.9%	4,600	3.2%
35-39	8,900	6.1%	4,200	2.9%	4,700	3.2%
40-44	8,600	5.9%	4,200	2.8%	4,400	3.0%
45-49	10,200	7.0%	5,000	3.4%	5,200	3.5%
50-54	10,900	7.5%	5,400	3.7%	5,500	3.8%
55-59	9,500	6.5%	4,700	3.2%	4,800	3.2%
60-64	8,400	5.7%	4,300	2.9%	4,100	2.8%
65-69	8,400	5.7%	4,100	2.8%	4,300	3.0%
70-74	7,800	5.3%	3,800	2.6%	4,100	2.8%
75-79	5,100	3.5%	2,400	1.7%	2,600	1.8%
80-84	3,400	2.3%	1,500	1.0%	1,900	1.3%
85+	3,200	2.2%	1,100	0.8%	2,100	1.4%

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:

- Detriments to the person’s health, both morbidity and mortality
- Emotional or psychological distress
- Financial difficulties, diverted financial resources, bankruptcy or reduction of financial situation.
- Reduced performance / loss of role at employment or study
- Relationship conflict or breakdown
- 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.
- Harm to family and friends (in terms of the partner (or spouse) and the children of people with gambling problems.
- Harm to the community (poverty, poor health, lower levels of social and human capital)
- 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:

- Young people (youth)
- Students
- Those with mental health problems
- Those afflicted with substance use/misuse issues
- Those with learning difficulties / disabilities
- Immigrants
- Ethnic Minorities
- Homeless people
- Those living in constrained economic circumstances
- Those living in deprived areas
- Prisoners
- Older People
- Those with personality /cognitive impairments
- Women potentially vulnerable to harm
- Other groups/ people

#### **What councils can do?**

- Contribute data and insight to the development of local area profiles to support licensing statements of policy.
- Ensure public health teams are aware of harmful gambling and can support services to screen, assess and signpost to appropriate support.
- Identify local organisations providing treatment and support, to assist signposting.
- Identify appropriate referral pathways.
- Work through the Health and Wellbeing Board to develop a coherent approach to problem gambling, include focused prevention work with potential high-risk groups.
- 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
- 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).

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.

### **Gambling Premises**

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

<b><u>Type of premises</u></b>	<b><u>Number of Premises</u></b>
Casinos	Nil
Adult Gaming Centre (AGC)	4
Family Entertainment Centre (FEC's)	5
Betting Premises	11
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><u>Type of premises</u></b>	<b><u>Number of Premises</u></b>
Unlicensed Family Entertainment Centre (uFEC)	15
Gaming Machine Permit	14
Gaming Machine Notification	82
Club gaming Permit	1
Club machine Permit	15
Small Society Lotteries	60

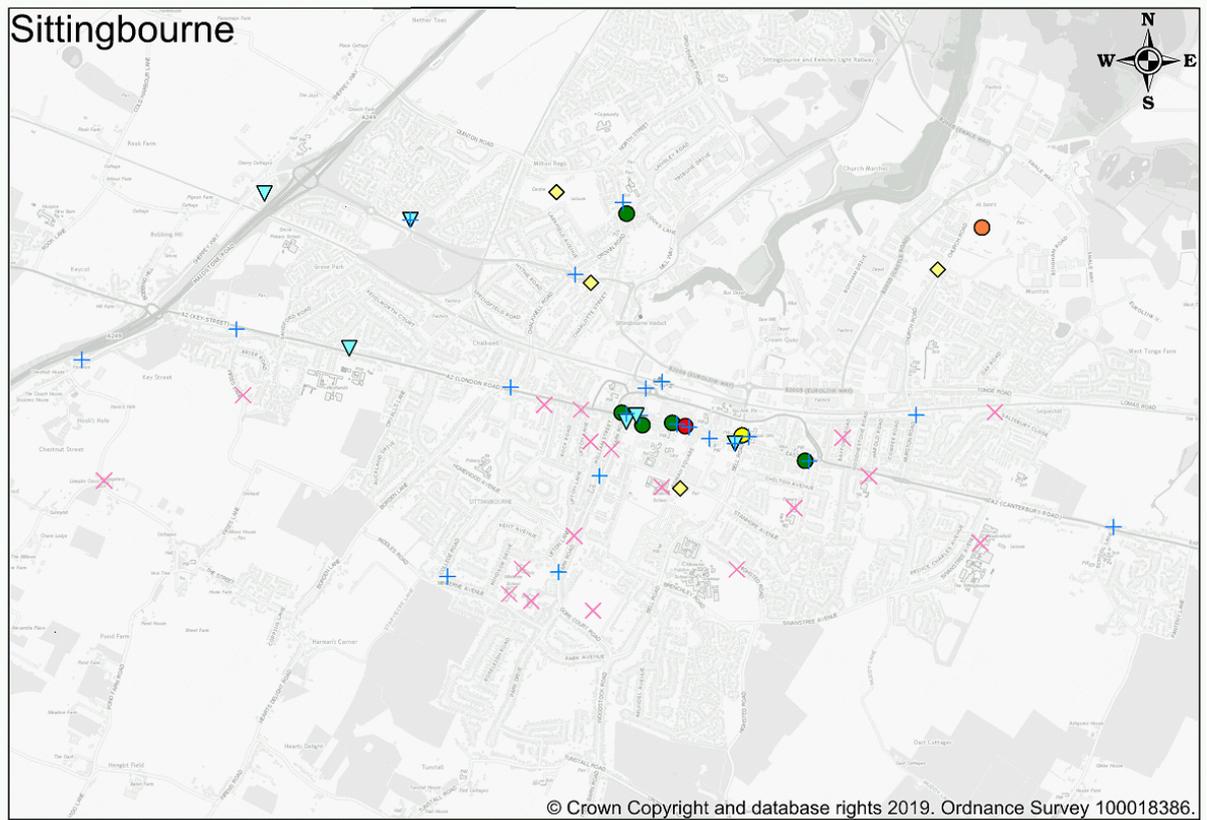
Gambling Act 2005 Local Area Profile January 2019

- Adult Gaming Centre
- Adult Gaming Centre / Family Entertainment Centre
- Betting
- Bingo
- Bingo / Family Entertainment Centre
- Family Entertainment Centre
- Track

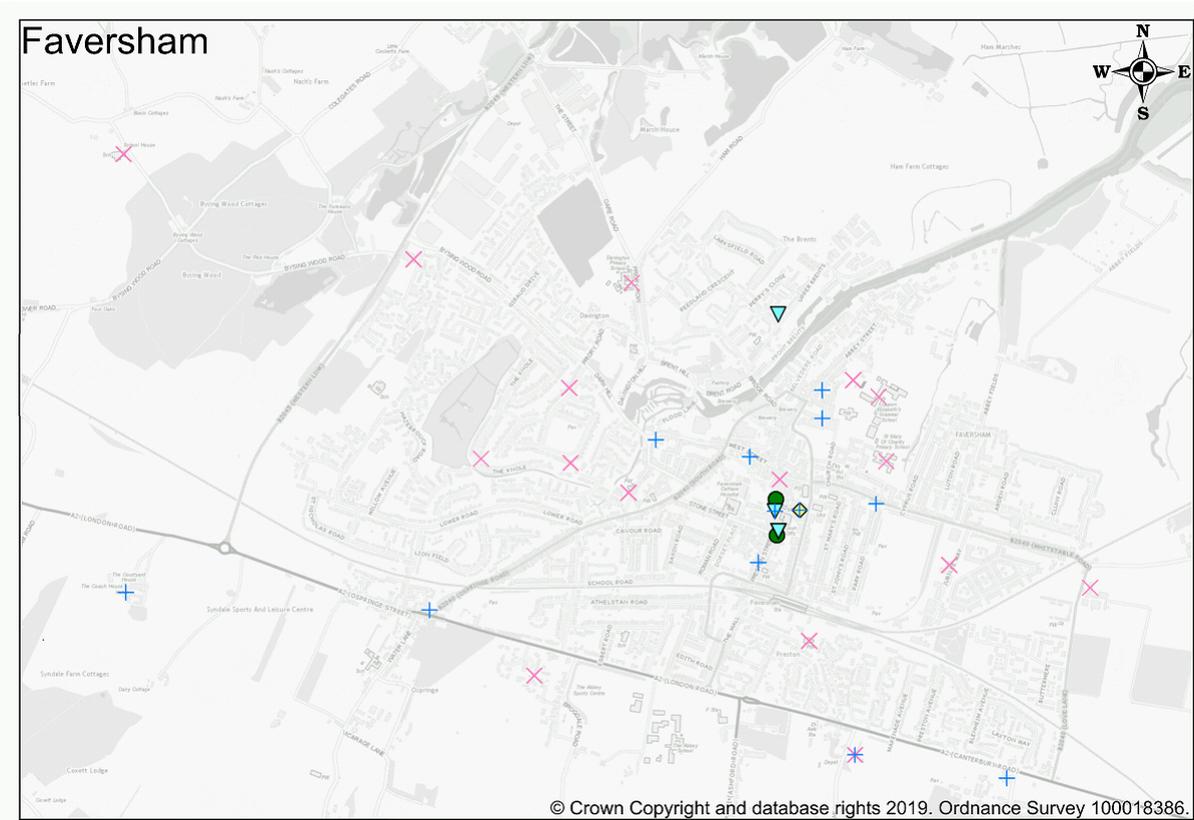
Gambling Act 2005 Local Area Profile September 2019

- Club Gaming Permit
- ◆ Club Machine Permit
- ▲ Family Entertainment Centre PL
- ▼ Licensed Premises Gaming Machine Permit
- + Notification of Intent (2 or Less)
- × Small Society Registration
- ★ Unlicensed Family Entertainment Centre

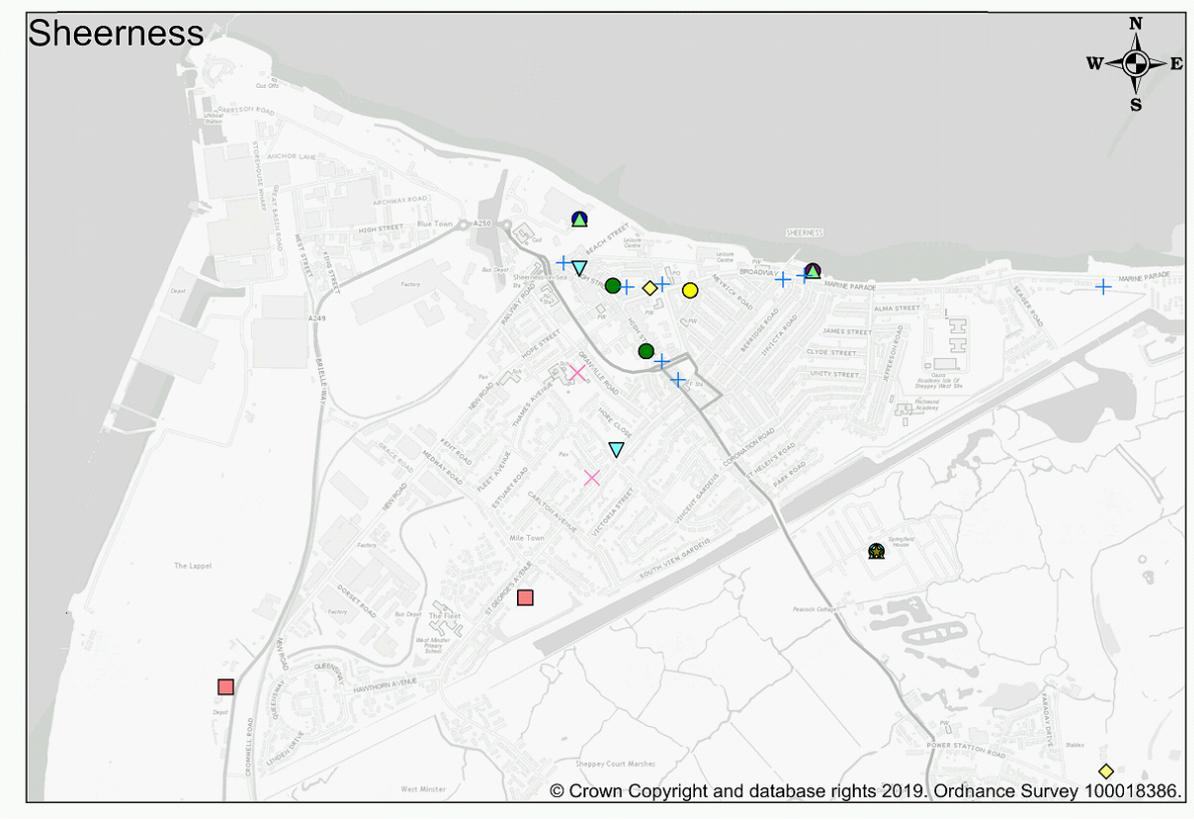
Map 1



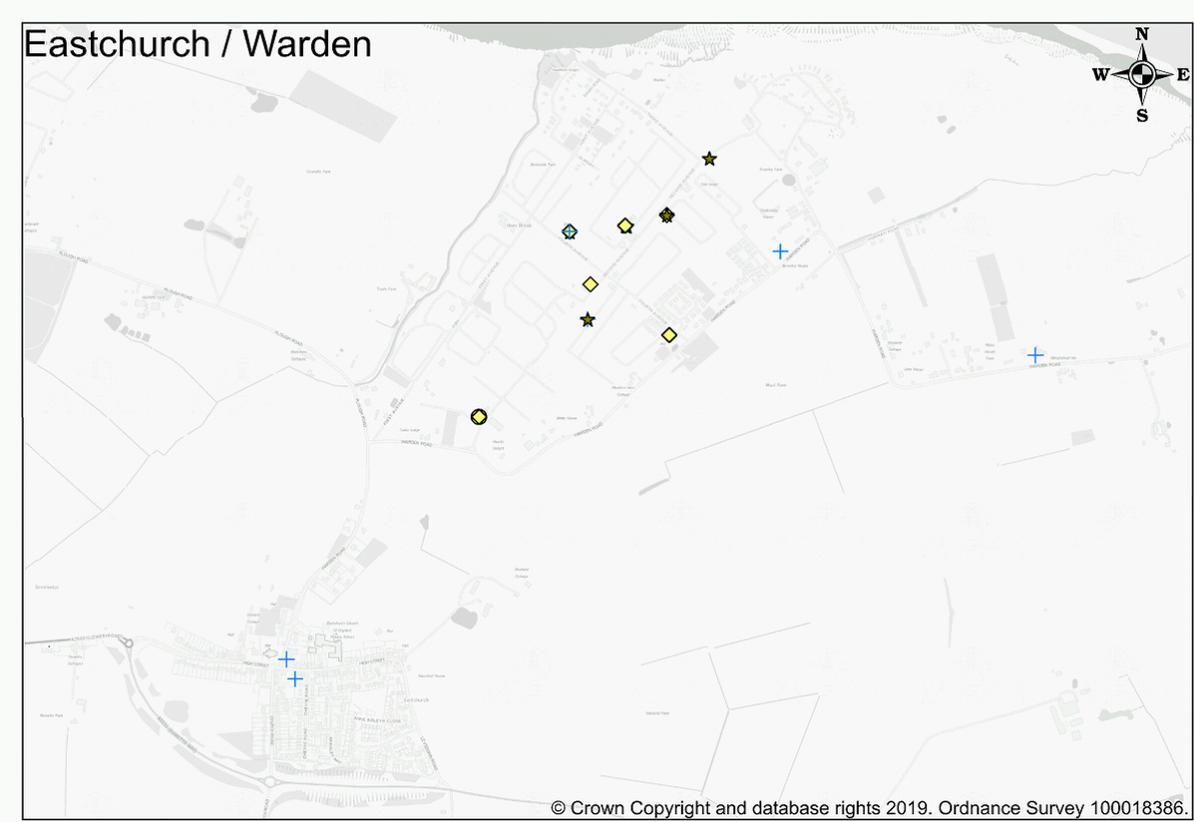
Map 2



Map 3



Map 4



Map 5



Map 6



Risk factor: Problem Gamblers seeking treatment

Dataset Used: Gamblers Anonymous meetings, Gamcare counselling locations

**Map 7: Location of Gamcare Counselling locations - Maidstone is the closest one**

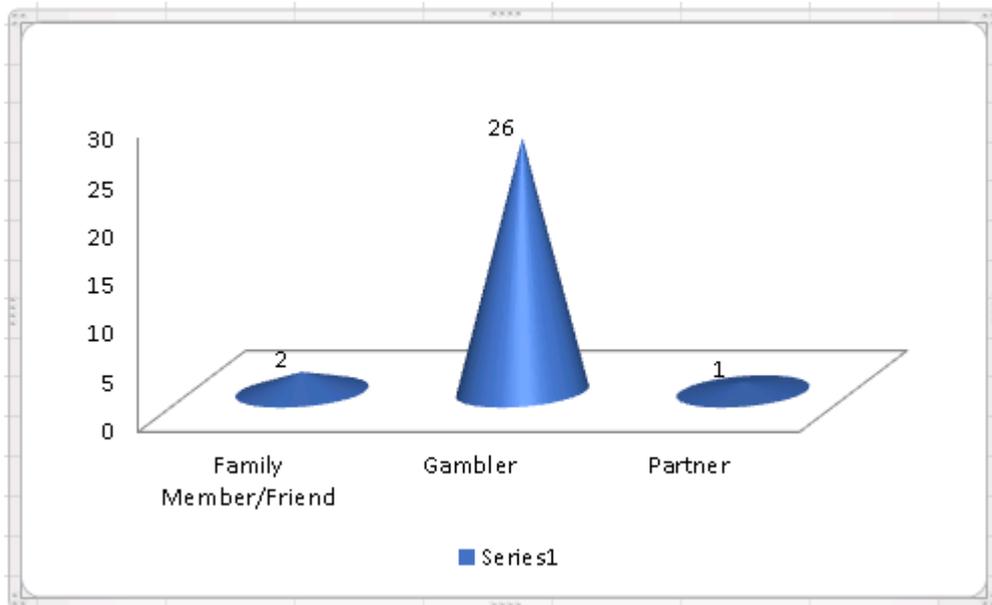
The screenshot displays a Google Maps interface. On the left, there are two provider details for 'BREAKEVEN'. The first provider is located in Maidstone (ME156LT) and has a phone number of 0127 383 3722 and a website link. The second provider is located in Essex (CM11JR) and also has a phone number of 0127 383 3722 and a website link. On the right, a map shows the Kent region with a red pin marking a location near Sittingbourne and a blue pin marking Maidstone. The map includes labels for various towns and roads.

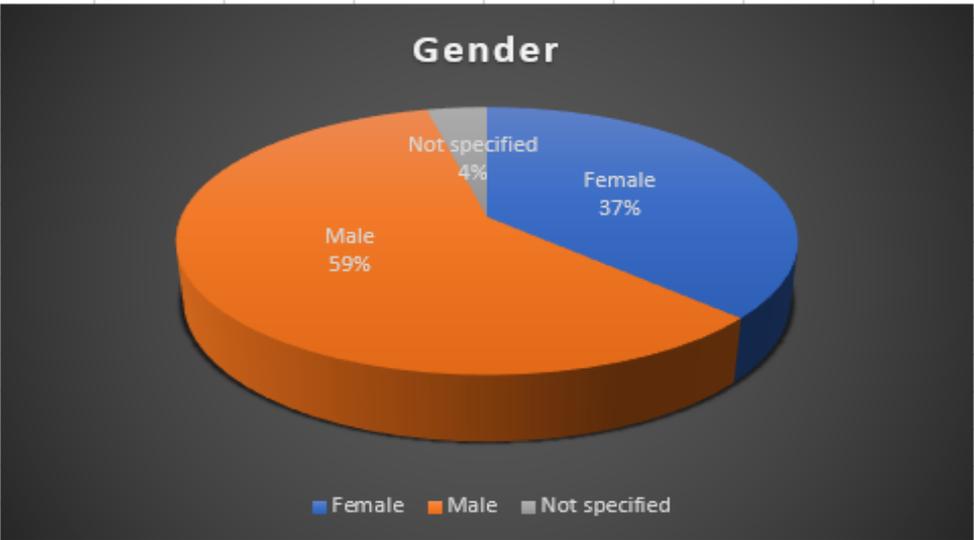
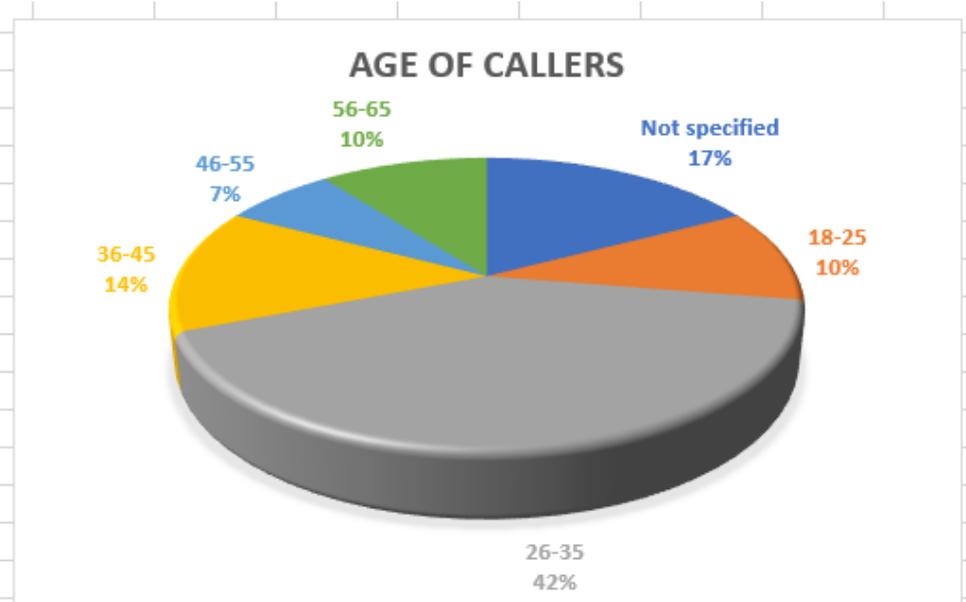
Please see below the details from Breakeven

The graph shows the calls they received during the period of Jan – Dec 2018

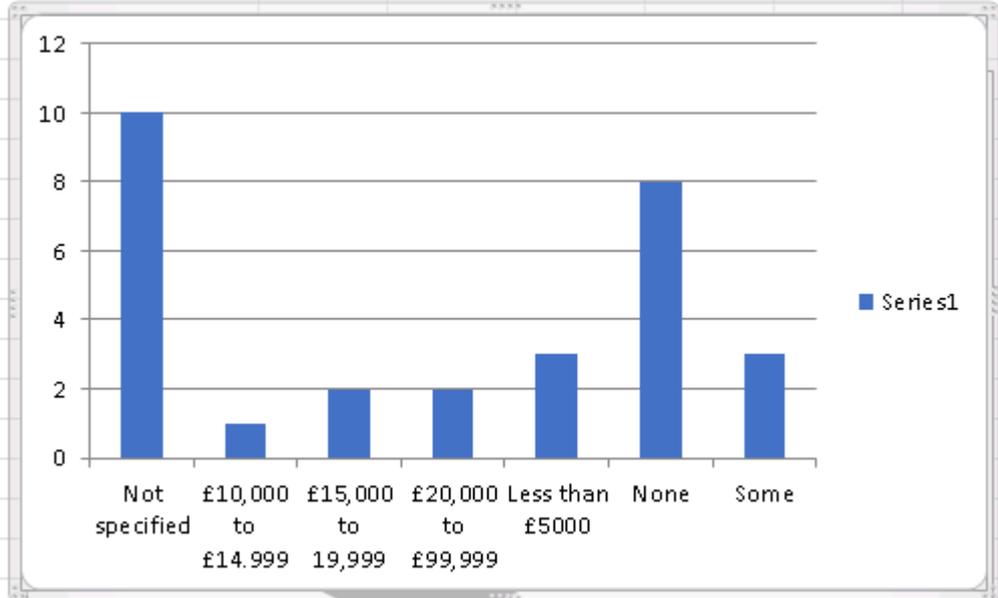
**Caller Type**

There were a total of 29 callers during that period.

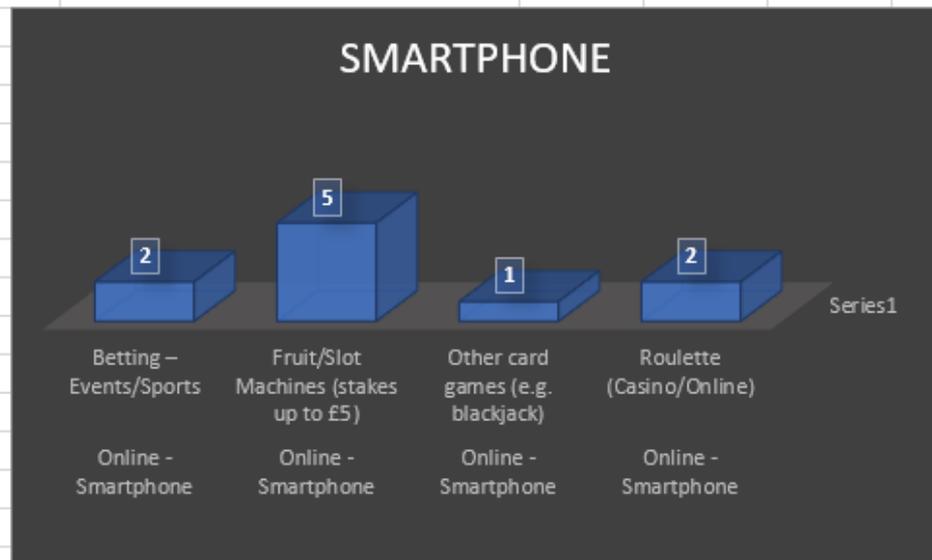




**Debt Disclosed** – The callers indicated the level of debt they were in



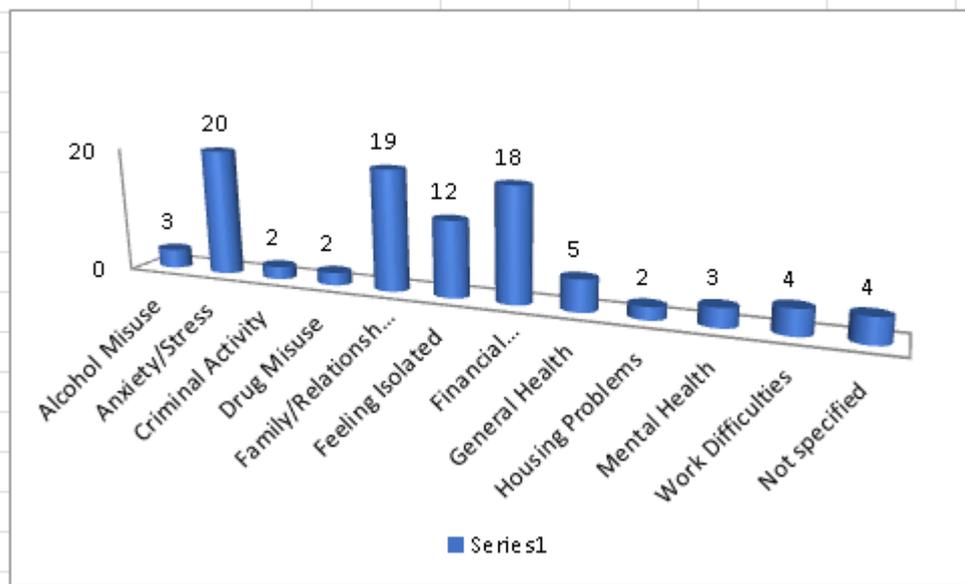
**The Gambling location and activity undertaken by the callers**



**The other categories**

<b>Not Specified</b>	Not Specified	1
<b>Arcade - Family</b>	Fruit/Slot Machines (stakes up to £5)	2
<b>Casino</b>	(Not asked)	1
<b>Online - Tablet</b>	Roulette (Casino/Online)	1
<b>Online - Laptop/PC</b>	Fruit/Slot Machines (stakes up to £5)	2

**Impacts Discussed (May be more than one per call)**



**Map 8: Medical Institutions** Risk Factor: People with poor mental health

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



**Map 9: Crime and Disorder** Risk Factor: Anti Social Behaviour

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. Table A shows 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

**Swale District 2017/18 Crime Figures (Around Gambling Locations)**

Offence	Count of Crimes
<b>BURGLARY</b>	<b>1</b>
BURGLARY NON-DWELLING	1
<b>PUBLIC ORDER OFFENCES</b>	<b>4</b>
PUBLIC FEAR, ALARM OR DISTRESS	4
<b>SEXUAL OFFENCES</b>	<b>1</b>
RAPE	1
<b>THEFT</b>	<b>3</b>
OTHER THEFT	3
<b>Grand Total</b>	<b>9</b>

**Faversham 2017/18 Crime Figures (Around Gambling Locations)**

Offence	Count of Crimes
<b>BURGLARY</b>	<b>1</b>
BURGLARY NON-DWELLING	1
<b>Grand Total</b>	<b>1</b>

**Sittingbourne 2017/18 Crime Figures (Around Gambling Locations)**

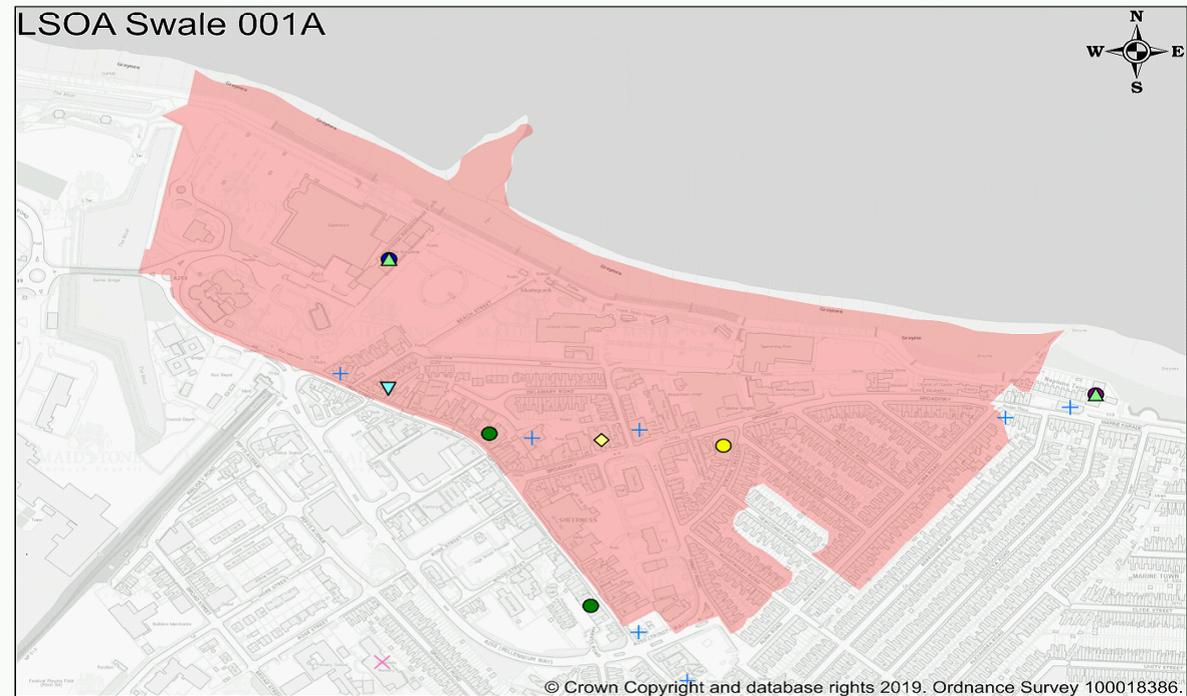
Offence	Count of Crimes
<b>PUBLIC ORDER OFFENCES</b>	<b>2</b>
PUBLIC FEAR, ALARM OR DISTRESS	2
<b>SEXUAL OFFENCES</b>	<b>1</b>
RAPE	1
<b>THEFT</b>	<b>2</b>
OTHER THEFT	2
<b>Grand Total</b>	<b>5</b>

**Isle of Sheppey 2017/18 Crime Figures (Around Gambling Locations)**

Offence	Count of Crimes
<b>PUBLIC ORDER OFFENCES</b>	<b>2</b>
PUBLIC FEAR, ALARM OR DISTRESS	2
<b>THEFT</b>	<b>1</b>
OTHER THEFT	1
<b>Grand Total</b>	<b>3</b>

**Map 10: Deprivation**

Based on the English Indices of Deprivation 2015, Sheerness East tops the list of the most deprived area in Kent. The shaded area on the map shows Sheerness East and location of the gambling premises in that area.



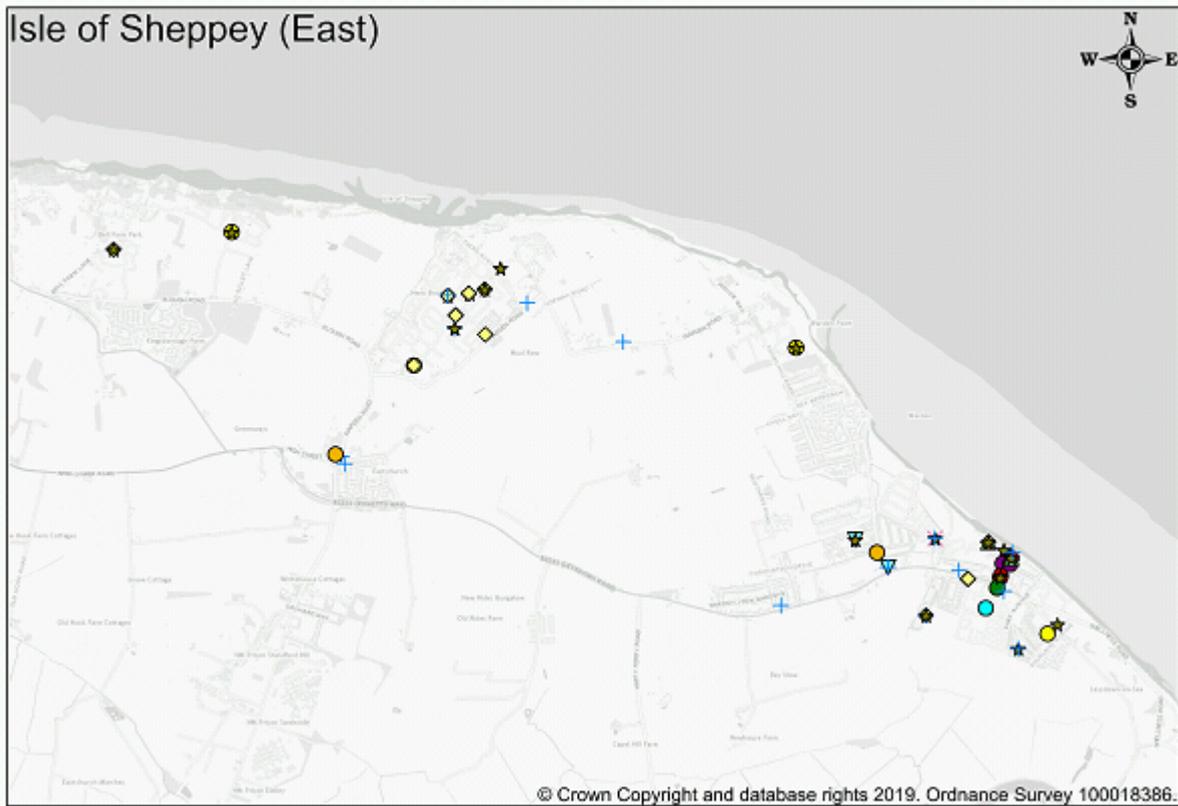
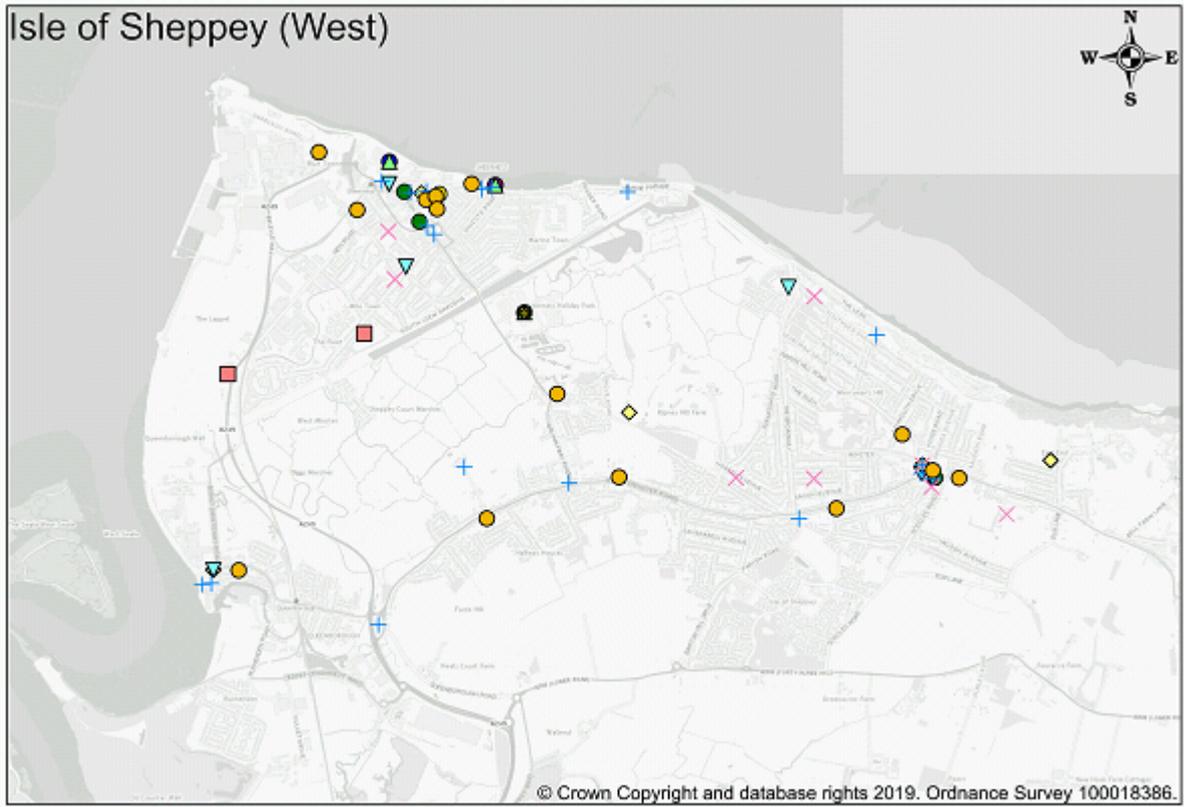
**Map 10: Religious Institutions**

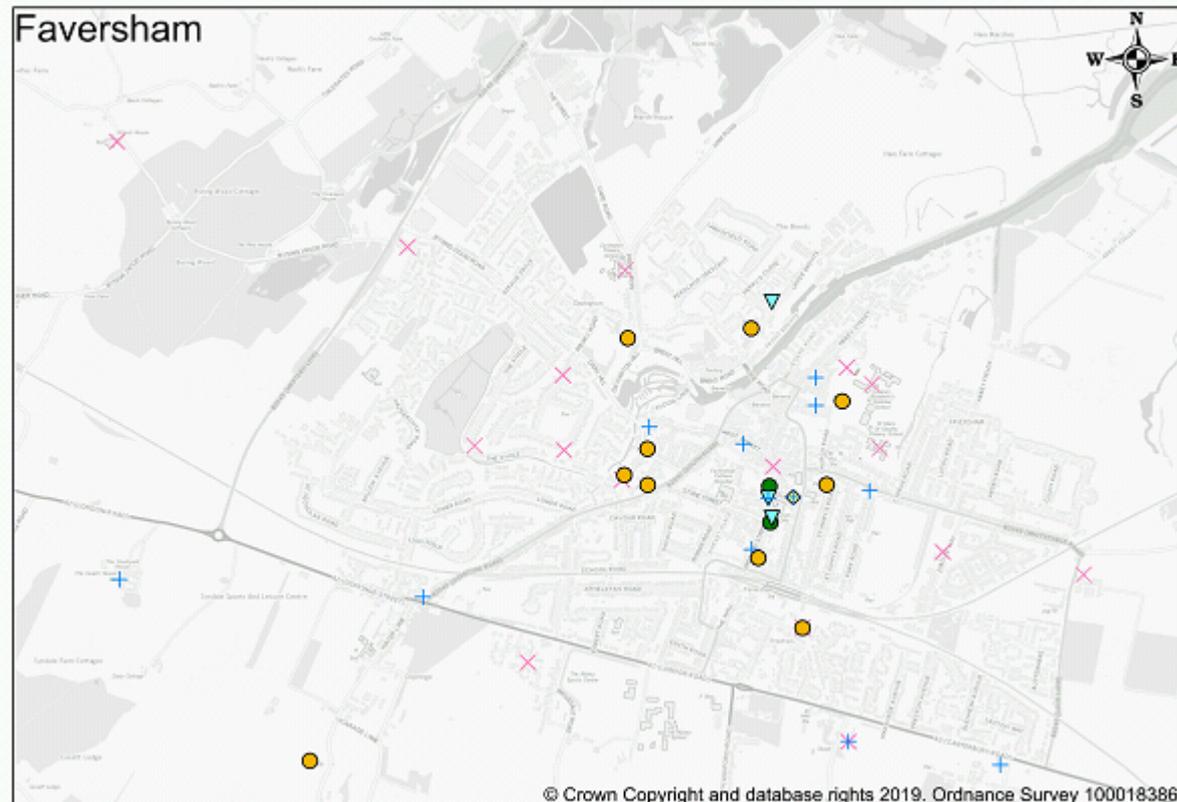
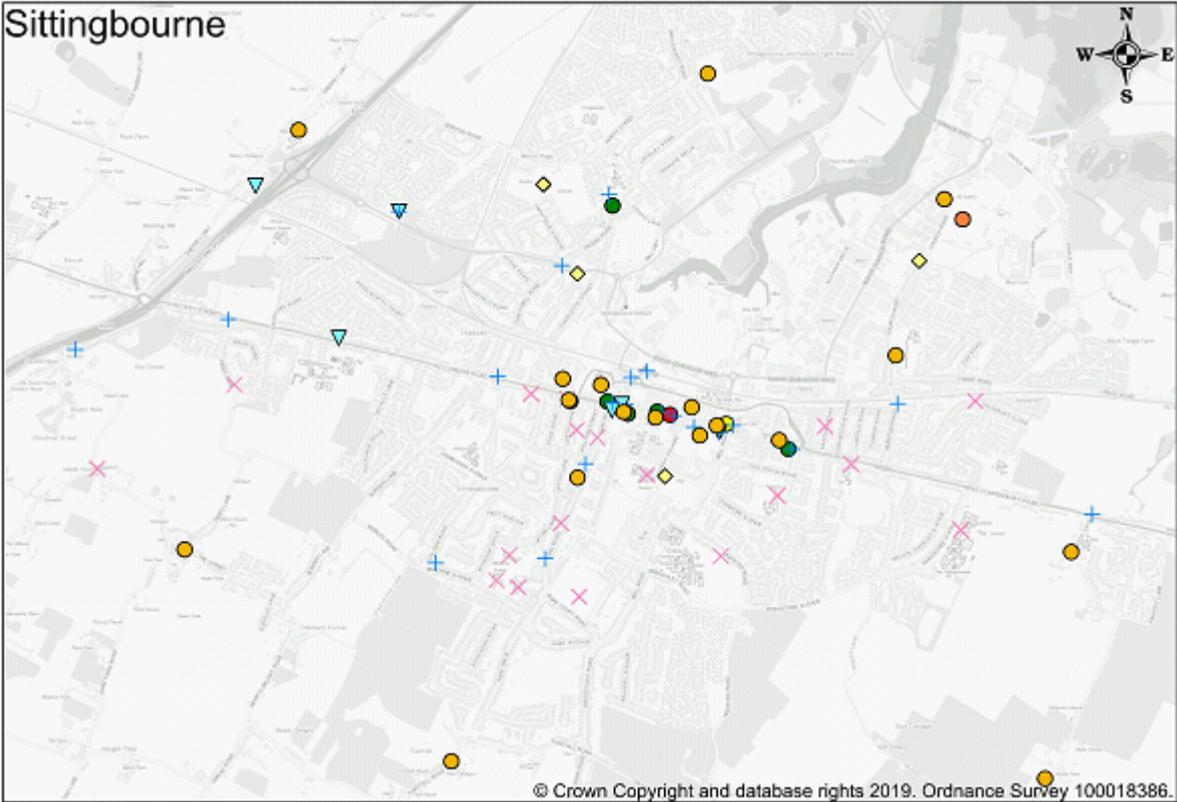
The location of the religious institutions of Swale is listed on the maps. The licensed gambling premises are also included.

Gambling Act 2005 Local Area Profile January 2019	Gambling Act 2005 Local Area Profile September 2019
● Adult Gaming Centre	■ Club Gaming Permit
● Adult Gaming Centre / Family Entertainment Centre	● Club Machine Permit
● Betting	▲ Family Entertainment Centre PL
● Bingo	▼ Licensed Premises Gaming Machine Permit
● Bingo / Family Entertainment Centre	+ Notification of Intent (2 or Less)
● Family Entertainment Centre	× Small Society Registration
● Track	★ Unlicensed Family Entertainment Centre



Religious Institutions





## **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) Bearing Fruits 2031 – Swale Borough Local Plan 2017
- (2) Swale Crime figures – Kent Police
- (3) Kent County Council Website
- (4) Gambling Commission website
- (5) Local Government Association guidance – Tackling gambling related harm
- (6) Break Even / GamCare
- (7) Ofcom Research - 2012

This page is intentionally left blank

<b>Meeting Date</b>	20 <sup>th</sup> February 2020
<b>Report Title</b>	Draft Street Trading Policy
<b>Cabinet Member</b>	Councillor Richard Palmer, Cabinet Member for Community
<b>SMT Lead</b>	Nick Vickers, Chief Financial Officer
<b>Head of Service</b>	Della Fackrell, Resilience and Licensing Manager
<b>Lead Officer</b>	Christina Hills, Licensing Officer
<b>Key Decision</b>	No
<b>Classification</b>	<b>Open</b>
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. That Members note that this report and appendices will also be presented to Policy Development and Review Committee</li> <li>2. That Members approve the draft Street Trading policy as attached as <b>Appendix II</b> for a formal consultation period of 12 weeks.</li> <li>3. That Members delegate authority to the Resilience and Licensing Manager to make any amendments to the draft policy if Members require amendments.</li> </ol>

## 1 Purpose of Report and Executive Summary

- 1.1 This report provides Members with information and guidance on a new draft Street Trading Policy which requires Members comments and approval prior to formal public consultation.

## 2 Background

- 2.1 Under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, a local authority may regulate street trading in their area. Swale BC has adopted these provisions for the whole of its area and on 23rd July 2010 designated all streets in the area as 'consent streets'
- 2.2 The effect of this designation is that street trading in any street is prohibited, subject to legal exemptions, without first obtaining a street trading consent from the Council

- 2.3 On date 1<sup>st</sup> December 2010 to ensure compliance under the European Services Directive, the Council approved a Street Trading Local Policy and Guidance Document.
- 2.4 A revised Street Trading Policy was approved by the Council on 24<sup>th</sup> July 2013 and which, although set to be reviewed in 2016, is still in existence to date. This policy is attached as **Appendix I**.
- 2.5 The Street Trading Policy outlines how the Council will execute its decision making functions when dealing with applications for Street Trading Consent.
- 2.6 There is no statutory requirement for a local authority to have a formal Street Trading policy; however, a Council can choose to adopt such a policy.
- 2.7 The adoption of a Policy benefits customers as well as reassuring the general public and other public bodies. It also reinforces effective practices and ensures proportionate, consistent and targeted regulator activity, whilst also developing a transparent and effective dialogue and understanding between regulators and those we regulate.

### **3 Proposals**

- 3.1 The existing policy has now been reviewed by officers. There have been no changes to legislation to take into account. However the current policy has been expanded in some areas to provide clarification of what is defined within the Local Government (Miscellaneous Provisions) Act 1982 and, where appropriate, exemptions contained within the existing policy have been deleted.
- 3.2 The draft Street Trading Policy is attached as **Appendix II**.
- 3.2 The existing policy has been amended as shown below:
  - Exemptions: Proposed list of examples where a street trading consent is required by the Council but where it is proposed that no fee is charged (formally Street Trading Consents for which fees are not payable).
  - Removal of '7 Metre rule', requiring consent to be obtained from anyone trading within 7 metres of the Highway. This was originally imposed to control traders (paying less) on the forecourt of commercial premises competing with established nearby businesses. However, this exemption was taken from the London Local Authorities Act 1990 rather than the Local Government (Miscellaneous Provisions) Act 1982 and is not a legal exemption.
  - Removal of the requirement, for ice-cream vendors to register and use a specific chime. This was originally imposed to assist with enforcement.

However it leads to complaints from ice-cream vendors that another vendor is using their chime and is difficult to enforce.

- Ice Cream Vans and Mobile Food Vans will be required to supply details of their proposed routes, streets and stopping places (which may vary from day to day) again to decrease complaints from other traders.
- Removal of the 'Trial Period'. Permitting individuals, under the control of an existing consent holder, to try their hand at street trading for a limited period of three weeks.
- Surrendering and revocation of a Street Trading Consent is now included in the Policy.
- Amendments to application procedure to make it more comprehensive. This includes the requirement for applicants to obtain a Standard Disclosure and Barring Service criminal records check for new and renewal applications and for one-off consents where considered necessary in order to check the suitability of the applicant.
- Event organisers will no longer apply on behalf of all stall holders, instead each individual stall holder will require a separate Street Trading Consent. The reason for this change is because currently the event organiser is the only person who would be legally accountable and the only person that the Council could take enforcement action against should there be any problem (for example trading in counterfeit goods)
- Enforcement this section has been expanded
- Data Retention information is now included in the Policy.

## **4 Fees**

4.1 There will need to be a comprehensive review of the fees charged for Street Trading Consents particularly bearing in mind the following:

- Fees will need to reflect the increased administrative burden that will fall to the licensing team with this enhanced policy whilst at the same ensuring that fees are 'cost neutral'
- Currently fees are charged to event organisers based on the number of stalls at an event, whereas if the proposal to require individual stall holders to apply for their own consents is approved there will be a need to set a fee that reflects this.

- Consideration needs to be given as to whether assistants of Street Trading Consents are charged a fee – for example to cover the cost of an identity badge.
- 4.2 The Resilience and Licensing Manager together with licensing officers will undertake this review and present a report to a future meeting of the General Licensing Committee for their consideration.
- 4.3 All amendments to fees will be included within the final adopted policy.

## **5 Alternative Options**

- 5.1 The Council could choose not to introduce an updated policy on Street Trading, however, to do so would be contrary to best practice and may lead to a lack of clarity on the application of the legislation.
- 5.2.1 The Committee could consider not consulting on the proposed policy; however this would not accord with good governance, giving interested parties an opportunity to consider the proposed policy and make any representations where they consider that changes might be made before adoption.

## **6 Consultation Undertaken or Proposed**

- 6.1 A consultation period of 12 weeks is proposed to run between 2<sup>nd</sup> March 2020 and 22<sup>nd</sup> May 2020. Methods of consultation will be by advertising on the Council's website and in local newspapers and where appropriate by email and post. The results of the consultation will then be presented to the General Licensing Committee.
- 6.2. Consultees will be the following:
- All Swale Councillors
  - All Town and Parish Councils
  - Town Markets/Co-Operatives
  - Kent Police
  - Kent Fire and Rescue
  - Kent County Council Highways Department
  - Kent County Council Trading Standards
  - Kent County Council Safeguarding Unit
  - Swale BC Environmental Services (Commercial and Environmental Response teams)
  - Swale BC Planning
  - Swale BC Economy and Community Services team
  - Swale BC Green Spaces team
  - Any relevant trade associations
  - All existing Consent holders

- 6.3 All incoming responses will be entered onto a grid for consideration. The Resilience and Licensing 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 a future meeting of the General Licensing Committee for consideration and inclusion of any amendments within the policy prior to formal adoption by full Council later in 2020.

## 7 Implications

Issue	Implications
Corporate Plan	<p>Having an adopted Street Trading Policy satisfies the corporate objective of:</p> <p>A Council to be proud of</p>
Financial, Resource and Property	<p>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.</p> <p>There could be traders who previously were informed that they required no street trading consent because they were trading more than 7 metres from the highway. As this was an illegal exemption these traders will now require a street trading consent and to pay the requisite fee.</p> <p>Members may also wish to consider whether certain types of activities as detailed at paragraph 3.8 whilst requiring a Street Trading Consent will not be charged a fee.</p>
Legal and Statutory	<p>The relevant legislation in relation to street trading is contained within Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).</p>
Crime and Disorder	<p>It is a criminal offence to trade in the street without an appropriate consent. The policy provides a framework for consistent decision-making</p>
Environmental Sustainability	<p>No implications</p>
Health and Wellbeing	<p>No implications</p>
Risk Management and Health and Safety	<p>It is important that Swale BC has a robust and accountable regulatory regime in relation to street trading in order to ensure fair trading, prevent crime and to protect consumers</p>

<p>Equality and Diversity</p>	<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 street trading consent applications, only issues provided for in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and provided for in the Street Trading 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>
<p>Privacy and Data Protection</p>	<p>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.</p>

## 7 Appendices

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

- Appendix 1: Current Street Trading Local Policy 2013 - 2016
- Appendix 2: Draft Street Trading Policy 2020 - 2023

## 8 Background Papers

None

**Local Government  
(Miscellaneous Provisions) Act  
1982**

**Street Trading Local Policy and  
Guidance Document  
(2013-2016)**



## WELCOME TO SWALE

Swale has a prime location within 40 miles of the Channel Ports and London but set within the Kentish countryside. The borough has three distinct areas including Faversham, Sittingbourne and the Isle of Sheppey as well as extensive rural surroundings.

Set within the 'Garden of England', Swale provides historic towns, seaside resorts and beautiful villages combined with exceptional landscapes, wildlife and maritime and aviation history.

Swale is more deprived than the national and Kent average but with a higher percentage of diversity with a growing population of 133,400.

There is an increasing demand for new jobs and street trading provides an opportunity for employment and economic growth which will contribute towards the regeneration of Swale.

The Council aim to regulate street trading in a way that enhances the character of the borough, for the benefit of the whole community and those visiting.

### LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

## STREET TRADING LOCAL POLICY and GUIDANCE DOCUMENT

### Introduction and Scope

Local Authorities have a legal discretion to regulate street trading in their area. Street trading is covered by the Local Government (Miscellaneous Provisions) Act 1982 Schedule 4 – Street Trading, which Swale Borough Council adopted in 1993 and resolved to control within its boundaries. Any licence/ consent or permits issued prior to February 2010 are now obsolete. In Swale, streets are designated as 'consent' streets for the purposes of street trading.

The Council has designated **all** streets within its boundaries as "Consent Streets". The effect of this designation is that if you want to sell goods on the street, you are classed as a street trader and, subject to legal exemptions, will need to have the appropriate consent. Conditions can be attached to the consent as is considered 'reasonably necessary'. Trading without the required consent is a criminal offence.

### What is Street Trading?

Street trading is defined as '*selling, exposing or offering for sale any article (including a living thing) in a street*'. This includes food and beverages or other services and activities such as arts and crafts, face painting, hair braiding etc.

## **Purpose**

The purpose of this Street Trading Policy is to provide a framework for consistent decision-making. The Council wishes to create a vibrant street scene which complements retail activity, events and activities. Street trading is therefore seen by the Council as a regeneration tool.

## **Objectives of the policy**

Central to the Council's policy are a number of key objectives which are:

- To protect public health through the control of street trading within Swale by improving standards of food safety, health and safety and environmental management and enhance the image of the area.
- To address commercial need by ensuring that permitted street trading is properly regulated as to where, when and how it takes place.
- To prevent public nuisance by taking measures to reduce the risk of nuisance from noise, refuse, vermin, fumes and smells.
- To ensure that traders operate within the law and act fairly in their dealings with the public so as not to present a risk to public order.
- To ensure the suitability of the structures used for the sale of goods.
- To ensure that traders and the people that they employ are "fit and proper" in accordance with the Act and that may include a requirement for basic criminal record checks.
- To permit temporary or occasional street trading, where appropriate.

## **Can I apply?**

Any persons aged seventeen years or over may apply for a consent. The consent to trade will be allocated at the sole discretion of the Council. The allocation of a consent(s) will be directed at obtaining a wide range of trades and a high quality style of trading. Applicants are required to provide full details including where possible photographs, of their trading style.

Applicants must ensure that their proposed trade is compatible with the locations being applied for as the Council will have regard to the interests of nearby permanent traders. Permanent traders is defined as other local shops and market traders. The aim is not to discourage competition, rather to ensure an adequate mix of trades so as to avoid over saturation of any given area. Similar trades are unlikely to be allocated to different permanent consent sites in the same street unless reasonable justification is given.

## **Where can I trade?**

Street Trading consents from fixed locations will **not** normally be granted where:

- Road safety would be compromised either from the citing of the trading activity itself, or from customers visiting or leaving the site.
- Where there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited.
- There would be a significant loss of amenity caused by additional traffic, or disturbance (e.g. noise, odour or fumes, etc.).
- There is already adequate provision of similar goods in the immediate vicinity of the site to be used for street trading purposes.
- There is a conflict with Traffic Management Orders such as waiting restrictions.
- The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes.
- The trading unit obstructs the safe passage of users of the footway or carriageway.
- The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities.
- The site does not allow the Consent Holder, staff and customers to park in a safe manner.
- Any new pitch would be in competition with an existing business premise within the immediate locality selling identical items.
- Any new pitch would detract from the aesthetics of the local area.
- The pitch would be sited on the A249 or M2 as these locations are prohibited by the Highways Agency. Lay'bys on any other roads will be considered on a case by case basis.
- The pitch would be in conjunction with one of the permanent Town Markets. Applications to trade within the market footprint on market days will not be considered (for information on market footprints please contact the Licensing department).
- The pitch would be on a Council owned carpark.

## **Exemptions**

The following are considered exempt from the need to obtain a Street Trading Consent:

- Fetes and Carnivals – outdoor events staged for public entertainment and benefiting charitable concerns
- Non-commercial or charitable events organised by not-for-profit organisations, charitable trusts
- Farmers' Markets (producer managed marketplace for local producers to sell their own produce direct to local people, separate to a Town Market)
- Sale of articles by householders on land contiguous with their homes
- Trading on private land, more than 7 metres away from the Highway, the Highway is defined as any road and pavement or any land where the public

have access without payment. In this instance the trader would only require the consent of the landowner

- Door to door sales, these are not considered Street Trading as they are dealt with by way of a Peddlars Licence. The Police issue and regulate Peddlars. Peddlars licences are also issued for traders that move and only stop temporarily to complete a sale.
- A Trader operating as part of a licensed market area (e.g. Rose Street Car Park, Sheerness, Forum Car Park, Sittingbourne and The Market Place, Faversham) or fair (e.g. Faversham Recreation Ground, Milton Recreation Ground)
- Trading in a trunk road picnic area as defined in Section 112 of the Highways Act 1980
- Trading carried out by 'rounds men' e.g. milk deliveries, window cleaning
- Trading carried on at a petrol station
- Trading carried out as a news vendor only selling newspapers or periodicals (this is subject to conditions about the size and position of the stand)
- Shops utilising the pavement outside their premises, offering and/ or selling goods which are part of the business of the shop; subject to Highways and Health and Safety legislation.

### **Street Trading consents for which fees are payable**

Swale Borough Council will require payment of fees for the following street trading activities:

- One-off application (Temporary Consent, up to 96 hours/4days)
- An annual application for a fixed location
- An annual application for a non fixed location (such as Ice Cream Vans)
- A six month\* application for either a fixed or non fixed location.
- Annual renewal of a fixed location consent
- Variation of a consent (all types)
- An application a Event Organisers Consent (Multiple Stalls)

\*If applying for a 6 month consent the months must run concurrently.

### **Application procedure for a one off consent that is not part of an Event**

An individual can make an application for a one off consent in the prescribed format to the Licensing Department, one off consents are designed for events and festivals and can last for a maximum of 96 hours/4 days. The following documentation must accompany the application:

- A passport sized photograph (for the ID card)
- The fee of £30.00

The application will be assessed by the Licensing Officer, provided all of the relevant information has been submitted, the consent will be granted and issued.

The Licensing Officer will pass details of the stall holder to the Environmental Health Department and any relevant Enforcement Officer for information, no further consultation takes place.

### **Application procedure for annual or 6 month consents (not Events)**

It is essential that you contact the Planning Department prior to making an application, to check if there will be a need for you to obtain Planning Consent. It is generally the case that if you will be in situ for more than 28 days per calendar year, planning consent WILL be required.

An individual can make an application for an annual consent (fixed site) to the Licensing Department, the following documentation must accompany the application:

- An outline of desired trading area(s) (several can be proposed but only one will be granted) The proposed area will be reserved until the application has been considered
- Consent of the owner if the proposed trading area is private and you will be within 7 metres of the Highway.
- A passport sized photograph (for the ID card)
- The fee of £100.00 or £50.00 for 6 months

Your business will need to be registered with Environmental Health if you wish to sell food.

KCC Highways does not condone the use of the public highway for commercial purposes. KCC Highways will not give approval for mobile vending units but will, as part of the consultation process, provide advise on the safety aspects of a proposed location. KCC Highways **may** offer pre-application advice and applicants are advised to e-mail [roadworkseast@kent.gov.uk](mailto:roadworkseast@kent.gov.uk) stating the proposed location together with a small plan or map of the proposed site; in these circumstances advise does **not** constitute a consent.

The application will be assessed by the Licensing Officer, provided that all of the relevant information has been submitted and the application will be processed and a letter of acknowledgement will be sent to the applicant.

The Licensing Officer will then consult with the following:

Kent Police  
Kent Fire and Rescue Service  
KCC Highways  
Environmental Protection Team  
Environmental Response Team  
Environmental Commercial Team  
Ward Councillors.  
Parish and Town Councils\*

\* Parish and Town Councils would not normally be consulted in the case of mobile Ice Cream Sellers requesting a 'Whole Borough' consent.

The Promenade in Leysdown on the Isle of Sheppey has been highlighted as historically suffering from seasonal illegal traders, for this reason no temporary consents will be accepted for this area.

Each Consultee (as listed above) has 28 days from the date that they receive the application notification in which to respond (in writing) to the Licensing Department. Consultees are notified of applications by either e-mail or post.

At the end of the consultation period, if no representations have been made the Licensing Officer **may** grant the consent. If representations have been made **and no agreement between parties can be reached** the application will be referred to the Licensing Sub Committee for a decision.

### **Application procedure to renew an Annual Consent (not Events)**

Once granted an annual consent must be renewed each year. Approximately 6 weeks prior to its expiry the Licensing Officer will send a renewal reminder. Although no consultation takes place on annual renewals you should allow 28 days for the application to be processed.

You will need to submit the completed application and fee. You will not need to submit plans and photographs as these will already be held by the Council.

In some instances the Licensing Officer may deem it inappropriate to automatically renew the licence and the application would then undergo consultation with the relevant Authorities. This would be the case if complaints had been received and/or any offences had been committed since the licence was issued.

### **Application for an Annual Consent, non fixed location (Ice Cream Sellers only)**

Ice Cream vans, by the nature of their business move from location to location but still fall under this legislation. They are not classed as 'Fixed Site' traders but must obtain consent from the Local Authority to carry out trade on the Highway.

The application and consultation procedure is the same as that for a 'Fixed Site' pitch with the exception of nominating a single street, instead applicants are required to nominate an area.

The consent is granted to the individual making the 'sale' and not the overall business.

Each individual/ business operating ice-cream vans will need to nominate a unique chime at the application stage and **where possible** no traders will have the same chime. Should an individual/ business be found copying another chime

or purposely changing their chime to evade enforcement action, their consent may be revoked or any renewal application rejected.

'Fixed Site' Ice Cream Sellers should follow the same application procedure as anyone applying for a 'normal' annual or 6 month consent.

### **Trial period**

Companies who employ multiple drivers must ensure each driver is individually licensed. To allow time for a company to evaluate the suitability of a driver this authority has implemented a three week 'trial' period. Companies wishing to use this facility should contact the Licensing Department prior to the individual trading. After the trial period expires the company must make an application to authorise the driver otherwise any further trading would be considered illegal.

### **Application procedure for Event Organisers Consents**

Unique to Swale Borough Council this allows an Event Organiser (on behalf of all the street traders) to make an application to the Licensing Department, stating how many trade stands they wish to have consent for. Event organiser(s) should consider any existing shops within the boundary of their event and establish whether they intend to trade on the street scene; if not, with their agreement the 'pitch' can be offered to another trader.

For Health and Safety purposes a list of stallholders and their intended locations should accompany the application.

The fee must accompany the application and be based on the number of stalls requested as follows:

- 1 – 19 = £65.00
- 20 – 49 = £130.00
- 50+ = £200.00

The application will be assessed by the Licensing Officer, provided all of the relevant information has been submitted and the consent will be granted and issued. No consultation takes place on Organiser Permits as in most cases details of the event have already been given to the Licensing Officer for consideration under different legislation.

No enforcement is carried out by the Council on Festival Organiser Consents, it is the responsibility of the consent holder to ensure the suitability, position and legality of each stall at their event.

The Licensing Officer will copy the list of stall holders to the Police and Fire Safety Officer for information, no further consultation takes place.

## **Revocation of a Trading Consent**

The Council can revoke a Street Trading consent after it has been granted. This could be for a variety of reasons such as:

- Trading outside permitted hours
- Non compliance with conditions
- Non use of site for three months
- Other Statutory Notices served on a specific trader

Notice will be given of the intent to revoke a licence and the matter would be put before the General Licensing Committee for consideration. There is no automatic right of appeal against revocation of a licence and no refund of the consent fee paid.

## **Conditions**

Standard conditions based on this policy document will be attached to every consent detailing the holder's responsibilities. Additional conditions may also be attached limiting the days and the hours when street trading is permitted, the goods which may be sold, the size of the trading pitch or any other relevant detail. Failure to comply with conditions may lead to revocation or non-renewal of a consent. Any contraventions will be considered prior to any further consent being issued. If a person is convicted of an offence then further consents may not be issued.

## **Enforcement**

Persons engaging in street trading (as defined in the Act) without a consent or who fail to comply with the conditions will be liable to prosecution under paragraph 10 of Schedule 4 of the Act. Decisions regarding enforcement action will be made in accordance with this policy and the Council's Enforcement Policy (available on our website [www.swale.gov.uk](http://www.swale.gov.uk)).

In regards to mobile traders, a 'Code of Conduct', issued by the Department of the Environment (London) provides guidance to traders and Local Authorities on aspects of the ice-cream trade such as the sounding of chimes. The Local Authority's Environmental Department may refer to this guidance when investigating allegations of noise nuisance.

The Borough Council will only carry out enforcement on Ice Cream Sellers in the following circumstances:

- Trading in an area not defined on the Street Trading Consent
- Trading outside of the permitted hours
- Incorrect disposal of waste
- Health and Safety/ Food Hygiene and Environmental Issues

Any Statutory Notice served on a consent holder (in respects to nuisance) may result in a consent being revoked.

The enforcement function for any breaches in relation to street trading is currently delegated to the Head of Service Delivery, supported by the Licensing Enforcement Officer.

### **Waste/ Refuse**

At the end of each day trading, the consent holder will clear the area around their permitted site and shall under no circumstances, deposit litter, rubbish or refuse in the street, suitable containers should be provided for the disposal of waste.

No waste liquids shall be disposed of into any highway channel, gully or manhole or in any other manner likely to cause pollution of any surface water channel.

All refuse generated by the business must be taken to a licensed waste disposal site. Consent holders must identify their method of waste disposal at the time of application and keep records of their waste management, which must be available on request by the Borough Council or the Environment Agency.

### **How The Council Makes Its Decision**

The Council is bound to act reasonably and consistent with its general obligations (e.g. those under the Human Rights Act) but has a wide discretion with regard to the granting or refusal of Street Trading consents and does not have to rely upon specific statutory grounds in order to refuse an application for grant or renewal of a consent. There is no statutory right of appeal against the Council's decision. However, if your application is refused or revoked, you can discuss the matter with the Licensing Officer/Head of Service in the first instance, who will consider any objections you put forward.

Where adverse representations are received and remain unresolved the application will usually be considered by the Licensing Sub-Committee. At this point the applicant, will be expected to attend and will be advised in writing of the date, time and place when the application will be heard. The applicant can be represented by a solicitor, or supported by a colleague and translation provision will be provided if requested. The Licensing Officer will be responsible for preparing a report for the Licensing Sub-Committee regarding the application. The report will be made available to the applicant at least five working days before the date of the meeting.

You can also ask for a Judicial Review, which is a decision made by a High Court Judge who will look at all aspects on the application and then give a judgement on the facts.

### **General**

The Council can charge such fees as it considers reasonable but should cover the cost of administration, monitoring and enforcement. The Head of Service in consultation with the relevant Cabinet Member has delegated authority to set and review the fee structure in determining service pressures, if necessary at half year review but at least once a year.

Consents are issued to the individual and not the business, the named individual should be present throughout trading hours. The names of any assistants should be included in the initial application. If the named holder of the consent will not always be present, additional consents for the assistants may be required, Should the consent holder wish to vary the consent at any time, an administration fee will be charged and the variation will undergo a consultation process.

A street trading consent can not be transferred or sold to another person except that the consent may, with agreement from the Licensing Officer, be transferred to a member of the Consent Holder's immediate family in the event of the Consent Holder's death or incapacity. In these cases no fee will be charged.

This policy will be subject to a basic annual review and monitoring is undertaken by the Licensing Officer/Head of Service in conjunction with the appropriate Cabinet Member. Every three years the Policy will undergo a full review and widespread consultation in line with Government guidelines.

This policy will form the basis of the detailed conditions attached to every street trading consent. This policy will be applied in a manner which is consistent with our equality duties.

### **Trading conditions/ locations where different rules apply**

Parks and publicly owned open spaces in Swale are not considered part of the policy relating to "Consent Streets". Enquiries relating to trading in parks and publicly owned open spaces must be directed to Swale Borough Council's Greenspaces Manager on 01795 417127.

Any food traders in these circumstances would need to be compliant with food hygiene regulations.

Exposing vehicles for sale on a road does not form part of the street trading legislation and instead is regulated under Section 3 of the Clean Neighbourhoods and Environment Act 2005. Complaints relating to commercial sales, of two or more vehicles within 500 metres should be reported to Swale Borough Council on 01795 417850.

Promotional Standards are not covered under this legislation as no 'sale' takes place. In most cases the main aim of such stands is to raise awareness of a business or charity. Anyone wishing to erect such a stand should, in the first instance contact the Licensing Department to check suitable locations and then KCC Highways as a Temporary Structure Permit may be required. This Council will only allow one promotional stand in any one area on any one day.

Street Trading and the Licensing Act 2003: These pieces of legislation come together when the holder of the Street Trading consent wishes to sell alcohol, this would normally only be the case with one off consents issued for events and festivals. In these circumstances the consent holder would also be required to

apply for a Temporary Event Notice (TEN) from the Licensing Department, The Street Trading consent alone does not authorise the sale of alcohol.

In respect of a consent issued to a Festival Organiser, it is the responsibility of the organiser to ensure that any stalls wishing to sell alcohol are aware of the requirement to apply for a TEN at least **5 working days** prior to the event. It should be noted that the day the paperwork is served and the day of the event are **not** included in the 5 days, therefore it is recommended that you allow at least 7 working days.

Trading in conjunction with any of the Town Markets is not covered by this legislation, for help and advice in obtaining a Market Pitch please contact Swale Borough Councils Economy and Community Services Manager on 01795 417420.

### **Further Information**

For further information in relation to street trading please contact: The Licensing Department, Swale Borough Council, Swale House, East Street, Sittingbourne, Kent ME10 3HT

Tel: 01795 417364

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

## **Appendix I: General Consent Conditions**

1. When consent is granted the Consent Holder and any assistants will be issued with a badge, which must be worn at all times while street trading;
2. The consent holder will ensure that his/her street trading activities do not create any obstruction to the flow of pedestrians or other traffic using the street or part of the street to which his/her consent relates, or create any danger to persons using it;
3. The consent holder will ensure that his/her street trading activities do not cause nuisance or annoyance, whether to persons using the street or part of the street which his/her consent relates or otherwise;
4. No signs advertising the trade are placed on the highway (or abutting the highway);
5. The consent must be available for inspection at all times during the hours of trading at the place of trading;
6. A consent number is displayed in an appropriate place;
7. If assistants are employed, they each have a copy of the consent within their possession at all times of trading. (***Assistants must be accompanied and supervised by the consent holder at all times. Where this is not the case, assistants must apply separately for a consent in their own name submitting the appropriate fee***);
8. The consent holder will not deposit trade refuse or litter of any kind on the street or part of the street to which his/her consent relates; (***Note under the Environmental Protection Act 1990 you are under a duty of care to dispose of any refuse in a correct manner.***)
9. The consent excludes trading in conjunction with the Town markets.
10. The consent does not automatically entitle the holder to trade at any festival or event, irrespective of whether you ordinarily trade in that location, permission must be sought by the event organiser(s).
11. That the consent holder has been granted permission for the use of land adjacent to the highway from the landowner and adjoining landowners when appropriate. The granting of a consent does not imply that landowners permission has been granted;
12. Consent to trade in a certain location does not imply the grant of planning permission and applicants are strongly recommended to consult the Planning Officer prior to commencement of trading;
13. Where food is sold the consent holder must comply at all times with ALL current hygiene legislation including EU hygiene regulations and Food Hygiene (England) Regulations 2006, as applicable.

**Note: The Council may at any time vary conditions of a Street Trading Consent.**

## **Appendix II: Organisers Consent Conditions**

- 1 When consent is granted the consent holder will be issued with a paper licence which should be available for inspection.
- 2 The consent holder will ensure that the street trading activities do not create any obstruction to the flow of pedestrians or other traffic using the street or part of the street to which his/her consent relates, or create any danger to persons using it;
- 3 The consent holder will ensure that the street trading activities do not cause nuisance or annoyance, whether to persons using the street or part of the street which his/her consent relates or otherwise;
- 4 No signs advertising the trade are placed on the highway (or abutting the highway);
- 5 The consent holder will not deposit trade refuse or litter of any kind on the street or part of the street to which his/her consent relates;  
***(Note under the Environmental Protection Act 1990 you are under a duty of care to dispose of any refuse in a correct manner.)***
- 6 The consent excludes trading in conjunction with the Town markets as these are covered under separate legislation.

**Notes: The Council may at any time vary conditions of a Street Trading Consent.**

**The Council carries out no Enforcement over stalls covered by an Organisers Consent, other than those selling alcohol.**

**The Council has no power to move on any person in possession of a Peddlars Licence issued by Kent Police.**

# Swale Borough Council



## Street Trading Policy

Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982

### Version

2020

Next Scheduled Review: 2023

All enquiries relating to this document should be sent to:

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

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

## 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:

Date:

Approved by:

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)

## Street Trading Policy 2019-2022

### Local Government (Miscellaneous Provisions) Act 1982 Street Trading Local Policy Document

#### 1. Legislation & Policy

- 1.1 Local Authorities have a legal discretion to regulate street trading in their area. Street trading is covered by the Local Government (Miscellaneous Provisions) Act 1982 Schedule 4 – Street Trading, which Swale Borough Council adopted in 1993 and resolved to control within its boundaries.

On 23<sup>rd</sup> July 2010 the Council formally designated all streets within its boundaries as ‘Consent Streets’.

The effect of this designation is that if you want to sell goods on the street (see para 3.2. for definition), you are street trading (see para 3.1 for definition) and you will need to have the appropriate consent from the Council unless you are legally exempt (see para 3.5).

Trading without the required consent is a criminal offence.

- 1.2 Swale Borough Council adopted this policy on DD/MM/YYYY

Every three years the Policy will undergo a full review involving widespread consultation with the existing traders, relevant authorities and the general public, any consultation will be in line with Government guidelines.

#### 2. Purpose & Objectives

- 2.1 Street trading can add variety and vibrancy to the character of this Borough as well as diversity of shopping opportunities. The aim of the Council is to give consent to traders who will help to create a vibrant street scene which complements retail activity, community events and activities.
- 2.2 The purpose of this policy is to provide a framework setting out the Council’s procedures which will be used to inform the various decision making processes to ensure a consistent approach and expectations of those engaged in street trading either from an individual pitch as a mobile trader or as part of a large scale event/festival
- 2.3. This policy aims to give clarity and transparency to potential and existing traders, explaining how the Council will promote its objectives and deliver compliance with imposed conditions.

The Council's key objectives are:

- 2.3.1 To protect the public through the control of street trading within Swale by improving standards of food safety, health and safety and environmental management to enhance the image of the area
- 2.3.2 To ensure that permitted street trading is properly regulated as to where, when and how it takes place.
- 2.3.3 To prevent public nuisance by the use of conditions designed to reduce the risk of nuisance from obstruction, noise, refuse, vermin, fumes and smells.
- 2.3.4 To ensure the suitability of the structures used for the sale of goods.
- 2.3.5 To ensure that traders and the people that they employ are 'fit and proper' in accordance with the Act. This will include a requirement for a basic Disclosure and Barring Service Criminal Records check.

### **3. Street Trading Definition and Exemptions**

- 3.1 Street Trading is defined under the Act as 'selling, exposing or offering for sale any article (including a living thing) in a street'.
- 3.2 A 'street' is broadly defined to include any road, footway, beach or other area to which the public have access without payment and a service area as defined in s.329 of the Highways Act 1980.
- 3.3 This can include areas adjacent to a street, car parks and privately owned land where the public have access, without payment, as a matter of fact.
- 3.4 Street trading includes the sale of food and beverages. It does not include the provision of services (such as face painting or hair braiding) even if payment is made.
- 3.5 The following activities are **exempt** from the need to obtain a street trading consent under the Act:
  - 3.5.1 Trading by a person acting as a pedlar under the grant of a Pedlar's Certificate granted under the Pedlars Act 1871 and issued by the police – see 3.7 below
  - 3.5.2 Anything done in a market or fair, the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an enactment or order. This means markets that have a 'charter' or are permitted by other legislation e.g. Food Acts. All other 'markets' will require a Street Trading Consent

- 3.5.3 Trading in a trunk road picnic area as defined in Section 112 of the Highways Act 1980.
- 3.5.4 Trading carried out as a news vendor selling newspapers or periodicals (only without a stall/receptacle) or one which is not over 1m long or wide or over 2m high.
- 3.5.5 Trading carried out at a petrol filling station.
- 3.5.6 Trading which is carried out at a premises used as a shop or in a street adjoining premises so used and as part of the business of the shop
- 3.5.7 Trading carried out by a 'roundsman' e.g. milk deliveries. However, this does not include ice cream sellers and mobile catering vehicles
- 3.5.8 Use for trading from an object or structure placed on, in or over the highway under Part VIIA of the Highways Act 1980
- 3.5.9 The operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980.
- 3.5.10 Doing anything authorised as a public charitable collection made under section 5 of the Police, Factories, etc (Miscellaneous Provisions) Act 1916 – see 11.4 below
- 3.6 Trading at the following events requires a Street Trading Consent but no fee will be charged:
- 3.6.1 Street Trading at Fetes and Carnivals – outdoor events staged mainly for public entertainment and benefiting charitable concerns. It is expected that at least **???**% of monies raised will be contributed to the beneficiary individual, organisation or charity.
- 3.6.2 Street Trading at non-commercial or charitable events organised by not-for-profit organisations and charitable trusts.
- 3.7 As detailed in 3.5 above pedlars acting under a certificate are exempt. However, a pedlars' certificate is not required to sell food, and such sales are not exempt, although some traders do have certificates. If the sale is in a street, then it will be street trading and require the appropriate consent.
- 4. Consideration of an application for a Street Trading Consent - location**
- 4.1 The Council does not designate pitches and applicants must therefore propose trading which is compatible with the location being applied for. When considering the proposal, the Council will have regard to other trading taking place in the immediate vicinity.

The aim of this policy is not to discourage competition, rather to ensure an appropriate mix of trading so as to avoid over saturation of any given area. Every application will be considered on its own merits.

Consent will not usually be given for any fixed locations where:

- 4.1.1. Road safety would be compromised either from the siting of the trading activity itself, or from customers visiting or leaving the site.
- 4.1.2. There would be a significant loss of amenity to those in the area caused by additional traffic, or disturbance (e.g. noise, odour or fumes, etc.)
- 4.1.3. There is already significant provision of similar goods in the immediate vicinity of the site to be used for street trading purposes.
- 4.1.4. There is a conflict with Traffic Management Orders such as waiting restrictions.
- 4.1.5. The trading obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger.
- 4.1.6. The Consent Holder, staff and customers have no appropriate place to park in a safe manner, if required
- 4.1.7. The pitch would be sited on the A249 or M2 as these locations are prohibited by Highways England. Layby's on any other road will be considered on a case by case basis.
- 4.1.8. The pitch would be on a council owned carpark
- 4.2 The consent holder must be granted permission for the use of any land adjacent to the highway from the landowner and adjoining landowners where appropriate. The granting of a consent does not imply that landowners permission has been granted;

Consent to trade does not imply the grant of planning permission and applicants are strongly recommended to consult the Planning Department to check if permission is required prior to commencement of trading

## **5. Application Procedure**

- 5.1 Only persons aged seventeen or over may apply for consent. However, a person under seventeen may be employed as an assistant.
- 5.2 New applications for sole traders and multiple trader non-exempt market organisers will be determined following a 28 consecutive day consultation period.
- 5.3 One - Off Consents. The Council will grant one-off consents up to a maximum of 12 times per calendar year. These types of consents include events that are not exempt from street trading requirements under separate legislation.

- 5.3.1 One-off consents can last for up to 4 days
- 5.3.2 Each individual trader at an event must obtain their own consent. However, event organisers can co-ordinate the applications.
- 5.3.3 An application for a one-off consent must be submitted at least 8 weeks before the intended trading and will be determined following a 28 consecutive day consultation period
- 5.4 All applicants for the consents above will be required to provide documents as shown at Appendix I.
- 5.5 Renewal applications - For sole traders and market organisers
- 5.4.1 Applicants should submit their renewal application at least 8 weeks prior to the expiry of their consent if they wish to continue to trade. The Council will normally send reminders of the expiry of consents three months before expiry. It does however, remain the responsibility of the trader to ensure that an application is submitted in time for the consent to be renewed.
- 5.4.2 A renewal application will be determined following a 28 consecutive day consultation period
- 5.4.3 At renewal, the Council will consult to determine if there are any concerns regarding the street trader or if there have been any complaints.
- 5.4.4 Where a renewal application has been made and there have been no justifiable complaints, no enforcement issues and all fees have been paid on time, the consent will normally be renewed.
- 5.4.5 Where a renewal application has been made and there have been complaints or enforcement issues which did not result in revocation then the application may be rejected. The council may choose to consult with such agencies and interested parties it considers relevant in this regard before making a decision.
- 5.4.6 Applicants will need to submit documents as shown in Appendix I.

## 6. Consent Fees

- 6.1 The Council can charge such fees as it considers reasonable and will recover the cost of administration and compliance.

Payment will be required for the following street trading applications:

- a) An annual consent for a fixed location.
- b) An annual consent for a non-fixed location (mobile traders).
- c) A six month consent for a fixed location
- d) A six month consent for a non-fixed location (mobile traders)
- e) A One-off consent
- f) A One-off consent involving multiple traders where there is no exemption applicable

The Council's adopted fees, for the above-mentioned applications, are shown in Appendix III of this Policy.

## 7. How the Council makes its decisions

- 7.1. The Council is bound to act reasonably and consistently with its general obligations (e.g. those under the Human Rights Act and Equalities Act) but has a wide discretion when making a decision to give consent for Street Trading. The Council does not have to rely upon specific statutory grounds in order to refuse an application for Street Trading consent or whether or not to renew that consent.
- 7.2 The Licensing section will assess the proposed location, taking into consideration the concerns raised in Section 4 of this policy. The application will then be consulted with various public serving authorities and Council services. The consultees who will be consulted on all applications are:
- a) Kent Police
  - b) Kent Fire and Rescue Service
  - c) KCC Highways
  - d) Swale BC Environmental Health
  - e) Swale BC Environmental Response Team
  - f) Swale BC Planning
  - g) Swale BC Property Services
  - h) Swale BC Economy and Community Services
  - i) Swale BC Green Spaces team
  - j) Ward Councillors
  - k) Parish and Town Councils
  - l) KCC Safeguarding Unit

And in some cases:

- m) Other businesses/organisations if it is considered that they are likely to be affected by a successful application

The consultation will run for 28 consecutive days.

- 7.3. A representation will be considered to be relevant if it is made by a person, business or body that is likely to be directly affected by a successful application.
- 7.4 If the Licensing section receives a representation then it will be forwarded to the applicant for their comment. The name and address of the objector will be published unless the Council receive a request for this not to be done for a good reason. The Council will not accept anonymous representations.
- 7.5 Any comments that the applicant may wish to make should be received by the Licensing section within 10 working days of the applicant being notified of the representation.
- 7.6 If the representations cannot be mediated and remain unresolved the application will be referred to the General Licensing Sub-Committee. The hearing will normally take place within 20 days from the end of the consultation period.
- 7.7 A Licensing Officer will be responsible for preparing a report for the General Licensing Committee (who can then delegate this to a Sub-Committee) , which will be made available to the applicant at least five working days before the date of the meeting. The applicant and the persons making representations will be invited to attend and will be advised in writing of the date, time and place when the application will be heard. Any party can be represented by a lawyer or supported by a representative of their choice.
- 7.8 The Committee may grant the consent as applied for or impose additional restrictions limiting the days and/or times when street trading is permitted. In some circumstances the Committee may restrict the goods which may be sold, the size of the trading pitch or any other relevant detail, depending on the specifics of the application. The Committee could also refuse the application.
- 7.9 If an application for consent is refused following a decision by a Licensing Officer, an applicant can make a written appeal to the Resilience and Licensing Manager, who will reconsider the case based on any new evidence given.

- 7.10 If an applicant's appeal is rejected, they will be made aware of the reasons for refusal and advised the only right of appeal against the Council's decision is by way of Judicial Review.
- 7.11 A Judicial Review is where a decision is made by a High Court Judge who will look at all aspects of the application and decide whether or not the Council has acted lawfully
- 7.12 The Council can revoke any street trading consent after it has been given.
- 7.13 In these circumstances, the Council will give notice of any intent to revoke a street trading consent, which will provide a detailed explanation as to why the consent has been revoked. The Council reserves the right to put any contentious matters before the General Licensing Sub-Committee.
- 7.14 If an application is refused or renewal is refused or consent is revoked, following a decision made by the General Licensing Sub-Committee applicants will be advised the only right of appeal against the Council's decision is by way of Judicial Review..
- 7.15 Applicants can also make a formal complaint to the Council at [www.swale.gov.uk/compliments-and-complaints](http://www.swale.gov.uk/compliments-and-complaints)
- 7.16 Where a consent is refused the Council may refund the fee, or a part of it as it considers appropriate. Refunds will be considered on a case by case basis.

## **8. Surrendering a Street Trading Consent**

The consent holder may at any time surrender in writing the consent issued to them. Where a consent is surrendered, the Council is under a duty to remit or refund the whole or part of the fee paid for the Consent as they consider appropriate as shown at para 9(5) of the Local Government (Miscellaneous Provisions) Act 1982.

## **9. Conditions**

- 9.1 The Council has adopted standard conditions, as shown in Appendix II, based on the objectives and expectations set out in this policy document as well as the responsibilities of each trader, which will be attached to each Street Trading Consent. Additional conditions may be imposed, or amendments made to the standard conditions, should specific circumstances make this reasonably necessary. Breach of conditions could ultimately lead to prosecution or revocation of a Consent.
- 9.2 The Council may amend the consent conditions at any time. Any substantial amendment to the standard conditions would involve consultation with all affected parties and the responses being presented before the General Licensing Committee for formal adoption. Once adopted the amended

conditions will be imposed on all existing consent holders immediately thereafter or as decided by Committee.

- 9.3 Failure to comply with our standard conditions may lead to consent being revoked by the Council. This may affect any future applications.

## **10. Enforcement**

- 10.1 A person engaging in street trading without consent, trading from a stationary van, barrow, other vehicle or portable stall without specific permission for that trading or who fails to comply with conditions at time of trading or location, will be guilty of an offence and may be liable to prosecution under paragraph 10 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

It is also an offence to make a false statement which you know to be false in any material respect or which you do not believe to be true in connection with an application for consent.

These offences are punishable on conviction with a fine up to £1,000.

- 10.2 The aim of enforcement within the borough of Swale, is to protect the health and safety and welfare of the public who may be exposed to risks from unauthorised or poorly run street trading. We aim to:
- a) Ensure that all street traders are fit and proper to trade
  - b) Promote compliance with the law
  - c) Ensure those who fail to abide by the Standard Conditions or relevant legislation (depending on the nature of the business) are held accountable, which may result in prosecution or revocation of their consent
  - d) Be proportionate and consistent in our dealings with applicants and consent holders
  - e) Be transparent, open and honest
- 10.3 Decisions regarding enforcement action will be made in accordance with this policy, the Swale BC Enforcement Policy, Licensing Enforcement Policy and on a case-by-case basis. The enforcement function for any breaches in legislation is currently delegated to the Resilience and Licensing Manager, supported by Licensing Officers.
- 10.4 In regard to ice cream traders, a 'Code of Conduct', issued by the Department for Environment Food and Rural Affairs ([www.defra.gov.uk](http://www.defra.gov.uk)) provides guidance to traders and Local Authorities on aspects of the trade such as the sounding of chimes. The Local Authority's Environmental Department may refer to this guidance when investigating allegations of noise nuisance.

- 10.5 The licensing team will only carry out enforcement on Ice Cream Sellers in the following circumstances:
- a) Trading without a consent
  - b) Trading in an area not specified on the Street Trading Consent
  - c) Trading outside of the permitted hours
- 10.6 Enforcement of the following will be carried out by other departments of the Council:
- a) Incorrect disposal of waste
  - b) Health and Safety/ Food Hygiene and Environmental Issues
- 11. Other Legislative Requirements – This is not intended as an exhaustive list**
- 11.1 Any food traders would need to be compliant with food hygiene regulations. All food businesses that prepare, sell, store or cook foods and drinks need to register as a food business with Environmental Health.
- 11.2 Where food is sold the consent holder must comply at all times with ALL current hygiene legislation.
- 11.3 Exposing vehicles for sale on a road is regulated under Section 3 of the Clean Neighbourhoods and Environment Act 2005. Complaints relating to commercial sales, of two or more vehicles within 500 metres of each other should be reported to Swale BC Environmental Response Team.
- 11.4 Persons collecting money under section 5 of the Police, Factories, etc (Miscellaneous Provisions) Act 1916 require a Street Collection Permit from the Council but not a Street Trading Consent.
- 11.5 Some charities employ collectors who canvass the public in order to obtain a direct debit mandate to contribute to the charity (these collectors are sometimes known as ‘chuggers’). This type of collection requires neither a Street Collection Permit nor a Street Trading Consent. However Swale Borough Council does have an expectation that all proposed collectors of this type will contact the Regeneration Officer (Town Centres) to liaise over the location, days and times that this type of activity will take place, especially to ensure that they do not interfere with any markets or events taking place. It is expected that there will be no tables or structures such as gazebos erected by the collectors. Most important is the expectation that direct debit collectors will behave in a respectful and courteous manner toward members of the public and not harass them in any way.

- 11.6 Promotional stands are not covered under this legislation as no sale takes place. However, there is an expectation that anyone wishing to erect such a stand should, in the first instance contact the Regeneration Officer (Town Centre) to check suitable locations so as not to interfere with any events or markets that may be taking place.
- 11.7 Any sale of alcohol will also require a Temporary Events Notice (TEN) under the Licensing Act 2003. The notice period for giving a standard TEN is statutory and is 10 clear working days between and not including serving the notice and the date of the event. A late TEN requires at least 5 clear working days' notice between and not including serving the notice and the date of the event.
- 11.8 There are limits on the number of standard TEN's and late TEN's that can be applied for within a year.
- 11.9 In respect of a consent issued to an Event Organiser, it is the responsibility of the organiser to ensure that any stall wishing to sell alcohol is aware of the requirement for a TEN.

## **12. Data Retention**

- 12.1 Under the General Data Protection Regulations the Council has set out the period of time that personal information shall be retained.
- 12.2 All personal information provided on an unsuccessful application, will be retained for a period of six months before being destroyed.
- 12.3 All personal information relating to the consent holder, irrespective of its level of sensitivity, will be retained for the period of consent; once the consent has expired or been revoked or the trader notifies the Council they no longer wish to have consent; the information shall be retained for a period of 24 months before being destroyed. DBS checks will not be retained by the Council

## Appendix 1 – Documents to provide on application

New Applications and Renewal Applications	One off consents
<p>A completed and signed street trading consent application form. Applications forms are available online at <a href="https://www.swale.gov.uk/street-trading-consent">https://www.swale.gov.uk/street-trading-consent</a> by email at <a href="mailto:licensing@swale.gov.uk">licensing@swale.gov.uk</a> or they can be sent by post on request from the licensing team</p>	<p>A completed and signed street trading consent application form. Applications forms are available online at <a href="https://www.swale.gov.uk/street-trading-consent">https://www.swale.gov.uk/street-trading-consent</a> by email at <a href="mailto:licensing@swale.gov.uk">licensing@swale.gov.uk</a> or they can be sent by post on request from the licensing team</p>
<p>The application form must be accompanied by the full fee (unless para 3.6 applies and no fee is due). Details of fees are shown at Appendix III</p>	<p>The application form must be accompanied by the full fee (unless para 3.6 applies and no fee is due). Details of fees are shown at Appendix III</p>
<p>Where the proposed street trading activity is from a fixed position, a plan showing the precise trading position and its proximity to other similar retail outlets within a 100 metre radius. The proposed position and orientation of the stall, van, barrow, cart etc. is to be shown on the plan. The plan shall also include any additional vehicles that will be parked on the site</p>	<p>A location plan showing the exact position of any cart, van, barrow etc</p>
<p>Ice Cream Vans and Mobile Food Vans are exempt from providing location plans unless the van is stationary. However, details should be given of the proposed route/streets/stopping places where it is intended street trading will take place as well as the proposed trading hours. This may vary from day to day.</p>	
<p>One colour photograph of the stall, van, barrow, cart that will be used for street trading activity. The photograph shall show any proposed awnings fully extended, whether integral or not.</p>	<p>One colour photograph of the stall, van, barrow, cart that will be used for street trading activity. The photograph shall show any proposed awnings fully extended, whether integral or not.</p>
<p>Multiple traders and Market organisers do not need to provide photographs of the individual pitches but must provide a numbered site plan of pitches together with a list giving the name of each individual trader and the nature of their business that from time to time trade from those pitches. This list should be kept updated and amendments submitted to the</p>	<p>Event organisers do not need to provide photographs of the individual pitches but must provide a numbered site plan of pitches together with a list giving the name of each individual trader</p>

licensing team throughout the lifetime of the consent	
One passport size colour photograph of the applicant. If there are assistants, then they too must supply a photograph of themselves	One passport size colour photograph of the applicant. If there are assistants, then they too must supply a photograph of themselves
If the land is privately owned, written permission from the land owner, this includes Kent County Council Highways.	If the land is privately owned, written permission from the land owner this includes Kent County Council Highways.
<p>Applicants and where applicable their assistants, must submit a Standard Disclosure and Barring Service criminal records check. This can be obtained as shown below:  Email:  <a href="mailto:customerservices@dbs.gsi.gov.uk">customerservices@dbs.gsi.gov.uk</a>  Phone: 03000 200 190  Address: PO Box 165. Liverpool L69 3JD</p> <p>The original certificate must accompany the application form and must be submitted within one month of issue. The requirement for a DBS does not apply to market or event organisers.</p>	<p>Where considered necessary, applicants must submit a Standard Disclosure and Barring Service criminal records check. This can be obtained as shown below:  Email:  <a href="mailto:customerservices@dbs.gsi.gov.uk">customerservices@dbs.gsi.gov.uk</a>  Phone: 03000 200 190  Address: PO Box 165. Liverpool L69 3JD</p> <p>The original certificate must accompany the application form and must be submitted within one month of issue. The requirement for a DBS does not apply to market or event organisers.</p>
Evidence of the right to work in the UK. Documents that demonstrate this are attached as Appendix IV.	Evidence of the right to work in the UK. Documents that demonstrate this are attached as Appendix IV.

## Appendix II: General Consent Conditions

1. When consent is granted the consent holder will be issued with formal written consent which shall be available for inspection by authorised officers of the Council or the Police at any time that trading is taking place.
2. When consent is granted the Consent Holder and any assistants will be issued with a badge, which must be worn at all times while street trading.
3. The consent holder shall ensure their street trading activities subject to consent do not create any obstruction to the flow of pedestrians or other traffic using the street or part of the street to which their consent relates or create any danger to persons using it.
4. The consent holder shall ensure that their street trading activities subject to consent do not cause a nuisance or annoyance, to person(s) or residents using the street or part of the street or running a business within the vicinity of where their consent applies.
5. No signs advertising the trading shall be placed where it can cause an obstruction to vehicles or pedestrians using the street.
6. Where food is sold the consent holder must comply at all times with ALL current hygiene legislation.
7. Consent holders must identify their preferred method of waste disposal at the time of making their application, and keep records of their waste management, which must be available, upon request by Swale Borough Council's Licensing or Environmental Department or from the Environment Agency.
8. The consent holder shall not deposit trade refuse or litter of any kind on the street or part of the street to which their consent relates; (Note under the Environmental Protection Act 1990 everyone has a duty of care to dispose of any refuse in a correct manner.)
9. The consent holder shall at the end of each trading day or session, whichever is the shortest, clear around their permitted site.
10. It is recommended that a licence holder has a waste management plan in place, to ensure that:
  - a) Suitable waste containers will be made available to customers, where it is appropriate, for any potential waste products generated by the sale of goods.

- b) No waste liquids shall be disposed of into any highway channel, gully or manhole or in any other manner which is likely to cause pollution of any surface water channel.
- c) All refuse generated by the business must be taken to a licensed waste disposal site.

DRAFT

**Appendix III: Current Fees and Charges**

Annual Consent	£100.00
6 Month Consent	£50.00
One-Off Consent	£30.00
Event Consent	£65.00 (1-19 stalls) £130.00 (20-49 stalls) £200.00 (50+ stalls)
Fee exemptions:	

DRAFT

**Appendix IV:****Documents which demonstrate entitlement to work in the UK**

1. A passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK.
2. A passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
3. A Registration Certificate or Document Certifying Permanent Residence issued by the UKVI to a national of a European Economic Area country or Switzerland.
4. A Permanent Residence Card issued by the UKVI to the family member of a national of a European Economic Area country or Switzerland
5. A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the UKVI to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
6. A **current** Immigration Status Document issued by the UKVI to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, **together with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or previous employer.
7. A birth (short or long) or adoption certificate issued by the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, **together with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
8. A birth (short or long) or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, **together with** an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.
9. A certificate of registration or naturalisation as a British citizen, **together with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

This page is intentionally left blank