



Cabinet

Notice of a Meeting, to be held in the Council Chamber, Civic Centre, Tannery Lane,
Ashford, Kent TN23 1PL on Thursday, 12th January 2017 at 7.00 pm.

The Members of the Cabinet are:-

Cllr Clarkson – Leader of the Council

Cllr N Bell – Deputy Leader and Portfolio Responsibility for Government Policy Interface & Democracy

Cllr Mrs Bell – Portfolio Responsibility for Public Interaction and Borough Presentation

Cllr Bennett – Portfolio Responsibility for Planning, Development and Enforcement

Cllr Mrs Blanford – Portfolio Responsibility for Culture, Leisure, Environment and Heritage

Cllr Bradford – Portfolio Responsibility for Highways, Wellbeing and Safety

Cllr Clokie – Portfolio Responsibility for Housing and Home Ownership

Cllr Galpin – Portfolio Responsibility for Town Centres Focus and Business Dynamics

Cllr Knowles – Portfolio Responsibility for Information Technology and Communications

Cllr Shorter – Portfolio Responsibility for Finance, Budget and Resource Management

NB: Under the Council's Public Participation Scheme, members of the public can submit a petition to the Cabinet if the issue is within its terms of reference or ask a question or speak concerning any item contained on this Agenda (Procedure Rule 9 refers)

Agenda

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| 1. Apologies | |
| 2. Declarations of Interest:- To declare any interests which fall under the following categories, as explained on the attached document: | 1 |
| a) Disclosable Pecuniary Interests (DPI) | |
| b) Other Significant Interests (OSI) | |
| c) Voluntary Announcements of Other Interests | |
| See Agenda Item 2 for further details | |
| 3. Minutes – To approve the Minutes of the Meeting of the Cabinet held on the 8 th December 2016 | |
| 4. To receive any Petitions | |
| 5. Leader's Announcements | |

Part I – Matters Referred to the Cabinet

None for this Meeting

Part II – Consideration of Reports from the Overview and Scrutiny Committee

None for this Meeting

Part III – Ordinary Decision Items - Key Decisions Annotated*

- | | | |
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Part IV – Information/Monitoring Items

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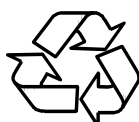
Part V – Cabinet Member Reports

None for this Meeting

Part VI – Ordinary Decision Items

None for this Meeting

KRF/AEH
4th January 2017



Declarations of Interest (see also “Advice to Members” below)

- (a) **Disclosable Pecuniary Interests (DPI)** under the Localism Act 2011, relating to items on this agenda. The nature as well as the existence of any such interest must be declared, and the agenda item(s) to which it relates must be stated.

A Member who declares a DPI in relation to any item will need to leave the meeting for that item (unless a relevant Dispensation has been granted).

- (b) **Other Significant Interests (OSI)** under the Kent Code of Conduct as adopted by the Council on 19 July 2012, relating to items on this agenda. The nature as well as the existence of any such interest must be declared, and the agenda item(s) to which it relates must be stated.

A Member who declares an OSI in relation to any item will need to leave the meeting before the debate and vote on that item (unless a relevant Dispensation has been granted). However, prior to leaving, the Member may address the Committee in the same way that a member of the public may do so.

- (c) **Voluntary Announcements of Other Interests** not required to be disclosed under (a) and (b), i.e. announcements made for transparency reasons alone, such as:

- Membership of outside bodies that have made representations on agenda items, or
- Where a Member knows a person involved, but does not have a close association with that person, or
- Where an item would affect the well-being of a Member, relative, close associate, employer, etc. but not his/her financial position.

[Note: an effect on the financial position of a Member, relative, close associate, employer, etc; OR an application made by a Member, relative, close associate, employer, etc, would both probably constitute either an OSI or in some cases a DPI].

Advice to Members on Declarations of Interest:

- (a) Government Guidance on DPI is available in DCLG’s Guide for Councillors, at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/240134/Openness_and_transparency_on_personal_interests.pdf
- (b) The Kent Code of Conduct was adopted by the Full Council on 19 July 2012, with revisions adopted on 17.10.13, and a copy can be found in the Constitution at <http://www.ashford.gov.uk/part-5---codes-and-protocols>
- (c) If any Councillor has any doubt about the existence or nature of any DPI or OSI which he/she may have in any item on this agenda, he/she should seek advice from the Corporate Director (Law and Governance) and Monitoring Officer or from other Solicitors in Legal and Democratic Services as early as possible, and in advance of the Meeting.

Cabinet

Minutes of a Meeting of the Cabinet held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the **8th December 2016**.

Present:

Cllr. Clarkson (Chairman);

Cllr. Bell (Vice-Chairman);

Cllrs. Mrs Bell, Bennett, Mrs Blanford, Bradford, Clokie, Galpin, Knowles, Shorter.

Apology:

Cllr. Hicks.

Also Present:

Cllrs. Buchanan, Burgess, Heyes, A Howard, Link, Ovenden, Pickering, Smith, Wedgbury.

Chief Executive, Head of Finance, Head of Housing, Principal Solicitor (Strategic Development), Accountancy Manager, Human Resources Manager, Assistant Planned Maintenance Manager, Senior Accountant, Communications Officer, Senior Member Services Officer.

220 Minutes

Resolved:

That the Minutes of the meeting of the Cabinet held on the 10th November 2016 be approved and confirmed as a correct record.

221 Leader's Announcements

The Leader said he knew there would be other opportunities to give festive messages over the coming weeks, however as 2016 drew to a close he had been reflecting on the number of new developments that had been approved and for which all could now see the construction work being undertaken. These were all set to significantly improve the Borough of Ashford.

He said that 2017 would see even more construction works which would bring back to life predominantly derelict brownfield sites to even further enhance the Borough of Ashford. In September they would welcome nearly a thousand young students to the new and impressive Ashford College. This alone should inject a new vibrancy into the town centre.

The Leader said he would like to acknowledge the commitment of the Council's Officers who had, over the last year in particular, worked so hard to bring these major economic developments to the varying stages of actual delivery. In addition to wishing the Officers and Members a Merry Christmas and a happy, peaceful and prosperous New Year, he also wished the same to the Borough's residents, businesses and all involved with the aspirations and development of Ashford Borough Council.

222 Review of Housing Staff Structure

The report built on the Housing Revenue Account (HRA) Business Plan submitted to the Cabinet in November 2015. This had identified that the 1% reduction in social rents announced in the July 2015 Budget would result in an anticipated loss of income of £10m for the four years from April 2016. Members had agreed to implement a significant cost reduction programme, including salary savings, in order to recover the HRA's financial position. Subsequently a comprehensive review of the HRA Service had been conducted and the report set out the recommendations and impacts for staff arising from the review. These included improved working practices, an organisational restructure and a net reduction in headcount from April 2017 (and in the 2017/18 budget) of 9.12 FTE posts.

The Portfolio Holder said that he commended the report and thanked all those involved in its compilation. Other Members echoed that sentiment and said that although the subject matter was obviously difficult and sensitive, it had been dealt with well and been generally well received by the affected staff. Praise should also be given to members of the representative body Unison who had worked extremely well and pragmatically with the Council on such a difficult issue, as well as the staff in Housing itself for their professionalism and pragmatic approach.

Resolved:

- That (i) the findings of the review of Housing be endorsed.**
- (ii) the new staff structure at Appendix 3 to the report be approved.**

Recommended:

That the redundancy costs and pension costs set out at Appendix 4 to the report be approved and that the pension monies are released in the event that those staff at risk cannot be redeployed, or if there are pension implications or redundancy costs in relation to voluntary redundancy applications that they may be granted.

223 Housing Revenue Account (HRA) Business Plan 2016-2046

The report provided an annual update to Members on the financial projections associated with the HRA Business Plan.

The Portfolio Holder drew attention to paragraphs 9 and 10 of the report which updated on the reviewed priorities for the HRA Business Plan and the projects, including sheltered and affordable schemes, which had been incorporated in to it.

The Chairman said that this was an important report and it again drew attention to the good work the Council was doing on focusing on care and facilities for the elderly and vulnerable. Ashford was certainly an exemplar Authority in this regard and he knew that the Ashford model was well regarded by senior figures within the Health Service.

Resolved:

- That**
- (i) the updated HRA Business Plan and financial projections be agreed.**
 - (ii) the updated HRA priorities, set out at paragraph 9 of the report, be agreed.**
 - (iii) it be noted that Overview and Scrutiny are required to review the HRA Business Plan financial projections as part of the budget scrutiny process.**

224 Draft Budget 2017/18

The report presented the draft budget for 2017/18 for the General Fund and the Housing Revenue Account which included the Medium Term Financial Plan (MTFP) and approval to accept the four year funding settlement.

The Portfolio Holder explained that the draft budget continued to drive the Council towards its aim of being self-sufficient by 2018/19 and continued to allow the Administration to fulfil its election manifesto pledge of having the lowest Council Tax in Kent. He commended the draft budget and said that it would form the basis of the budget scrutiny and budget consultation processes and already presented an almost balanced budget, with just a £31k variance deficit, which he considered would be comfortably recovered during the year.

A Member said that whilst Ashford would still be in a position to offer the lowest Council Tax in Kent this year, the differential between Ashford and other Authorities was closing. With the MTFP seemingly proposing increased rises in Council Tax year on year, and other Authorities potentially freezing their element of the Council Tax, he was concerned that in the near future Ashford would no longer have the lowest Council Tax in Kent. The Chairman responded that the MTFP had to make a forecast for future years, but his personal mandate and that of this Administration was reduced increases in Council Tax year on year and to firmly remain the lowest Council Tax in Kent. There was no budging on this position and if necessary, the Council would make cuts in certain areas to achieve this. The MTFP was a five year forecasted plan but it would be reviewed and adjusted year on year. The Portfolio Holder reiterated that the Council was in a strong financial position and with its developments and investments coming on board they were certainly ahead of their neighbours in terms of their ambitions to be grant free and self-sufficient. The

Council was set up to secure significant income streams and earn its money, rather than looking for handouts or excessively taxing its residents.

Recommended:

- That
- (i) the budget context be noted.
 - (ii) the draft budget for 2017/18 be approved.
 - (iii) the draft Housing Revenue Account budget for 2017/18 be approved.
 - (iv) the report be used as the basis for budget consultation with the public, the business community, Parish Councils and staff.
 - (v) the draft budget as set out in the report should now be submitted to the Overview and Scrutiny Committee's Budget Task Group for formal scrutiny.

225 Local Council Tax Reduction Scheme – Recommended Scheme Post Public Consultation

The report advised that following Cabinet agreement in May to draft a Council Tax Support Scheme and undertake a twelve week period of public consultation, final recommendations were now brought forward for a scheme to operate from 1st April 2017.

The Portfolio Holder advised that this issue had been the subject of lengthy discussion and debate via the Council Tax and Welfare Reform Task Group with many options analysed. The proposals had been largely supported during the consultation and, slightly surprisingly, had been supported by a significant number of individuals who would be affected by the increase to the contribution rate for working age claimants. He also drew attention to the fact that the recommended scheme did introduce a 'safety net' for those who were genuinely affected by exceptional hardship through no fault of their own. The Chairman said that this point further exemplified that this Council would be understanding and reasonable whenever it could for those who found themselves in vulnerable situations and would also fully consider the results of any consultation it undertook and use those to frame the relevant debates and recommendations.

Resolved:

That the outcome of the public consultation process be noted.

Recommended:

- That
- (i) the Local Council Tax Reduction Scheme be amended as outlined in the report.

- (ii) delegated authority be issued to the Head of Finance, in consultation with the Portfolio Holder and the Leader, to make any adjustments to the final scheme by 31st January 2017.**

226 Council Tax Base 2017/18

The report advised that the Council was required to approve the Tax Base which would be used to calculate the level of Council Tax for 2017/18. It was calculated with regard to the number of domestic properties (including a forecast of new properties) which were then converted into Band D equivalents. The Tax Base had been calculated at 44,671.7 Band D properties and was an increase of 922 (or 2.11%) on the current year.

Recommended:

- That
- (i) the 2017/18 'Net' tax base of 44,671.7 Band D equivalent properties as set out in the table below be agreed.**
 - (ii) the distribution across Parished areas of the proposed grant to Parish Councils to help compensate for the negative impact caused by the Council Tax Support Scheme on Parish Councils' tax bases (Appendix D to the report refers) totalling £40,900 be agreed.**
 - (iii) the possibility of further Cabinet and Council decisions being required before the end of January 2017 should any material change in the tax base be required as a consequence of any further relevant funding announcements from Government be noted.**

DELIBERATELY LEFT BLANK

**TAX BASE 2017/18
LOCAL TAX BASE (WHOLE/PART AREAS)**

LOCAL TAX BASE 2016/2017	WHOLE AREA	BAND D EQUIVALENT	NEW OCCUPATIONS	1.0% PROVISION	Less discounts Council Tax Support	LOCAL TAX BASE 2017/18
		47,891.60	680.00	(440.40)	(4,381.20)	43,750.00
	<u>PARISH</u>					
579.80	Aldington & Bonnington	606.44	34.89	(4.49)	(42.39)	594.45
321.80	Appledore	381.78	0.89	(2.56)	(41.46)	338.65
701.50	Bethersden	767.14	4.67	(5.31)	(64.01)	702.48
1,086.90	Biddenden	1,178.50	2.78	(8.28)	(77.26)	1,095.73
147.90	Bilsington	156.94	0.00	(1.10)	(10.22)	145.62
1,043.90	Boughton Aluph & Eastwell	1,132.22	0.89	(8.07)	(57.61)	1,067.44
590.10	Brabourne	621.53	1.89	(4.51)	(21.85)	597.06
152.20	Brook	156.97	0.89	(1.17)	(1.67)	155.02
405.40	Challock	445.06	23.56	(3.42)	(12.29)	452.89
1,258.30	Charing	1,397.92	45.22	(9.87)	(127.10)	1,306.17
740.50	Chilham	813.11	9.44	(5.64)	(70.70)	746.22
92.50	Crundale (PM)	94.78	0.00	(0.70)	(0.91)	93.16
502.70	Egerton	525.81	0.89	(3.79)	(21.71)	501.20
176.40	Godmersham	177.56	0.00	(1.30)	(3.63)	172.62
2,420.20	Great Chart w/ Singleton	2,636.83	1.89	(18.25)	(205.82)	2,414.65
114.70	Hastingleigh	119.25	0.00	(0.86)	(4.21)	114.17
715.50	High Halden	771.19	4.67	(5.41)	(54.36)	716.09
287.10	Hothfield	334.69	0.00	(2.00)	(68.68)	264.02
106.10	Kenardington	116.53	0.89	(0.81)	(9.26)	107.35
4,334.50	Kingsnorth	4,575.81	109.56	(33.51)	(217.09)	4,434.76
123.70	Little Chart	131.81	0.89	(0.97)	(2.96)	128.76
637.1	Mersham and Sevington	752.61	25.44	(5.60)	(31.97)	740.49
103.8	Molash	117.14	0.89	(0.82)	(9.14)	108.07
103.2	Newenden	106.44	0.89	(0.77)	(4.60)	101.97
559.9	Orlestone	639.36	8.44	(4.51)	(46.04)	597.25
468.8	Pluckley	510.28	3.78	(3.59)	(34.77)	475.69
679.1	Rolvenden	728.89	14.11	(5.15)	(56.85)	681.00
317.7	Ruckinge	345.28	4.67	(2.53)	(11.97)	335.44
497.5	Shadoxhurst	543.25	38.67	(4.10)	(34.68)	543.13
620.5	Smarden	659.06	24.56	(4.84)	(38.22)	640.56
357	Smeeth	389.72	0.89	(2.72)	(27.83)	360.06
782.5	Stanhope	1,032.72	5.67	(5.87)	(255.77)	776.75
200.6	Stone	221.11	0.00	(1.52)	(17.83)	201.76
3438.5	Tenterden (TC)	3,774.56	58.44	(26.70)	(272.36)	3,533.93
176.7	Warehorne	180.47	0.00	(1.32)	(4.29)	174.86
319.5	Westwell	340.83	2.78	(2.45)	(16.58)	324.58
525.3	Wittersham	584.83	0.00	(4.00)	(51.44)	529.40
829.7	Woodchurch	896.00	4.67	(6.31)	(59.61)	834.75
1045.3	Wye with Hinxhill	1,116.78	10.33	(7.74)	(94.67)	1,024.70
16,185.60	Unparished Area	18,637.71	209.89	(124.38)	(2,184.44)	16,538.78
43,750.00		48,718.91	658.00	(336.98)	(4,368.26)	44,671.67

227 Trading and Enterprise Board – 7th November 2016

Resolved:

That the Minutes of the meeting of the Trading and Enterprise Board held on the 7th November 2016 be received, noted and approved with the exception of Minute No. 186.

Recommended:

That Minute No. 186 be approved.

228 Local Plan and Planning Policy Task Group – 6th October 2016

Resolved:

That the notes of the meeting of the Local Plan and Planning Policy Task Group held on the 6th October 2016 be received and noted.

229 Economic Regeneration and Investment Board – 27th July, 26th October and 23rd November 2016

Resolved:

That the notes of the meetings of the Economic Regeneration and Investment Board held on the 27th July, 26th October and 23rd November 2016 be received and noted.

230 Schedule of Key Decisions To Be Taken

Resolved:

That the latest Schedule of Key Decisions as set out within the report be received and noted.

231 Season's Greetings

Councillor Galpin, Cabinet Member for Town Centres Focus and Business Dynamics, advised that he was having a hip operation this coming weekend and would now be out of contact until after Christmas. He said he wanted to echo the earlier sentiments of the Leader by wishing Members and Officers a Merry Christmas and thanking everyone for their support in the work of his Portfolio this year.

CA
081216

(DS)

MINS:

Queries concerning these Minutes? Please contact Danny Sheppard:
Telephone: 01233 330349 Email: danny.sheppard@ashford.gov.uk
Agendas, Reports and Minutes are available on: www.ashford.gov.uk/committees

Agenda Item No: 6
Report To: Cabinet
Date: 12th January 2017



Report Title: A targeted and costed forward education and promotion strategy including forward recycling options and targets.

Report Author and job title: Patrick Brown
National Management Graduate

Portfolio Holder Councillor Clair Bell
Portfolio Holder for: Public Interaction and Borough Presentation

Summary:

This report presents targeted and costed communication activities, designed to improve the recycling performance in the borough and respond to contamination issues flagged by KCC which are reducing Ashford's recycling performance and increasing processing costs.

Key Decision: YES

Affected Wards: All wards in Ashford

Recommendations: **The Cabinet be asked to:-
Approve the recommended communications and education plan for recycling as well as the associated funding.**

Policy Overview: Ashford Borough Council (ABC) made a significant policy commitment to improve its recycling performance in 2012, to respond to the national recycling target of 50%, after being titled the worst in England with a performance of 12% in 2011/12. Key to delivery was the implementation of the Mid Kent Partnership (Maidstone, Swale and Ashford Borough Councils and Kent County Council) and the Biffa contract, which commenced in April 2013. In 2015 ABC became the most improved authority in the country for recycling. In the same year a statutory code of practice for Materials Recycling Facilities (MRF) came into force. This has impacted on the required quality of recyclates. The maintenance and possible improvement of recycling performance, the continued compliance with government recycling targets and the avoidance of financial penalties from rejected recyclates all require ongoing communication.

Financial Implications: The Cabinet is asked to consider the approval of communications activities of varying costs, based on anticipated potential outcomes.

Risk Assessment YES

Equalities Impact Assessment

See paragraphs 33-36.

Exemption Clauses:

N/A

Background Papers:

N/A

Contacts:

patrick.brown@ashford.gov.uk – Tel: (01233 330 432)

Agenda Item No.6

Report Title: A targeted and costed forward education and promotion strategy including forward recycling options and targets.

Purpose of the Report

1. To seek approval and funding for a new targeted recycling and waste education and communication plan.

Issue to be Decided

2. Agreement to the extent of the Communication and Education Plan and the funding to be made available to facilitate it.

Background

3. ABC, as part of the Mid Kent Joint Waste Partnership (MKJWP), entered a contract with Biffa commencing in April 2013. This was part of a large policy commitment to improving recycling performance in the borough. The other partners are Maidstone and Swale Borough Councils (MBC and SBC) and Kent County Council (KCC). As a Waste Collection Authority (WCA) Ashford works closely with KCC, the Waste Disposal Authority (WDA), on recycling and waste. ABC and KCC also work to improve waste management in Kent through the Kent Resource Partnership (KRP). The KRP have previously organised a number of communications campaigns across the district council members targeting increased recycling. In 2016, alongside the KRP we ran communications on “metal matters” and “the usual suspects” making residents more aware of items they can recycle
4. In 2013/14 ABC had the most improved recycling performance in the country and in 2014/15 the recycling performance improved further, reporting 55%, being the highest of all district authorities in Kent. However, in keeping with the national trend, recycling performance has since fallen slightly to 53.1% in 2015/2016. The national recycling target is 50% by 2020. The latest figures for Ashford (53.1%) places us 44th in the country, 14th in the South East and top in Kent but it is very important that we work hard to maintain and where possible improve this level.
5. The Environmental Permitting (England and Wales) (Amendment) Regulations 2014 introduced a new statutory Code of Practice for Materials Recycling facilities (MRFs). This was implemented at the MRF which services our contract in September 2015. Some items previously listed as objectionable at the MRF are now listed as prohibited which can mean that the load is rejected. This has led to an increased number of non-conforming recycling loads being rejected from the MRF.

6. Each non-conforming load bears a significant financial loss to KCC. When a load is rejected it is diverted to either the waste to energy facility at Allington or to landfill. Material recycled at the MRF presents a saving of 68% and 76% when compared to being diverted to Allington or Landfill respectively. When the load is rejected this potential saving is lost. Furthermore there are costs charged to KCC by the MRF for reloading and from destinations for onward disposal. As part of its obligations under the Mid Kent Inter Authority Agreement (drawn up as part of the MKJWP):
 - a. The Partners shall use best endeavours to reduce contamination of recyclable/food waste materials and
 - b. If any of the Mid Kent Borough Councils (MKBCs) fail to implement or cease to deliver recycles in accordance with contractual requirements made by any of the Partners the failing partner would have to recompense any loss suffered as a result.ABC is therefore obliged to undertake action to reduce contamination or potentially recompense the partners for losses arising. ABC has already taken action accordingly and this is outlined under 'Contamination' below.

Waste Composition Analysis:

7. A waste composition analysis conducted in November 2015 identified a number of target areas where recycling performance could be improved. The analysis also identified differences in the borough between Socioeconomic and demographic groups known as (A Classification of Residential Neighbourhoods) ACORN categories. In addition to the ACORN analysis groupings there are 3,150 flats which are served by communal waste and recycling bins which will be treated separately as recycling barriers between properties with communal bin stores and other properties are different.
8. Key issues highlighted by the waste composition analysis are:
 - a. Nearly 1 kilogram per household per week (kg/hh/wk) of recyclable food waste is not currently being captured but instead being placed in the residual waste. The greatest amount of food waste not being recycled is found among ACORN 1 households. ACORN 1 makes up 29.3% of Ashford.
 - b. Nearly 1 kg/hh/wk of mixed recycling is not currently being captured but instead placed in the residual waste. There is no single material though that comprises a uniquely large proportion of this. The greatest amount of mixed recycling not being recycled is found amongst ACORN 4 and ACORN 5 households. ACORN categories 4 and 5 constitute 32.7% of Ashford between them.
 - c. Amongst ACORN groups 1,2,3 there is little garden waste in the residual waste. However amongst groups 4 and 5 there is over 0.8 kg/hh/wk.
 - d. Recycling performance in flats in Ashford is higher than in neighbouring authorities; however performance in flats remains significantly lower than "stand alone" households in common with national findings.
9. WRAP (Waste and Resources Action Programme) has researched how different forms of communication are received by various demographic groups, based on the ACORN group to which they belong. This has allowed

targeted communication plans to be developed on not only what the message is, but how it should be delivered and potentially how it will be interpreted.

10. Current work with KCC is being undertaken to produce a map that shows the location of the different ACORN categories in Ashford as well as the collection route that services those households. This enables the delivery of targeted communications based on issues identified within an ACORN category from the waste composition analysis.
11. Analysis undertaken to compare the first six months of the 2016/17 recycling year with the respective months from the 2015/16 recycling year suggests that since the waste composition analysis was undertaken:
 - a. the amount of food waste recycled has decreased
 - b. the amount of dry mixed recycling and garden waste that is being recycled has increased.

Food waste decrease could be a positive, following the “love food, hate waste campaign” (run this year as a joint initiative between the KRP and the Chartered Institute of Environmental Health). However there is no evidence to support this. Therefore increasing capture of food waste could present a potential opportunity for improving recycling performance in Ashford.

12. Research has been undertaken into higher recycling authorities with similar ACORN demographic breakdown to identify how they have been successful in improving their performance. (A full breakdown of this work appears in the appendix)

Contamination

13. Contamination refers to the amount of non-recyclable material that is collected along with recyclable material and sent to a Materials Recycling Facility to be processed. If there is too much non-recyclable material present (contamination in terms of prohibitive material above 10% of the load) then the load may be rejected as a non-conforming load. Each non-conforming load represents a financial cost to KCC, with a considerable portion of that potentially to Ashford.
14. The following outlines the percentage saving for recycling different waste streams as opposed to that waste stream being incinerated or sent to landfill (Information correct as of December 2016):

Waste stream	Percentage saving for disposal of waste stream compared to incineration (when comparing £ per tonne costs)	Percentage saving for disposal of waste stream compared to landfill (when comparing £ per tonne costs)
Dry Mixed Recyclate	68%	76%
Composting	70%	76%

Food	59%	66%
Bulky	7%	24%

15. Ashford's recycling performance is negatively affected by the loss of recyclable materials that could not be recycled due to the presence of contamination. Although there is potential for improvement in the recycling performance of all materials the scale of increase possible by targeting food waste and contamination is significantly larger than for other materials.
16. Several high performing authorities have identified a strict policy on not collecting recycling which contains contamination as being integral to maintaining higher recycling levels. Ashford has worked with Biffa (our waste and recycling contractor) to ensure collection crews are more stringent in their checks of recycling bins. Where a bin is found to contain contamination, it is not collected and instead a bin hanger is placed on the bin to communicate to the resident why the recycling has not been collected and inform them that it will be collected next time, provided the offending material is not present.
17. Prior to the increase in stringency, which began on the week commencing 31st October, a press release, website updates and social media posts were utilised to make residents aware that their recycling would not be accepted if the wrong materials were present. Key materials that had been identified as commonly incorrectly placed in the recycling bin were specifically addressed in communications. These were carrier bags, dark plastic food trays, sanitary waste and garden waste. Also promoted was the Wheel of Waste, a tool, produced by ABC, which allows users to quickly find the correct disposal route of many common items. Residents were informed through a press release that a wheel of waste would be delivered free to anyone requesting one.
18. Collection crews are able to log which households have had contaminated bins during their rounds. This information is then used to identify households and larger areas that are commonly placing the wrong materials in their recycling bin, for further targeted campaigns or a visit by an ABC officer to discuss the content of the recycling bin, to ensure correct material placement and good practice clarification. This would have an impact on council resources relative to the number of houses that are identified as having serious issues with contamination.

Contamination Communications

19. There are two key barriers to reducing contamination, these are:
 - a. Not knowing what materials should be placed in the recycling bin and what materials should not be placed in the recycling bin.
 - b. Not knowing what contamination is and why it is a problem or the money it costs. Although this cost is not directly met by the householder, there is an indirect cost and it can lead to financial pressure for the service.
20. To address these barriers leaflets can be developed that:
 - a. Use clear pictorial information (appropriate for all languages) to inform residents what materials should be placed in their mixed recycling bin

as well as what materials should not be. The information presented can target priority materials (e.g. glass, metals, paper and card, and plastics) and frequent contaminants (e.g. black sacks, carrier bags, food waste, and dark plastic trays).

- b. Inform residents exactly what happens when non-recyclable materials are placed in the recycling bins and why this is a problem. It could address where materials end up and the financial cost of contamination.

These leaflets can then be distributed to different households based on what is known to be the most likely barrier to that ACORN category.

- 21. Following a report to Cabinet in February 2016, it was agreed that a forward costed and targeted education and communications strategy is required to either maintain or improve recycling performance.
- 22. The following table details actions taken since then:

Scheme	Cost	Impact
Plastic and metal leaflets (3 Separate leaflets delivered in January and February 2016)	Funded through KRP	Mixed recycling collected +8.5% (Impact calculated by analysis of April-September 2016 compared to April-September 2015)
Council Tax insert	£3200	Recycling performance for proceeding months was higher than the corresponding month for the previous year (though it is not possible to quantify exactly how much of this increase is solely due to the insert).
Contamination campaign (No paid communications)	Officer time	Data obtained for waste and recycling since the week commencing 31/10/16 will be compared to previous years to assess any effect on performance. This can be used to inform contamination communications in the future.
Christmas campaign (paid for by funding from the KRP – with the exception of approx. £900)	£17,500	Data obtained for waste and recycling in December 2016 and January 2017 will be compared to previous years to assess any effect on performance. This can be used to inform Christmas communications in the future.

Proposed Communications Plan – Costs and Impact

- 23. The following table details proposals for a future Communications Plan and associated costs (recommended options appear in green):

Scheme	Cost	Impact Potential
Food Waste Campaign (Borough Wide) A food waste leaflet designed to address barriers to recycling food waste to be delivered to all residents	£5,000	Overall recycling performance

Scheme	Cost	Impact Potential
in the borough coinciding with the delivery of a food waste bin sticker.		+0.91% Food waste recycling +9.6%
Food Waste Campaign (Targeted to ACORN 1) A food waste leaflet designed to address barriers to recycling food waste to be delivered to certain postcode sectors targeting ACORN 1 households	£3,000	Overall recycling performance +0.64% Food waste recycling +6.8%
Contamination Campaign (Borough Wide) A pictorial flyer designed to clarify to residents that certain materials, identified as regularly misplaced in the green recycling bin, cannot be recycled. Key materials that can be placed in the green recycling bin will also be highlighted.	£5,000	Overall recycling performance +0.78% Contamination levels reduced to 7.5% from 13.61%
Contamination Campaign (Targeted at households who are recorded by Biffa as repeatedly contaminating) Two flyers designed to each address barriers known to be more common to particular ACORN categories will be designed and printed in house. These can then be delivered by officers during door knocking to households and areas identified as having issues with contamination.	Officer time	¹
Garden Waste (Borough Wide) A flyer detailing the garden waste service offered by ABC, how to sign up and more cost effective methods of recycling garden waste such as sharing a service with a neighbour. The leaflet would be distributed to all households in the borough.	£5,000	Overall recycling performance +0.43% Garden waste recycling +2.5%
Garden Waste (Targeted to ACORN 4 and 5) A flyer detailing the garden waste service offered by ABC, how to sign up and more cost effective methods of recycling garden waste such as sharing a service with a neighbour. The leaflet would be distributed to specific postcode sectors targeting ACORN 4 and 5 households.	£2,250	Overall recycling performance +0.29% Garden waste recycling 1.7%
Flats	Officer time	²
Livery for Collection Vehicles	£6,750	³
Total All Schemes (Borough Wide) (Recommended)	£21,750	Overall recycling performance + 2.12%
Total All Schemes (Targeted)	£12,000	Overall recycling performance + 0.93%

The level of anticipated impact of communication activities has been assessed through the comparison of Ashford's recycling performance and ACORN categories to those of authorities running similar campaigns.

¹ The key driver for funding officer time for targeting individual households who are regularly finding their recycling not collected is to reduce the level of contamination and consequently improve service provision for residents. It is difficult to provide an accurate assessment of anticipated impact however where this is carried out to tackle widespread contamination issues, it is conducted alongside other activities such as leafleting to maximise resource efficiency.

This method also will only be able to address households who are found by collection crews to have contamination in their recycling bin. Where contamination is hidden by recyclable materials these households will not be identified and would not receive specific communication if a wider activity is not also conducted.

²The key driver for funding officer time for flats recycling is to reduce the level of contamination and consequently improve service provision for residents who are currently regularly finding their communal recycling bins not being emptied due to contamination.

³It is very difficult to provide an accurate estimated impact on recycling performance from changing the livery for collection vehicles as when this has been done by other authorities it has been part of wider campaigns. It does however provide a permanent form of mobile advertising that reaches all areas of the borough. Livery has not been updated for Ashford's collection vehicles since the introduction of the contract with Biffa when vehicles for ABC, MBC and SBC all shared artwork promoting the new scheme. MBC have fitted new artwork for the collection vehicles livery since this time.

Recommendations

24. The recommended activities above (shown in green) consist of Borough wide costed communications concerning recycling food waste, contamination, the garden waste service as well as updated and targeted artwork for the livery of collection vehicles. These activities are supplemented in the proposed communications and education plan by no cost activities and those already considered in the budget, both temporary and on-going, focusing on: key materials, seasonal materials, work to reduce contamination, work with flatted properties, and community and youth engagement. See Annex B.

Borough wide activities are recommended at a cost of £21,750. Although the cost per percentage point improvement in recycling performance is slightly higher for these activities, borough wide communications provide the benefit of encompassing a wider audience. Consequently this will not result in the possibility of some residents questioning why others have received communications that they have not. This also includes communication addressing contamination, a serious issue which if unmanaged will spiral. The nature of recent rises in rejected loads does not enable us to identify particular postcode sectors to target, hence the recommendation for the borough wide approach. It is anticipated that the forward comms plan will promote our garden waste service and increase participation. With Members

approval, the additional income from more participants in the garden waste service will be used to fund this forward education and communications plan.

25. Increases in the amounts of material recycled rather than being incinerated or sent to landfill as a result of the recommended communications would represent a potential cost saving to KCC (see paragraph 15). The shared benefit of this is currently being explored with KCC.
26. Whilst an approach to not take side waste, or contaminated waste, appears hard on the resident, it is imperative that residents who make every effort to recycle should not be penalised for their efforts, by having whole loads of contaminated waste rejected by those who don't. Councillors may be approached feeling that the approach taken is unfair, but it is vitally important that a consistent message and approach is maintained to educate and continually improve recycling rates.
27. Communications tackling contamination that result in fewer non-conforming loads will mean that ABC would make financial savings on potential recompense owed to KCC for the cost of rejected loads. For the first 8 months of the 2016/17 financial year the possible recompense due from ABC to KCC was £5122.25.
28. Data released by DEFRA (Department for Environment, Food & Rural Affairs) in December 2016 confirmed Ashford had a recycling performance of 53.1% for 2015/16. This was the highest recycling performance of all collection authorities in Kent. However it should also be noted that this is 2.2% lower than the previous year. Although a reduced recycling performance was a national trend with over 58% of authorities recycling less than previously, it is important to address this issue and the attached communications plan has been designed to do that.

Risk Assessment

29. If the decision is made not to fund any of the costed communication activities there is a risk that the recycling performance of Ashford will further decrease.
30. If the current level of contamination is not reduced then KCC may seek recompense for the increased cost in dealing with non-conforming loads, bringing budget pressures to the service.
31. Although research has been undertaken to provide an estimated impact of a communications activity. Communications are rarely carried out by authorities in isolation and are usually part of wider campaigns. As such it is difficult to ascertain to what extent an activity is responsible for a direct effect on recycling performances. It is possible that the outcomes of costed communications activities may not realise the potential anticipated.
32. Some activities may be conducted several months after approval and as such it is possible the cost of an activity at the time of implementation will be greater than current estimates.

Equalities Impact Assessment

33. The recommended communications plan would be delivered, to households, borough wide.
34. If however a targeted approach is adopted as opposed to the recommended communication activities then some activities would be targeted at particular ACORN categories and as such not all residents would receive the same communication. This targeting is based solely on known recycling differences outlined by the waste composition analysis.
35. ACORN profiling can provide a powerful insight in order to understand local communities and inform decision making leading to improved service design and delivery. It is not used to preferentially target any areas, communities or individuals.
36. As such no negative impacts on those with protected characteristics are foreseen.

Other Options Considered

37. Addressed mail

Where a decision is made to use communications targeted at a particular ACORN category, it is possible to use addressed mail so that only households of that ACORN category receive the communication. However this is significantly more expensive than delivery to entire postcode sectors even when accounting for the lower number of communications printed and distributed.

38. Take no action

A decision could be made to operate a communications plan using none of the costed activities. However there is a risk of recycling performance decreasing if costed communications are not utilised. There is also the risk of a cost to ABC if contamination levels are not sufficiently reduced.

Consultation

39. The communications and education plan has been developed with the input of communications officers who will be implementing much of the plan alongside environmental services officers.
40. High achieving recycling authorities have been consulted on communication strategies that successfully enable a high recycling performance.

Implications Assessment

41. Adoption of the proposed communications and education plan will support ABC's strong recycling ethos as well as providing residents with the information they need to recycle correctly and with confidence. This should

work to increase collection of target materials, reduce levels of contamination, maximise the effect of positive external impacts on recycling performance, such as national recycling campaigns, and reduce the effect of any negative external impacts on recycling performance.

42. If the recommended communication and education plan is not approved there is a risk that the amount of key recyclates collected, such as food waste, may fall which could result in a reduced recycling performance. Furthermore there is a risk contamination levels remain unreasonably high, this could result in not only a reduced recycling performance, but also in a financial cost to ABC.

Handling

43. An attached communications plan has been developed including both the costed activities and activities which do not present a cost to ABC. Should cabinet be minded to approve any of the costed activities, these will be implemented as outlined in this communications plan. Any costed activities not approved will be removed from this communications plan.

Conclusion

44. A forward communications and education plan has been developed from analysis of the waste composition as well as changes to recycling performance since this waste composition. The plan presents campaigns to target key materials as identified from this analysis as well as campaigns and activities to be run focusing on seasonal materials. Activities have been selected based on their success when targeting these materials in previous campaigns run by a number of authorities. The attached plan also focuses strongly on community engagement and engagement with schools and youth groups.
45. It is difficult to present an accurate anticipated impact of many activities as recycling performance can be affected by a multitude of factors which cannot be controlled for. Nevertheless the plan aims to project the strong, positive recycling ethos of ABC and to continue to foster this ethos in the wider community.
46. Recycling performance will be continually monitored to assess the success of the communications and education plan. This will then be used to form the basis of an annual review of the communications plan in order for ABC to continually adapt communications regarding recycling to maintain an impressive recycling performance.

Portfolio Holder's Views

47. I recommend the approval of the proposed costed communications and education plan for recycling services in the Borough of Ashford. A communications and education plan targeting key local issues and engaging the Ashford community is vital in ensuring a recycling performance representative of resident's positive attitudes towards recycling. Distribution of

contamination education materials to residents will lead to better service understanding for residents where there may currently be a disparity between enthusiasm for recycling and knowledge of good practice. Councillor Clair Bell, Portfolio Holder for Public Interaction and Borough Presentation.

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Annex A:

Communications Planning - Background and Strategy



Introduction:

This report is split into the following sections:

- **Section 1- Background** - details the background information in respect to the keys to improving recycling performance in Ashford as indicated by ABC's Waste Composition Analysis and the problems of recycling contamination;
- **Section 2 – Communication Strategy** - details proposals for a planned communication strategy by waste stream to respond to the issues raised.
- **Section 3 – Community Engagement** – details
- **Section 4 – Methods of Communication**
- **Section 5 – Strategy Conclusions and Recommendations**

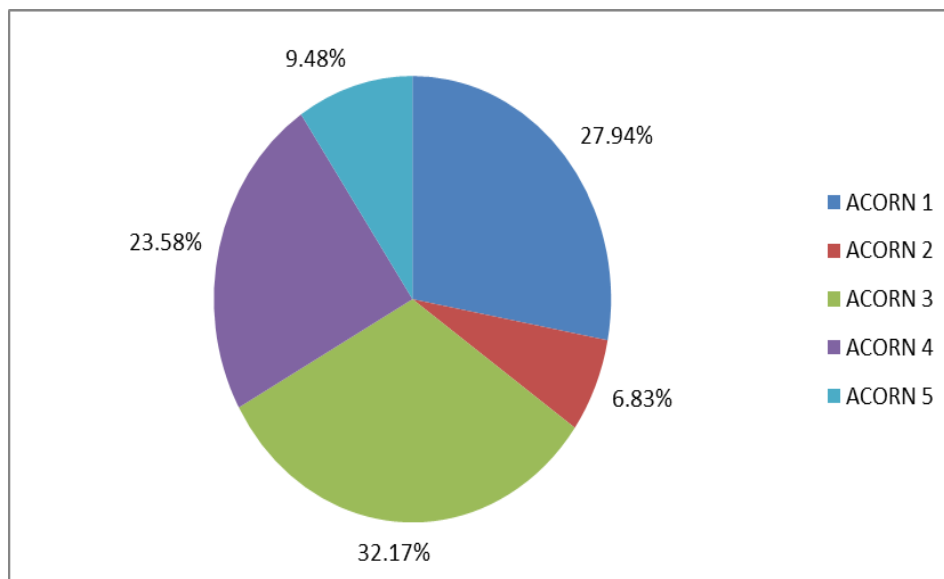
Section 1 – Background

The keys to improving Ashford's recycling performance were identified in the course of the Compositional Analysis undertaken in 2015 and more recently in the problems of reducing contamination in the face of increased quality standards demanded by Material Recycling Facilities (MRF'S). The analysis and issues raised are detailed in this section.

Compositional Analysis:

1. There are five key ACORN (A Classification of Residential Neighbourhoods) categories that a household may fall into.
ACORN 1: Affluent Achievers
ACORN 2: Rising Prosperity
ACORN 3: Comfortable Communities
ACORN 4: Financially Stretched
ACORN 5: Urban Adversity
2. ACORN Analysis of the households of Ashford shows the following breakdown:

	ACORN 1	ACORN 2	ACORN 3	ACORN 4	ACORN 5
Percentage	27.94%	6.83%	32.17%	23.58%	9.48%

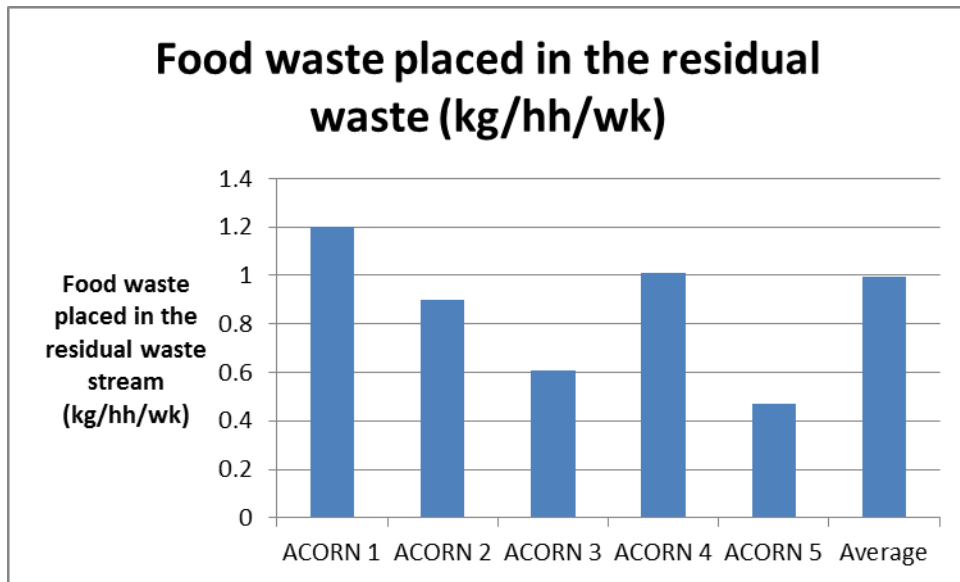


3. A waste composition analysis conducted in November 2015 identified a number of target areas where recycling performance could be improved. The

analysis also identified differences in the borough between Socioeconomic and demographic groups known as ACORN categories (A Classification of Residential Neighbourhoods). In addition to the ACORN analysis groupings there are 3,150 flats which are served by communal waste and recycling bins which will be treated separately as recycling barriers between properties with communal bin stores and other properties are different.

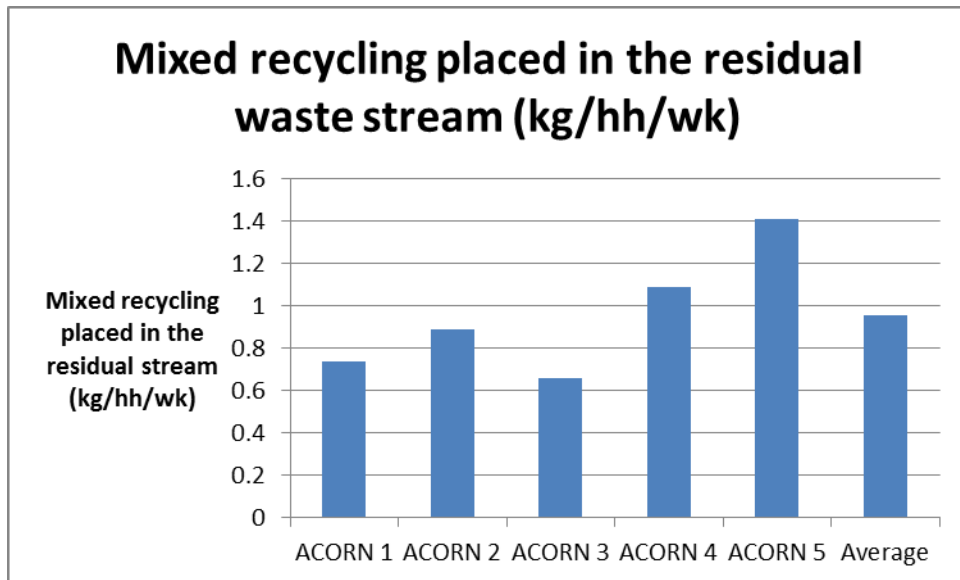
4. WRAP (Waste and Resources Action Programme) has researched how different forms of communication are received by various demographic groups, based on the ACORN group to which they belong. This along with analysis of communication preferences of ACORN groups has allowed targeted communication plans to be developed on not only what the message is but how it should be delivered and potentially how it will be interpreted.
5. Current work with KCC is being undertaken to produce a map of the location of the different ACORN categories in Ashford as well as the collection route that services those households. This enables the delivery of targeted communications based on issues identified within an ACORN category from the waste composition analysis.
6. Other authorities have been identified that have been successful in tackling issues that the waste composition analysis found to be important to the recycling performance in Ashford (such as Dacorum Borough Council). Consequently, analysis has been undertaken to compare the similarities in ACORN breakdown between that district and Ashford. This allows assessment of how likely those methods would be to see success in Ashford.
7. Research has been undertaken with authorities performing higher than Ashford on the government recycling league tables, to compare and contrast reasons for that and establish if similar methodology may work for Ashford.
8. Key issues highlighted by the waste composition analysis are:
 - a. Nearly 1 kilogram per household per week (kg/hh/wk) of recyclable food waste is not currently being captured but instead being placed in the residual waste. The greatest amount of food waste not being recycled is found among ACORN 1 households. ACORN 1 makes up 29.3% of Ashford.

	ACORN 1	ACORN 2	ACORN 3	ACORN 4	ACORN 5	Average
Food waste placed in the residual waste (kg/hh/wk)	1.20	0.90	0.61	1.01	0.47	0.992



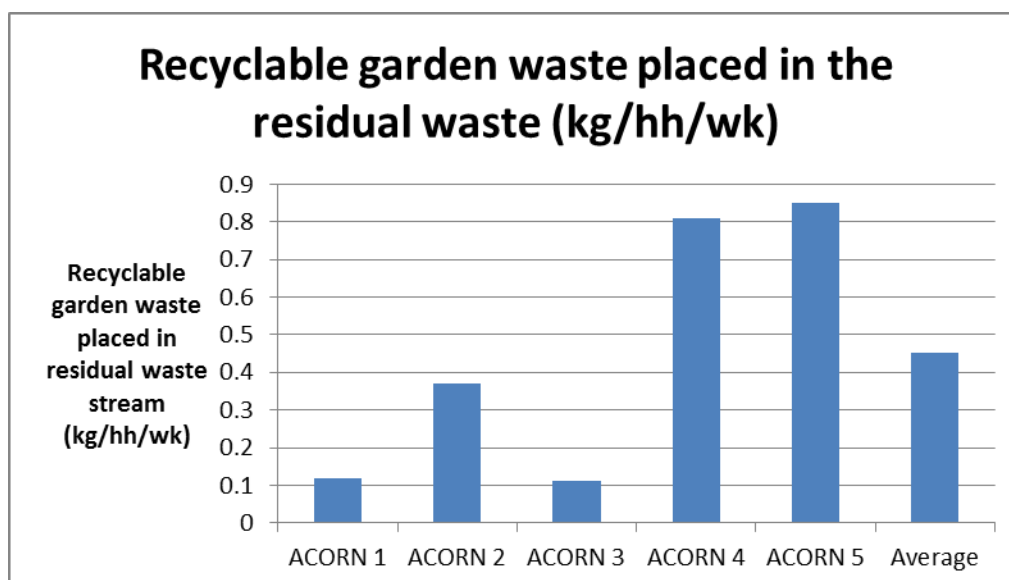
- b. Nearly 1 kg/hh/wk of mixed recycling is not currently being captured but instead placed in the residual waste. There is no single material though that comprises a uniquely large proportion of this. The greatest amount of mixed recycling not being recycled is found amongst ACORN 4 and ACORN 5 households. ACORN categories 4 and 5 constitute 32.7% of Ashford between them.

	ACORN 1	ACORN 2	ACORN 3	ACORN 4	ACORN 5	Average
Mixed recycling placed in the residual waste (kg/hh/wk)	0.74	0.89	0.66	1.09	1.41	0.958



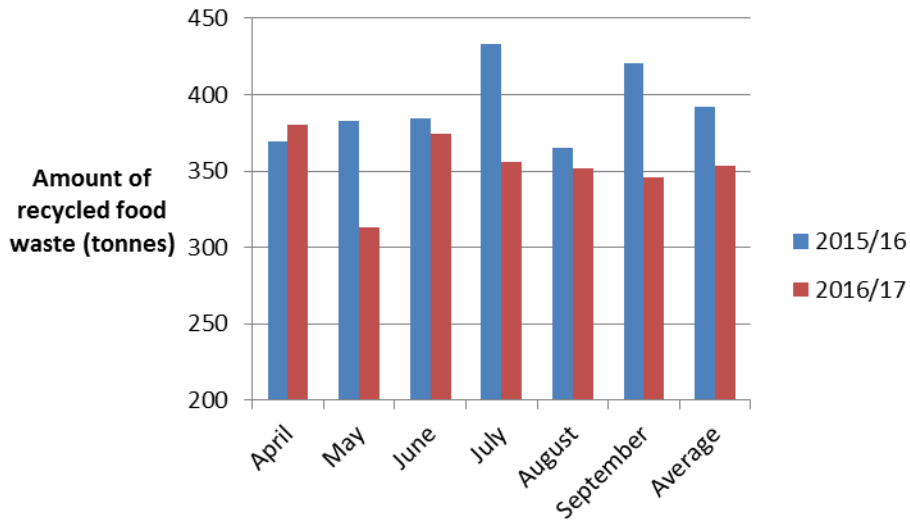
- c. Amongst ACORN groups 1,2,3 there is little garden waste in the residual waste. However amongst groups 4 and 5 there is over 0.8 kg/hh/wk.

	ACORN 1	ACORN 2	ACORN 3	ACORN 4	ACORN 5	Average
Garden waste placed in the residual waste (kg/hh/wk)	0.12	0.37	0.11	0.81	0.85	0.452

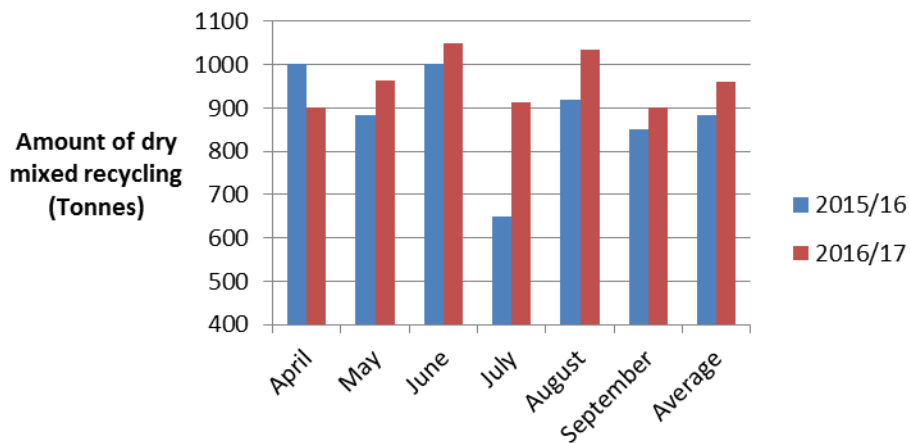


- d. Recycling performance in flats in Ashford is higher than in neighbouring authorities; however performance in flats remains significantly lower than “stand alone” households in a trend that is seen nationwide.
9. Analysis undertaken to compare the first six months of the 2016/17 recycling year with the respective months from the 2015/16 recycling year suggests that since the waste composition analysis was undertaken:
- a. the amount of food waste recycled has decreased
 - b. the amount of dry mixed recycling, and garden waste that is being recycled has increased.
10. Increasing capture of food waste therefore presents a substantial opportunity for improving recycling performance in Ashford

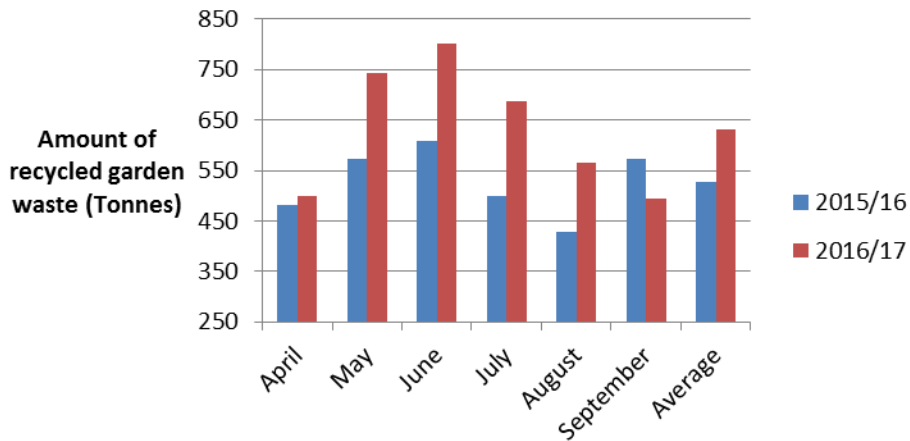
Amount of recycled food waste (Tonnes) for Q1 & Q2 2016/17 compared to Q1 & Q2 2015/16



Amount of dry mixed recycling (Tonnes) for Q1 & Q2 2016/16 compared to Q1 & Q2 2015/16



Amount of recycled garden waste (Tonnes) for Q1 & Q2 2016/17 compared to Q1 & Q2 2015/16



Contamination

11. Contamination refers to the amount of non-recyclable material that is collected along with recyclable material and sent to a Materials Recycling Facility to be processed. If there is too much non-recyclable material present (contamination) then the load may be rejected as a non-conforming load. Each non-conforming load represents a financial cost to KCC, with a considerable portion of that potentially to Ashford.
12. Furthermore Ashford's recycling performance is negatively affected by the loss of recyclable materials that could not be recycled due to the presence of non-recyclable material. Although there is potential for improvement in the recycling performance of all materials the scale of increase possible by targeting food waste and contamination is significantly larger than for other materials.
13. Several high performing authorities have identified a strict policy on not collecting recycling which contain contamination as being integral to maintaining higher recycling levels. Ashford has worked with Biffa (our waste and recycling contractor) to ensure collection crews are more stringent in their checks of recycling bins. Where a bin is found to contain contamination, it is not collected and instead a bin hanger is placed on the bin to communicate to the resident why the recycling has not been collected and inform them that it will be collected next time, provided the offending material is not present.
14. Prior to the increase in stringency, which began on the week commencing 31st October, several forms of communication were utilised to make residents aware that their recycling would not be accepted if the wrong materials were present. Key materials that had been identified as commonly incorrectly placed in the recycling bin were specifically addressed in communications. These were carrier bags, dark plastic food trays, sanitary waste and garden waste. Also promoted was the Wheel of Waste, a tool which allows users to quickly find the correct disposal route of many common items. Residents were informed through a press release that a wheel of waste would be delivered free to anyone requesting one.
15. Collection crews are able to log which households have had contaminated bins during their rounds. This information will then be used to identify households and larger areas that are commonly placing the wrong materials in their recycling bin.
16. These households could then be visited by an officer to discuss the recycling bin so that the correct materials and good practice can be clarified. This would cost council staff time relative to the number of houses that are identified as having serious issues with contamination.
17. Two of the key barriers to reducing contamination are:
 - a. Not knowing what materials should be placed in the recycling bin and what materials should not be placed in the recycling bin.
 - b. Not knowing what contamination is and why it is a problem or the money it costs.

18. Leaflets could be produced to address these barriers.
 - a. The use of clear pictorial information could be used to inform residents what materials should be placed in their mixed recycling bin as well as what materials should not be. The information presented can target the most potentially recycled material as well as those materials that have been found to often be incorrectly placed in recycling bins e.g. black sacks, carrier bags, food waste, and dark plastic trays.
 - b. Residents can also be informed exactly what happens when non-recyclable materials are placed in the recycling bins and why this is a problem. It could address where materials end up and the financial cost of contamination.

These flyers could then be distributed to different households based on what is known to be a more likely barrier to that ACORN category.

19. A similar strategy to tackle contamination as the one outlined above was found to be very successful by Castle Point Borough Council who were able to reduce contamination from 18% to 8%.

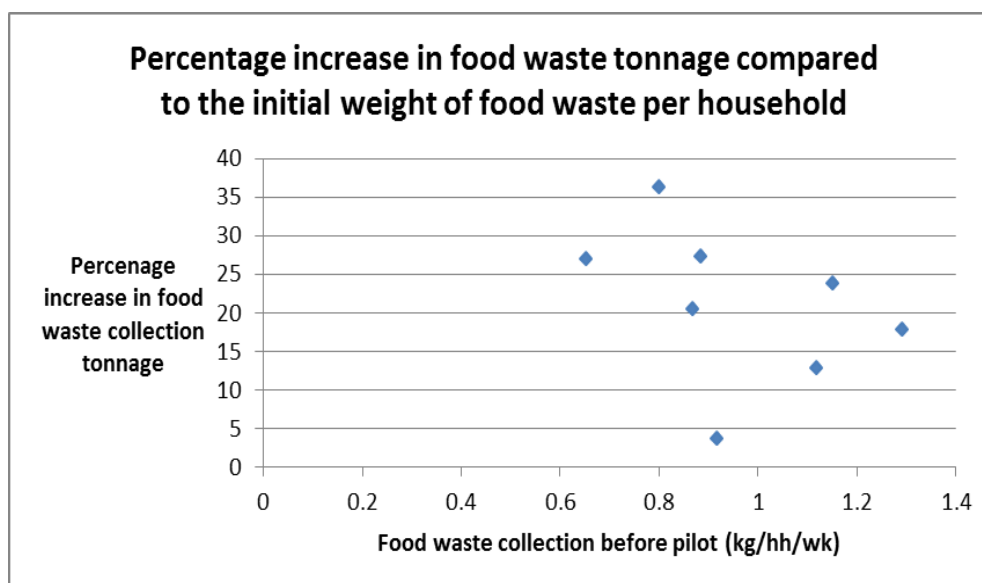
Section 2 - Communications Strategy:

This section details issues, research and communications proposals by key waste stream:

- Food Waste
- Garden Waste
- Mixed Dry Recycling and
- Flats

Food Waste Strategy

20. The KRP has identified food waste as a key area to target to improve recycling performance across the county. This reflected the findings from Ashford's waste composition analysis. The amount of food waste recycled has fallen since the waste composition analysis and as such food waste is a priority material to address with regards to improving recycling performance in Ashford.
21. Pilots undertaken by WRAP with a number of local authorities between 2013 and 2015 found the placement of a "No Food Waste Please" sticker on the residual bin to be the most effective at increasing the capture rate of food waste. Though the extent of the effectiveness was also dependent on the amount of food waste being collected in an authority prior to the introduction of the sticker.

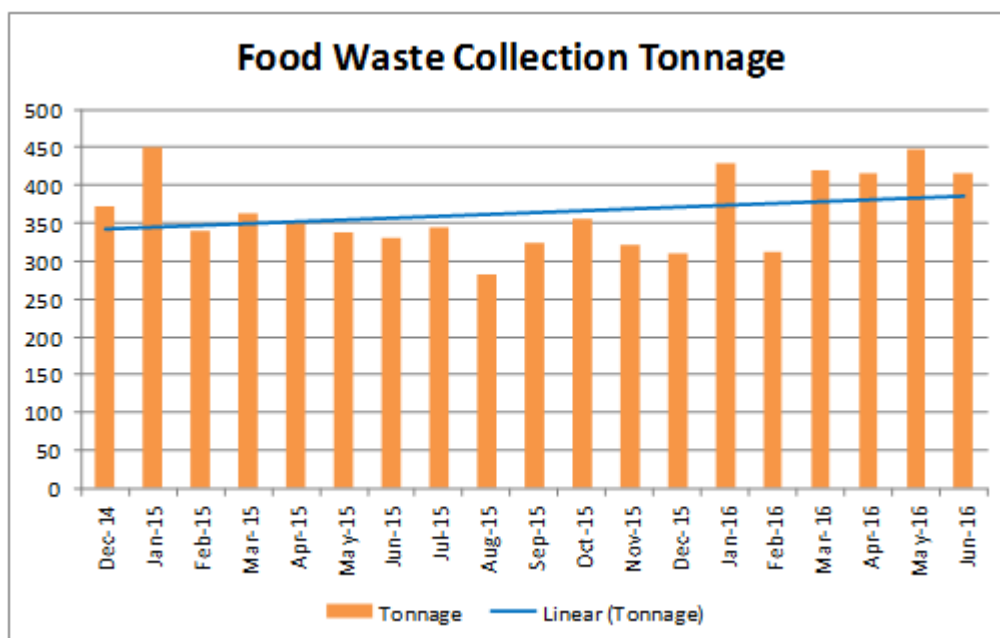


The data indicates that the increase in food waste collection tonnage resulting from the sticker is, in part, affected by the initial amount of food waste collected. Where the initial amount of food waste collected is higher there is a trend towards a lower percentage increase. Although it should be noted there is not available data for the amount of food waste that was present in the residual waste stream prior to the introduction of the pilot.

22. This suggests that we will see a greater percentage increase among ACORN categories where there is a great amount of food waste that is currently not being recycled, e.g. a 20% increase would not be a realistic expectation amongst ACORN 5 households as these households already recycle a large percentage of their food waste; however a 20% increase would be possible

amongst ACORN 1 households as these households have a greater amount of food waste that is not currently being recycled.

23. Dacorum Borough Council placed a “No Food Waste Please” sticker on residual bins in February 2016. An increase in tonnage of approximately 20% was seen for the months following the introduction of the sticker compared to the respective months in the previous year.



24. Analysis of the ACORN groups of both districts also shows that the two most abundant ACORN households (ACORN 1 and ACORN 4) are the same in each area. However the amount of food waste recycled per household by Ashford households is marginally greater than the amount that was being recycled in Dacorum prior to the introduction of the sticker. Taking all this into account suggests that Ashford would see a similar, but slightly reduced impact in food waste recycling as a result of the delivery of these stickers.
25. The Kent Resource Partnership is funding the production and distribution of the stickers. The delivery of this project is across all authorities within the Kent Resource Partnership that currently have a food waste recycling service.
26. Distribution will be carried out by Biffa, with one extra crew member per round for a week placing the sticker on the bin. The stickers will be delivered to households that have their own individual food waste bins but not flats with communal bin stores.
27. The following shows the total amount of food waste(kg/hh/wk), for each ACORN category, left in the residual bins after a varying percentage increases in food waste collection that may result from just the sticker:

	ACORN 1	ACORN 2	ACORN 3	ACORN 4	ACORN 5
0%	1.2	0.9	0.61	1.01	0.47
5%	1.1025	0.796	0.5315	0.913	0.3195
10%	1.005	0.692	0.453	0.816	0.169
15%	0.9075	0.588	0.3745	0.719	0.0185
20%	0.81	0.484	0.296	0.622	-0.132

This shows that there would still be a significant amount of food waste in the residual waste of ACORN 1 households even if the implementation of a “No Food Waste Please” sticker led to a 20% increase in food waste collection. It also shows that a 20% increase amongst ACORN 5 households would not be possible as they do not produce enough food waste for an increase of this size.

28. In pilots the amount of food waste collected increased by a further 14% when the sticker was accompanied by delivery of a leaflet. The leaflet was designed by WRAP to address barriers to food waste recycling that have been identified. The key barriers addressed are:

- a. Using the food waste bin hygienically.
- b. The range of materials that can be recycled in the food waste bin.
- c. Why it is important to recycle food waste.

The leaflet could be adapted by Ashford to particularly target ACORN 1 households due to the high amount of food waste not being recycled by these households. However each of these barriers will be addressed as these are known to be barriers to every ACORN group. The leaflet could also specifically address food in unopened packaging as this was found to often be poorly recycled in the waste composition analysis. If food in unopened packaging is placed in the refuse then it is lost recycle, but if it is placed in the food waste bin or recycling bin it is contamination. Food should be emptied from the packaging into the food waste bin. The packaging should then be either recycled or placed in the refuse as appropriate.

29. Due to the low capture rate of food waste among ACORN 1 even with a 20% increase in food waste collection, there would still be a considerable amount of food waste in the residual waste that could be targeted by to improve recycling performance. The food waste leaflet could be utilised to capture more of this food waste.

30. Delivery of a food waste leaflet could be targeted to those households with the most amount of food waste in their residual bins or could be delivered borough wide.

31. The distribution of the sticker and leaflet could be supported by a press release as well as online communications through the Ashford website and social media platforms.

32. Anticipated impact of the delivery of a leaflet has been calculated based on a percentage increase in recycled food waste for each household receiving the leaflet. This was calculated individually for each ACORN category based on the effect of the leaflet in WRAP's pilots as well as the amount of food waste left in the residual waste following the anticipated impact of the food waste sticker. Consequently the anticipated impact of the leaflet is greater for certain ACORN categories:

ACORN 1 – 10%
 ACORN 2 – 7.5%
 ACORN 3 – 7.5%
 ACORN 4 – 10%
 ACORN 5 – 2.5%

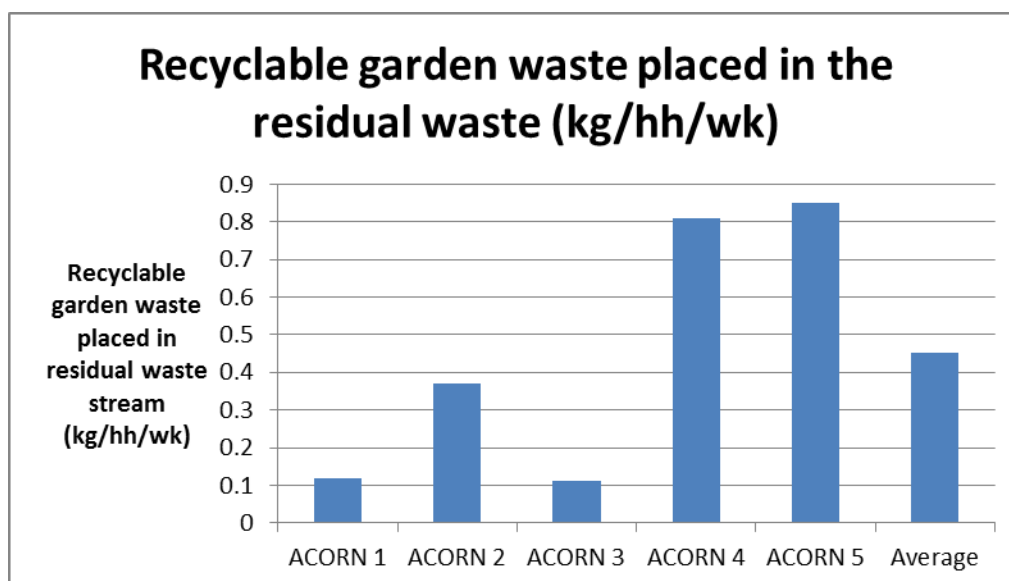
Based on these anticipated impacts per ACORN category anticipated impacts have been calculated for either a borough wide delivery or a delivery targeted to areas with comparatively high levels of ACORN 1 households:

Delivery	No. of households	Cost	Anticipated increase in food waste collection	Anticipated increase in overall recycling performance	Cost per 0.01% increase in overall recycling performance
Borough wide	54,000	£5000	9.6%	+0.91%	£55
Targeted (ACORN 1)	35,000	£3000	6.8%	+0.64%	£47

These activities will also be supported through a press release as well as social media and the council website.

33. Food waste could also be specifically addressed throughout the year through no cost activities such as roadshows, website updates and social media posts.
34. Food waste could be promoted through a presence at the Ashford Christmas Farmers Market. This would remind and inform residents of best recycling practice at Christmas and show support to local farmers. When food waste is recycled it is composted into an agricultural grade fertiliser for use by farmers.
35. Easter food waste could also be targeted through ABC's online presence.
36. Halloween food waste including pumpkins could be targeted both through an online presence and through a scheme to recycle more of the pumpkins such as collecting pumpkins alongside the food waste bin or placing temporary public food waste bins in local car parks specifically for residents to recycle their pumpkins.

Garden Waste Strategy



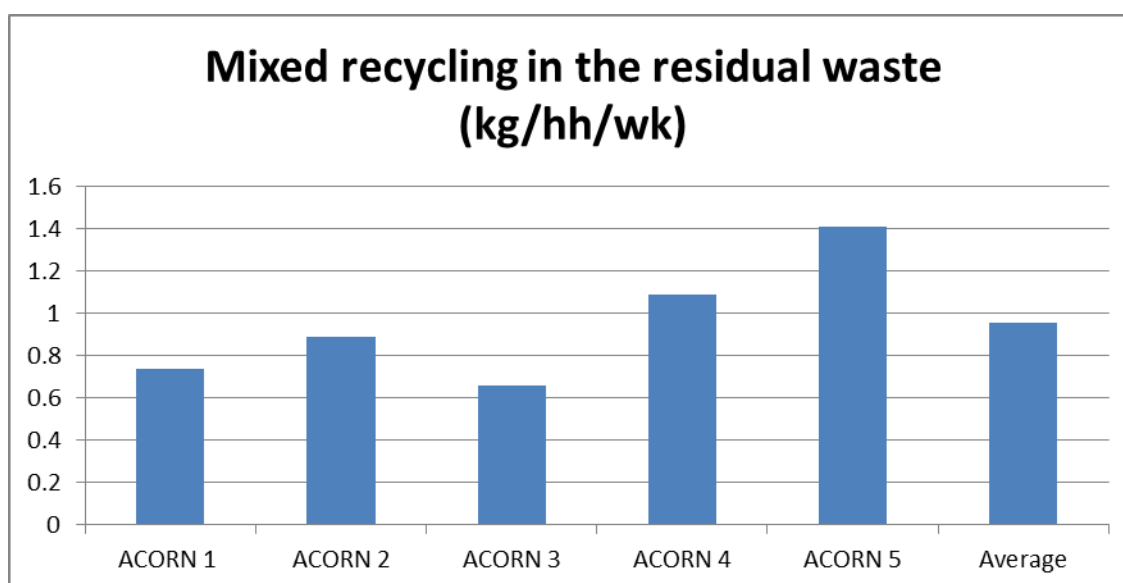
37. There is a significant amount of garden waste not being recycled by ACORN 4 and ACORN 5 households. Garden Waste recycling is a paid for service and it is likely that some residents will not be able to or want to pay for this service.
38. Communications could target these ACORN groups and specifically address the cost barrier. The possibility of sharing a service with a neighbour could be advertised to residents. This would ensure that the garden waste is recycled. Home composting could also be advertised as an alternative to throwing away the garden waste. Although Ashford could not recycle garden waste that is home composted, recycling performance will still be improved as a result of reducing the residual waste tonnage.
39. Communications could be released in the build up to and during National Gardening Week from April 10th – April 16th to maximise penetration.
40. Delivery of a garden waste flyer could be borough wide or targeted to areas with higher levels of ACORN 4 and 5 households as these have the highest amount of garden waste in their residual waste.
41. Anticipated impacts have been calculated for delivery of a flyer based on a 20% reduction in the amount of garden waste in the residual waste and this garden waste instead being recycled:

Delivery	No. of households	Cost	Anticipated increase in garden waste collection	Anticipated increase in overall recycling performance	Cost per 0.01% increase in overall recycling performance
Borough wide	54,000	£5,000	+2.5%	+0.43%	£116
Targeted (ACORN 1)	26,000	£3,000	+1.7%	+0.29%	£103

42. Door knocking by council officers could be utilised. This would represent a cost in terms of council staff time. Door knocking could be targeted at ACORN 4 and ACORN 5 households.
43. These communications would be supported by a press release, highlighting the success of the service so far, as well as by Ashford's social media platforms.

Mixed Recycling Strategy

	ACORN 1	ACORN 2	ACORN 3	ACORN 4	ACORN 5	Average
Set out (%)	90	89	96	91	93	91.8
Recycled	1.21	3.86	3.9	2.28	2.91	2.832
In residual waste	0.74	0.89	0.66	1.09	1.41	0.958
Capture rate (%)	62.1	81.3	85.5	67.7	67.4	72.8



44. Capture rate for mixed recycling was lowest among ACORN 1 households. However capture rate was also below average for ACORN 4 and ACORN 5 households. ACORN 4 and ACORN 5 households have significantly more mixed recycling in their waste than ACORN 1 households.
45. Waste composition analysis found there to be on average 0.958 kg/hh/wk of mixed recycling in the residual waste. ACORN 4 and ACORN 5 had the greatest amount with 1.09 kg/hh/wk and 1.41 kg/hh/wk.
46. WRAP have identified 8 materials that constitute 60% of the recycling and waste collected in the U.K. these materials are:
 - a. Paper
 - b. Card
 - c. Plastic bottles
 - d. Plastic packaging – pots, tubs and trays
 - e. Metal Packaging, cans, aerosols and foil
 - f. Glass bottles and jars
 - g. Food and beverage cartons
 - h. Food waste

47. Of these materials, all except food waste can be recycled in the mixed dry recycling bin in Ashford.
48. WRAP suggest in their October 2016 *Recycling Guidelines* that due to the wide range of materials that can be recycled, communications aimed at increasing capture rate should be targeted at a particular material that has a low capture rate within an authority. The response to communications that try to convey too much information on what can and cannot be recycled is not expected to be of note.
49. Capture rates from the waste composition analysis suggested that the materials with capture rates that provide the most scope for improvement are plastics (59%) and aluminium cans (35%). Both of these materials have been the subject of campaigns undertaken since the waste composition analysis was conducted. However no material represented a significant proportion of the mixed recycling in the residual waste, instead there was a largely even spread of materials.
50. In January 2016 every household in Ashford received a leaflet on plastics as part of a KRP communications project funded partly by WRAP and Marks and Spencer. Though information from residents suggests that plastics continue to remain a source of confusion for residents with regards to what can be recycled and what cannot be recycled.
51. In February 2016 KRP, along with the member districts, delivered a "Metal matters" campaign in which aluminium cans were part of the focus. This campaign saw the delivery of two leaflets to every household in Ashford.
52. Analysis of mixed recycling collection figures for April-September 2016 compared to April-September 2015 shows an increase of 8.5%. Though it is important to note this percentage may be influenced by a number of factors other than the KRP communications project.
53. Capture rates for mixed recycling in Ashford are higher than other Kent authorities who also conducted a waste composition analysis at the same time as Ashford. The amount of mixed recycling recycled in Ashford has risen since the waste composition analysis took place. This fact along with no singular material being placed in the residual waste on a significantly large scale means that a focus on ensuring that contamination does not lead to non-conforming loads is most important to maintaining the recycling performance of dry mixed recycling materials.
54. Communications focusing on contamination may also result in a secondary increase in collection of mixed recycling through the education of what can be recycled as well as what cannot. Residents might be made aware of materials that can be recycled that they previously thought could not.
55. The proposed communications and education plan presents focus on seasonal materials such as paper and cards at Christmas and this means various mixed recycling materials will be promoted throughout the year through ABC's community engagement and online presence.

Flats Strategy

56. Flats in Ashford performed better overall than flats in the other Kent authorities who also undertook a waste composition analysis in November 2015. However, as seen nationally, there is still a large amount of potential recyclate being placed into the residual waste as well as a large amount of contamination being placed in the recycling bins. Improving the recycling performance in flats is a challenge for authorities across the country.
57. Signage at communal bin stores serves a similar purpose to bin stickers on at “stand alone” households in clarifying the materials that should be placed in each bin to reduce contamination and increase capture rate of target materials. By reminding residents through signage that collection crews will not be able to collect contaminated recycling and also clearly conveying what materials should be recycled, a social pressure to recycle correctly so as not to negatively affect other site users will be created. The lack of a social norm for good practice in recycling has been found to be a common barrier by both Ricardo Energy & Environment, and WRAP.
58. Signage can be cost effective as it can be printed in house. Two high achieving authorities use a simple A3 laminated poster in their sites that is inexpensive to produce.
59. Residents at some flats currently receive recyclable clear sacks that they can place their dry mixed recycling in to take from their flat to the communal store. Some residents have found that they do not wish to take their sack down before it is full and in the meantime they do not have anywhere to store their recycling. Reusable bags have been used by some London Boroughs as well as Oxford City Council to encourage residents who have communal bin stores to recycle. However it should be noted that Oxford City Council recommend that reusable bags are not introduced in sites that have issues with contamination as this can compound the problem.
60. Ashford currently issues a plain blue reusable bag to residents at the Panorama flat. Trialling this at a further site will provide information as to whether reusable bags would be effective on a wider scale.
61. Working with management agents is key to improving recycling for flatted properties. A full page spread providing information on the Christmas recycling was included in “Your Stanhope” a newsletter issued by Moat to residents at their Stanhope properties. The possibility of regularly including a page on recycling in “Your Stanhope” could be explored as well as the possibility of having pages in other newsletters issued to residents with communal stores. Officers also spent time alongside staff from Moat, at a site with a number of problems with recycling; talking to residents about recycling Time spent with residents in this manner is vital to identifying how any barriers they have can be addressed.
62. Authorities who have been successful in improving recycling services for flats have stressed that each site needs to be treated individually as issues and

barriers to recycling can often be site specific and should therefore not be generalised.

63. Such a strategy for improving recycling in flats does require officer time as it can be time consuming to work widely with management agents and address barriers to individual sites.
64. Any impact on recycling performance may be negligible as the weight of materials at flats are often very low, however it would aim to improve service conditions for residents at sites who currently often find their recycling unable to be collected by the collection crews due to contamination. This can lead to a build-up of waste and recyclable material and unsanitary conditions.
65. The possibility of a more robust approach to flatted properties is also being explored.

Section 3 - Community Engagement

66. Establishing a strong presence in the community will demonstrate to residents our commitment to helping them to recycle. It will also help to identify particular sources of confusion and barriers so that we can work with them to clarify matters and address barriers.
67. During Recycle Week 2016 (September 12th – September 18th) Ashford set up a stall at the County Square shopping centre in September to engage with residents about their recycling and any questions they had. An 1100L clear sided bin was arranged with a longitudinal division with good recycling on one side and bad recycling on the other for residents to see exactly what good recycling practice looks like.
68. Ashford gave a presentation at Singleton Village hall addressing items of confusion, the positive results of recycling, the consequences of contamination and how residents can promote recycling by creating a social norm. This presentation was arranged through The Great Chart with Singleton Parish Clerk. Ashford will explore the extent to which other parishes will be open to presentations in order to reach wide areas of the borough. Encouraging residents to engage with recycling in their area will promote a social norm and reach constituents who may not be receptive to other forms of communication.
69. Ashford had a stall promoting recycling at the Christmas Farmers Market on Thursday 22nd December 2016 to disseminate information to residents and address any queries they had.
70. Further opportunities to have stalls in high traffic areas or during high traffic events are currently being explored.
71. Ashford will also work to encourage knowledgeable engagement with recycling among children through works with local youth groups and schools. Promoting the importance of recycling as well as good practice amongst young individuals in such a way that they discuss the topic at home effects change at households in the present as well as ensuring future generations value recycling services.
72. Ashford has undertaken interactive educational work to local cubs groups to encourage knowledgeable engagement with recycling. Ashford will seek working with further youth groups and also working with primary schools in order to reach a large number of children. Schools will be encouraged to become involved in recycling education through highlighting where the national curriculum and recycling are co-operative and further benefits to the school such as how a school can incorporate recycling into working towards eco-school accreditation.
73. Wastebuster is a company that has developed a suite of resources for schools to use in promoting recycling to their students including full lesson plans and programmes such as offering science equipment in return for recycled textiles. Wastebuster state their full school membership offers schools the following:

“Access to the full range of Wastebuster online education resources, an interactive eco-planner full of seasonal resources for the classroom and eco-teams, opportunities to take part in competitions and campaigns to win unique rewards and prizes, a dedicated officer to provide advice and guidance on how to support an eco-team with activities throughout the school year and work towards any level of Eco-Schools award, a set of 10 recycling hero reward badges and a limited edition Wastebuster Top Trumps game set. Members also receive full support from the Wastebuster team on a range of waste-busting topics and issues affecting your school.”

74. From early 2017 21 primary schools in Ashford (47%) will have access to school membership for Wastebuster. ABC will work closely with these primary schools as well as Wastebuster in assessing the value of this to the member schools.
75. This information will then be used in forming ABC’s future waste and recycling education work with schools.
76. Vehicle livery refers to the artwork on the vehicles used by Biffa as part of their waste and recycling collections. It is mobile advertising that is seen borough wide.
77. Ashford College could be offered the chance for their students to submit artwork for consideration to be used as new livery for recycling vehicles. A clear specification regarding the desired messages and style would be provided to any participating students.
78. Livery could be refreshed to promote the key messages that have been identified. Maidstone, a partner member in the Mid Kent Waste Partnership updated livery for 10 of their vehicles last year. Artwork was supplied by an internal communications team but the arrangements for changing the livery were made by Biffa at a cost of £6,780.
79. Vehicle livery could be designed that promotes some of the key messages identified from the Waste Composition Analysis.

Section 4 - Method of Communications

80. Decisions on the type of communication activities utilised in the proposed communications plans were informed through:
 - a. Analysis of the preferred communications of ACORN categories
 - b. The success of a particular activity in previous use
 - c. Strategies used by high achieving authorities
 - d. The cost of an activity
81. Leaflets sent directly to a residents addressed are regularly used in successful campaigns and as such have been proposed as part of campaigns tackling a number of issues key to Ashford’s recycling performance.
82. Advertising was cited as rarely used by high achieving authorities. However the artwork for livery of collection vehicles could be updated. This presents a form of permanent mobile advertising that reaches every area of the borough.

83. A high achieving authority also suggested that a continual public awareness of recycling promotion was an important factor in the authorities recycling performance and this can help to convey a strong recycling ethos.
84. Leafletting can either be done borough wide or targeted at ACORN categories according to the information the leaflet concerns and the waste composition analysis. Where leaflets are targeted to a particular ACORN category the delivery would be done through Royal Mail's door to door leafletting service.
85. Royal Mail's door to door leafletting service allows delivery to every household within a particular postcode sector. Postcode sector analysis has been undertaken to identify the ACORN category composition of every postcode sector that contains a household belonging to the borough of Ashford. For a targeted delivery specific sectors have been identified so that delivery would reach a large portion of an ACORN category in a cost effective manner. This means that some households who receive a leaflet would not be of the target ACORN category, it also means not all households of the target category would receive the leaflet. This method, however, costs considerably less than sending mail only to an equivalent number of target houses; even when accounting for the larger number of leaflets printed and distributed.
86. Not all postcode sectors are entirely situated within the borough of Ashford. Where a postcode sector contains greater than 90% Ashford Borough households the door to door leafletting service would be used. However where the houses contained in a sector are less than 90% Ashford Borough households then a direct address mail will be utilised instead.
87. ABC could also utilise no cost activities for their communications. A strong relationship with the Kentish Express could be used to publicise the successes of residents' recycling efforts and address any key areas of confusion. ABC could also continue to employ an online presence through the ABC website and social media accounts.
88. This online presence could be particularly used to address key materials on a seasonal basis. Within the recycling and refuse section of ABC's website, a sub-section focusing on materials that are of particular interest during different times of the year could be developed. This would need to be regularly updated.

Section 5 - Conclusion

89. A forward communications and education plan has been developed from analysis of the waste composition as well as changes to recycling performance since this waste composition. The plan presents campaigns to target key materials as identified from this analysis as well as campaigns and activities to be run focusing on seasonal materials. Activities have been selected based on their success when targeting these materials in previous campaigns run by a number of authorities. The plan also focuses strongly on community engagement and engagement with schools and youth groups.
90. It is difficult to present an accurate anticipated impact of many activities as recycling performance can be affected by a multitude of factors which cannot

be controlled for. Nevertheless the plan aims to project the strong, positive recycling ethos of ABC and to continue to foster this ethos in the wider community

91. Recycling performance will be continually monitored to assess the success of the communications and education plan. This will then be used to form the basis of an annual review of the communications plan in order for ABC to continually adapt communications regarding recycling to maintain an impressive recycling performance.

Appendix 1: ACORN analysis of postcode sectors

Postcode Sector	Addresses in Postcode Sector	ACORN 1	ACORN 2	ACORN 3	ACORN 4	ACORN 5
CT 4 7	171	138	0	31	0	0
CT 4 8	814	379	8	280	145	0
ME13 0	16	15	0	1	0	0
TN17 4	697	333	0	172	191	0
TN18 5	91	81	0	0	8	0
TN23 1	771	63	0	167	239	279
TN23 3	5503	1587	1375	1798	655	78
TN23 4	2002	164	2	492	891	430
TN23 5	6048	96	693	1669	2097	1439
TN23 6	678	7	0	153	225	287
TN23 7	1372	1	0	249	710	409
TN24 0	6275	636	391	2436	1929	867
TN24 8	2688	245	41	1250	671	461
TN24 9	4717	847	376	1823	1288	337
TN25 4	2193	1364	312	421	35	0
TN25 5	1525	804	77	307	319	11
TN25 6	1114	489	0	479	137	0
TN25 7	1097	428	116	427	100	0
TN26 1	1118	355	10	500	186	35
TN26 2	1495	578	40	632	236	0
TN26 3	2147	1084	0	633	422	0
TN27 0	1816	972	0	496	319	25
TN27 8	1636	872	1	427	328	0
TN27 9	462	324	0	102	35	0
TN30 6	2686	1305	0	984	389	0
TN30 7	1672	923	0	290	335	122
Total	50804	14090	3442	16219	11890	4780

Postcode sectors shaded greens contain 90% or greater households situated in the Borough of Ashford and would therefore receive door to door leafletting. Postcode sectors shaded amber contain 90% or less households situated in the Borough of Ashford and would therefore receive direct address mail.

Annex B: Forward Communications and Education Plan

The following communications and education plan has been developed from analysis of the waste composition as well as changes to recycling performance since this waste composition. The plan presents campaigns to target key materials as identified from this analysis as well as campaigns and activities to be run focusing on seasonal materials. Activities have been selected based on their success when targeting these materials in previous campaigns run by a number of authorities. The plan also focuses strongly on community engagement and engagement with schools and youth groups.

Activities to be highlighted green upon completion

Activity	Key messages	When and how	Comments/other activities
<p>Contamination lock out.</p>	<p>We will be being stricter on the quality of recycling we are accepting. Contaminated bins being accepted has led to rejected loads which means lots of great recycling doesn't get recycled and incurs a financial cost.</p> <p>If your recycling bin contains the wrong materials we will not be able to take it away. We will put a hanger on the bin to tell you this is the case and your bin will be collected next time provided the offending material has been removed.</p>	<p>From the w/c 31/11/16 collection crews will be stricter with whether they accept recycling bins. Bins found to be containing contaminated materials will not be accepted. The bin will have a hanger placed on it that indicates to the resident why it has not been collected and what the material is.</p> <p>Following on from this we will produce a map of the borough with the ACORN groups of each postcode/household and a map of the collection routes. This way we will be able to easily select ACORN appropriate communications to be delivered on the relevant rounds in the future. We need a GIS file of the routes to be sent to KCC's SILK team in order for this to be produced.</p> <p>Prior to this occurring we will need to:</p> <p>Update the website to convey this information.</p> <p>Post on the council Facebook</p>	

Activities to be highlighted green upon completion

Activity	Key messages	When and how	Comments/other activities
		<p>and Twitter that this will be happening.</p> <p>Issue a press release.</p> <p>Inform colleagues we will see a rise in enquiries from residents about uncollected recycling and how to deal with these enquiries.</p> <p>Provide information to collection crews on what target materials are and key non-target materials to look out for.</p>	
<p>Food waste bin sticker</p>	<p>Please ensure all food waste is recycled in the food waste bin.</p> <p>Last year we recycled Nearly 5,000 tonnes of food waste. However there was still nearly 4,000 tonnes in our waste. Recycling your food waste really does make a difference.</p> <p>All of these can be placed in your orange and black food waste bin: Raw meat and fish (inc. bones) Cooked meat and fish (inc. bones) Tea and coffee grounds Dairy Bread</p>	<p>In January “No Food Waste Please” stickers will be placed on all residents’ residual bins.</p> <p>A press release will be sent out prior to the delivery of the stickers (and leaflets subject to cabinet approval) to inform residents. In previous instances where these stickers have been utilised residents have felt the council were suggesting they wouldn’t take accept residual bins containing food waste which has caused tension.</p>	<p>The delivery of the sticker is to be arranged with Biffa and will cost £12,000. This is to be initially paid by ABC and then reimbursed by KRP</p>

Activities to be highlighted green upon completion

Activity	Key messages	When and how	Comments/other activities
	<p>Leftover plate scrapings Fruit and vegetables Rice, pasta and beans. Please do not place any food packaging in your food waste bin. This should be placed in the green recycling bin if it can be accepted or in your grey refuse if it cannot.</p>	<p>Customer services need to be informed ahead of the sticker delivery as they may see a number of enquiries about the sticker.</p> <p>A dedicated page on the council website for food waste recycling to be created.</p> <p>Posts will be made on twitter and Facebook informing residents of the sticker delivery and providing statistics on the amount of food waste that is recycled and not recycled.</p>	
<p>Food waste leaflet (Subject to cabinet approval)</p>	<p>Did you know all of these items can be recycled in your food waste? Raw meat and fish (inc. bones) Cooked meat and fish (inc. bones) Tea and coffee grounds Dairy Bread Leftover plate scrapings Fruit and vegetables Rice, pasta and beans.</p> <p>It is important that food is emptied from any packaging; the packaging should then be either placed into the recycling bin or the refuse bin if it cannot be recycled.</p>	<p>A food waste leaflet adapted from WRAP'S leaflet to be distributed to target (ACORN 1) areas. The leaflet addresses barriers to food waste recycling identified by WRAP from focus groups. Delivery to coincide with the delivery of the food waste sticker to strengthen the impact of the food waste campaign</p> <p>Or</p> <p>A food waste leaflet adapted from WRAP'S leaflet to be distributed to every household. The leaflet</p>	<p>Cost: £5000</p> <p>Or</p> <p>£3000</p>

Activities to be highlighted green upon completion

Activity	Key messages	When and how	Comments/other activities
	<p>Your food waste bin is collected twice as often as your grey refuse bin meaning your food sits around half the time.</p> <p>Last year we recycled Nearly 5,000 tonnes of food waste. However we still threw away even more than we recycled. Recycling your food waste really does make a difference.</p>	<p>addresses barriers to food waste recycling identified by WRAP from focus groups. Delivery to coincide with the delivery of the food waste sticker to strengthen the impact of the food waste campaign</p> <p>The leaflet will need to be designed in advance of potential cabinet approval. If the leaflet is approved then arrangements for print and distribution would need to begin immediately</p>	
Wastebuster promotion	<p>From January 21 schools in Ashford will have the fantastic opportunity to gain access to a wealth of resources promoting the education of waste and recycling from Wastebuster for no cost. Schools will access high quality films, blogs, assembly materials, classroom and homework activities, eco-school toolkits and online games via a localised landing page.</p> <p>Your school now has access to a wealth of resources promoting education on waste and recycling from Wastebuster. Your students will find the activities exciting, engaging and informative.</p> <p>Lesson plans, linked to the national curriculum have been developed by Wastebuster and are now completely free for your teachers to use.</p>	<p>Contact all primary schools in the borough to inform them of this opportunity.</p> <p>In December a decision will have to be made as to which schools will receive Wastebuster membership.</p> <p>In January the selected schools will need to be contacted to inform them that they will soon have access to Wastebuster.</p>	<p>A contract between Viridor and Wastebuster grants access to Wastebuster for 100 schools in the Mid-Kent and West-Kent areas. Of these 100 schools Viridor decided 21 should be from Ashford.</p> <p>Wastebuster presented an offer to the KRP comms meeting group for coverage of the 353 schools in Kent not covered by this contract.</p>

Activities to be highlighted green upon completion

Activity	Key messages	When and how	Comments/other activities
<p>Borough wide contamination campaign. (Subject to cabinet approval) Or</p> <p>Targeted contamination communications 3 months on from contamination lock out. (Subject to cabinet approval)</p>	<p>These materials can be recycled in your recycling bin. Unfortunately these materials cannot be recycled in your recycling bin, please either recycle through this medium or place in your refuse bin.</p> <p>Contamination is where a material is placed in the recycling bin that cannot be recycled alongside those materials. When this happens it can mean that none of the otherwise good recycling can be recycled either as it cannot be sorted from the contaminating material. Contamination can mean that a vehicles load is rejected, consequently lots of potential recycling is lost and there is a significant financial cost to this.</p> <p>Since we began to recycle smarter in November we have decreased the amount of unrecyclable material in our recycling bins from X to Y.</p>	<p>Pictorial flyer highlight that common contaminants (black sacks, carrier bags, nappies, food waste, dark plastic, textiles, and electrical items) to be delivered to every household in the borough.</p> <p>Press release highlighting the effect of our crackdown on contamination.</p> <p>Posts on social media</p> <p>Update council website</p> <p>Or</p> <p>Following on from the crackdown on contaminated bins we will identify those areas and households that are still regularly contaminating. We can then identify what ACORN group they belong to and deliver a flyer that is designed to address barriers specific to their ACORN group. We will also be able to conduct door-knocking in areas with a high number of contaminators.</p> <p>Press release highlighting the effect of our crackdown on contamination.</p>	<p>Cost: £5000</p>

Waste and recycling communications plan 2016/17

Activities to be highlighted green upon completion

Activity	Key messages	When and how	Comments/other activities
		<p>Posts on social media</p> <p>Update council website</p>	
Valentine's Day	<p>Love Ashford, Love Recycling</p> <p>Make sure you recycle your wine bottles in your green recycling bin.</p> <p>Leftovers and peelings from romantic meals should be recycled in your black and orange food waste bin.</p>	<p>Twitter, Facebook and Council website,</p> <p>February issue of Ashford Voice</p>	
The Great British Spring Clean	<p>Ashford is taking part in the nationwide campaign "The Great British Spring Clean"</p> <p>Find out how you can Keep Britain Tidy</p>	<p>3rd-5th March</p> <p>Engagement with community groups including scouts clubs that have already been worked with on recycling. Litter picks to be organised with KAC</p>	<p>Further possible actions as well as the development of a key message to be discussed during team meetings (see ongoing activities).</p>
Council Tax insert	<p>Key message to be developed during team meetings in early 2017 based on most recent monitoring and analysis figures.</p>	<p>Insert to be sent to residents alongside their Council Tax.</p>	<p>Further possible actions as well as the development of a key message to be discussed during team meetings (see ongoing activities).</p>
Christmas and New Year's recycling results	<p>Thanks to your fantastic recycling efforts In December and January we managed to recycle X</p>	<p>Once data has been obtained for December 16 and January 17s waste and recycling performance this will be analysed to compare to previous years.</p> <p>Residents will be updated on the results of their efforts through ABC's online presence or a press</p>	

Waste and recycling communications plan 2016/17

Activities to be highlighted green upon completion

Activity	Key messages	When and how	Comments/other activities
St. Patrick's day	Today's a green day! Make sure to recycle all your glass bottles, tins and cans in your green recycling bin.	release if appropriate. Twitter and Facebook posts on March 17 th Website to be updated with seasonal materials.	
Garden Waste service	Did you know you can share a bin with a neighbour? It can be hard to find the money for the cost of a full garden waste bin, especially when you only have a small amount of garden waste. By sharing a bin with a neighbour you can both help the planet for half the price. Alternatively you can compost any garden waste you have at home. Composting your garden waste produces fertiliser that you can then use in keeping a beautiful healthy garden.	National Gardening Week runs from the 10 th -16 th April. Before and after this time we will campaign regarding the garden waste service. Flyers targeted at ACORN groups 4 and 5 will be produced (subject to cabinet approval) and distributed to target areas. Screens in waiting rooms to advertise garden waste service. Press release during National Gardening Week highlighting the success of the service and addressing barriers people may have where they can't afford a service solely for their household.	
Garden waste flyer (Subject to cabinet approval)	Did you know you can share a bin with a neighbour? It can be hard to find the money for the cost of a full garden waste bin, especially when you only have a small amount of garden waste. By sharing a bin with a neighbour you can both help the planet for half the price. Alternatively you can compost any garden	Or Flyers will be produced promoting the garden waste service and distributed borough wide Social media posts. Or Flyers targeted at ACORN groups	£5,000 Or £2,250

Activities to be highlighted green upon completion

Activity	Key messages	When and how	Comments/other activities
	<p>waste you have at home. Composting your garden waste produces fertiliser that you can then use in keeping a beautiful healthy garden.</p>	<p>4 and 5 will be produced and distributed to target areas.</p> <p>Update council</p>	
<p>Easter recycling promotion</p>	<p>Don't forget to recycle all your Easter Egg boxes, and the foil wrapping too– they can all go in your green bin.</p> <p>Any leftover chocolate you can't reuse in cakes or other dishes you can pop in your food waste bin as a last resort and we'll take it away for composting. For more on what you can compost/recycle and what happens to everything once it's collected visit www.ashford.gov.uk</p> <p>If you're having a bit of a spring clean, don't forget you can put worn-out clothes and textiles for recycling in a carrier bag next to your green bin and we'll collect them when we empty it. And if you've got any old broken electronic toys left over from Christmas, or kitchen gadgets, you can leave these next to your grey bin in a carrier bag and we'll take them away for recycling.</p> <p>For more on what happens to this stuff once you've put it out, visit www.ashford.gov.uk</p>	<p>Information to be posted on Twitter and Facebook on Friday 14th April</p> <p>Website to be updated w/c 27th March</p> <p>March Issue of Ashford Voice</p>	
<p>2017/2018 recycling calendar</p>	<p>Your 2017/2018 recycling calendar is now</p>	<p>Current recycling calendar runs</p>	

Waste and recycling communications plan 2016/17

Activities to be highlighted green upon completion

Activity	Key messages	When and how	Comments/other activities
	<p>available to download from www.ashford.gov.uk/environment Never miss a week!</p>	<p>until the end of the June 2017. Website will need to be updated with the new calendar available for download during June. Posts on social media.</p>	
<p>Summer recycling promotion</p>	<p>Make sure this year you have a Sustainable Summer. Recycle any clear dense plastics from your barbecues as well as any cans or glass bottles.</p> <p>It's important to stay hydrated. When you are finished with your drinks bottles, make sure you recycle them in your green bin.</p>	<p>Posts through Twitter and Facebook. Updated council website to focus specifically on materials associated with summer activities such as barbecues (Clear plastic, burger bun packaging, drinks bottles, cans and tins)</p>	
<p>Love Kent Hate Litter</p>	<p>Love Kent Hate Litter Steering are working on the development of a suite of communication materials to be used across the 13 Kent Councils. Littering from roadside vehicles needs to be addressed in order to maintain and develop an Attractive Ashford.</p>	<p>Last two weeks of July Roadside A-boards with interchangeable signs. KRP agreed a focused approach on littering from vehicles would be positive.</p>	<p>Further possible actions as well as the development of a key message to be discussed during team meetings (see ongoing activities).</p>
<p>Recycling Week</p>	<p>Its recycling week and we want to help you recycle better than ever.</p> <p>We will be at County Square Shopping Centre during September) to answer any questions you have, provide information on what to recycle and how and show you examples of good and bad practice.</p>	<p>Stall at County Square. Other authorities have noted the importance of having something to incentivise residents to come over to talk to officers.</p> <p>Press release before and after the stall.</p> <p>Posts on social media.</p>	<p>Recycle now will have a campaign and these communications can be utilised to create a larger awareness among residents.</p>
<p>Updated artwork for collection vehicle Livery (Subject to</p>	<p>Students at Ashford College have designed fantastic artwork promoting</p>	<p>Students to be provided with some key issues and messages</p>	<p>Cost of changing the livery is £6,750 for 10 vehicles.</p>

Activities to be highlighted green upon completion

Activity	Key messages	When and how	Comments/other activities
<p>cabinet approval)</p>	<p>recycling. Look out for the vehicles and Tweet us a picture @AshfordCouncil</p> <p>OR</p> <p>Our waste and recycling collection vehicles are sporting a brand new look to help you recycle even better than before. Look out for them and Tweet us a picture @AshfordCouncil</p>	<p>that are important to Ashford's recycling performance. They will then design artwork promoting recycling and addressing these issues. This artwork can then be considered for use on our collection vehicles where they would be seen across the borough.</p> <p>OR</p> <p>Communications team to design new artwork based on key materials to target utilising recycle now's artwork where appropriate.</p> <p>Press release regarding the new look vehicles.</p> <p>Social media posts Update council website</p>	<p>Analysis will need to be taken on most recent recycling data to inform decision on key messages and materials that livery artwork should address.</p>
<p>Attractive Ashford</p>	<p>Keeping Ashford tidy, clean and free from litter is key to delivering an Attractive Ashford.</p>	<p>Two weeks in October to prepare for Bonfire Night Litter picks to be organised with community groups.</p>	<p>Further possible actions as well as the development of a key message to be discussed during team meetings (see ongoing activities).</p>
<p>Halloween recycling promotion</p>	<p>When you no longer want your fantastic pumpkins, make sure you recycle them in your orange and black food waste bin. These will then be recycled to produce fertiliser that could be used to grow next year's pumpkins.</p>	<p>w/c 23/10/17 Posts through social media and update on the council website. w/c 30/10/17 food waste recycling bins to be placed in high footfall car parks with a poster explaining their use.</p>	<p>Needs to be organised with Biffa for placement of bins and collection</p>

Activities to be highlighted green upon completion

Activity	Key messages	When and how	Comments/other activities
	<p>We have placed food waste recycling bins in these car parks, if you bring along your old pumpkins we will ensure these are collected for recycling to become fertiliser for next year's pumpkins. Please do not place any items other than food waste in these bins.</p> <p>Unfortunately all your sweet wrappers can't be recycled. Please make sure you place these in your grey refuse bin so they don't affect our ability to recycle all your other great recycling. Don't let your recycling go to waste.</p>		
Review communications plan for upcoming year		<p>Review the activities that have been conducted and their success.</p> <p>Review recycling performance over the previous year to identify and priority issues.</p> <p>Recycling comms plan for the upcoming year to be developed based on deciding whether to keep an activity, adapt an activity or remove an activity. Include new activities based on issues that have arisen and upcoming events in the year.</p>	
2016/2017 recycling results	This year we managed to recycle X, this means we again have the best recycling performance of any local authority in Kent!	Press release detailing the result of Ashford residents' recycling efforts for 2016/2017.	

Activities to be highlighted green upon completion

Activity	Key messages	When and how	Comments/other activities
	<p>Thank you for amazing efforts in achieving this.</p> <p>Or</p> <p>This year we managed to recycle X. Your efforts in achieving this are truly appreciated. With your continued effort next year this figure could be even higher.</p>	<p>Update council website</p> <p>Social media posts</p>	
<p>Christmas campaign</p>	<p>Last December and January we recycled a fantastic X tonnes. Make sure to recycle your paper and cards. Your clear dense plastic can also be recycled.</p> <p>FOOD WASTE You may have a lot of leftover food which can also be recycled. When recycling this please use the orange and black food waste bin. Food waste placed in the green bin will mean that we can't collect it and will let your good recycling go to waste.</p> <p>WEEE AND TEXTILES If you have any small electrical items to recycle following a gift these can be placed on top of your refuse bin in a clear plastic/carrier bag for collection that week</p> <p>If you have any textiles to recycle following a gift these can be placed on top of your recycling bin in a clear plastic/carrier bag for collection that week.</p>	<p>December issue of Ashford Voice w/c 4/12/17 Social media posts Seasonal recycling section of council website updated for Christmas.</p>	

Activities to be highlighted green upon completion

Activity	Key messages	When and how	Comments/other activities
	<p>CHRISTMAS TREES</p> <p>When Christmas is over and your tree begins to look a little bedraggled, why not continue the spirit of goodwill by donating your tree to Pilgrims Hospices?</p> <p>More than 4,500 Christmas trees from retailers in and around Ashford will have tags tied to them with details on how you can register. Otherwise you can sign up for the Treecycling service direct at www.pilgrimshospices.org/treecycling or ring the hotline on 01233 504111.</p> <p>Individuals and companies with vans are invited to volunteer as Tree Collectors on the day. To donate your time, please contact the office on 01233 504111 or email ashford.fundraising@pilgrimshospices.org.</p> <p>Alternatively, please take your tree to Ashford's Household Waste and Recycling Centre in Cobbs Wood Industrial Estate for recycling.</p> <p>If you subscribe to our garden recycling service, you can place your cut up tree in your brown wheeled bin and we will collect it. To sign up to our fortnightly garden recycling collection service visit http://www.ashford.gov.uk/gardenrecycling</p>		

Activities to be highlighted green upon completion

Activity	Key messages	When and how	Comments/other activities
New year campaign	Make recycling your new year's resolution. Start by recycling any glass bottles from your new year's celebrations in your green recycling bin	Social media posts	

Ongoing activities

Activity	Key messages	When and how	Comments / other activities
Flats	<p>PLEASE USE THE RIGHT BINS</p> <p>People in this block are putting food waste and nappies in the recycling bin – whole loads get contaminated and cannot be recycled.</p> <p>GREEN BIN – recycling (list of common items)</p> <p>Please do not place these items in the green bin (list of common contaminants)</p> <p>FOOD BIN – food waste please no plastic bags or black sacks</p> <p>GREY BIN – nappies, and other things that can't be recycled</p> <p>USE THE RIGHT BIN. Recycling bins containing the wrong items cannot be collected!</p>	<p>A3 laminated posters to be put on communal sites and noticeboards in blocks where these are present.</p> <p>Contact management agents regularly to identify sites having problems with recycling. Host recycling drop ins in collaboration with management agents to talk to residents about the issues they're having.</p> <p>Contact management agents regularly about upcoming newsletters that could potentially feature our communications for a campaign that is running at the time of publication.</p>	<p>Recycling year quarters (please indicate when management agents have been contacted for a quarter):</p> <p>Q1 (April-June)</p> <p>Q2 (July-September)</p> <p>Q3 (October-December)</p> <p>Q4 (January – March)</p>
Contamination	We can't collect your recycling bin if it contains the wrong items. These items cannot be placed in your green recycling bin (carrier bags, black sacks, food waste, nappies, textiles, electrical items, general rubbish)	Lock out records to be regularly reviewed to find households and larger areas that are regularly being locked out. These houses and areas to be visited by officers and or receive information on	

Waste and recycling communications plan 2016/17

Activities to be highlighted green upon completion

Activity	Key messages	When and how	Comments / other activities
	Don't let your good recycling go to waste.	what can and cannot be placed in the green recycling bins	
Wastebuster	Your school now has access to a wealth of resources promoting education on waste and recycling from Wastebuster. Your students will find the activities exciting, engaging and informative. Lesson plans, linked to the national curriculum have been developed by Wastebuster and are now completely free for your teachers to use.	Contact schools every term to discuss how they have found the Wastebuster service and how they can get the most out of it. Assemblies can be delivered where schools are interested.	School terms (please indicate when schools have been contacted for each term): September-December January-April May-July
Youth engagement	Recycling really makes a difference to our environment. These materials can all be recycled and from that we can produce energy or these items. (Key messages will be tailored according to the audience)	Work undertaken with local youth groups such as Cubs groups or Brownie groups to present interactive informative lessons on recycling and waste.	
Community engagement	These are the materials that should be placed in your green recycling bin. This is what should be placed in your orange and black food waste bin. Materials that do not go in either of these bins can be recycled in this way, or if they cannot be recycled at all should be placed in the refuse bin. We want to know what barriers to recycling you face. Recycling really makes a difference to our environment.	Regularly seek out opportunities to engage with the public or interested groups through roadshows such as during recycling week 2016 and the 2016 Ashford Christmas Farmers Market or presentations such as those given to Singleton Parish Council.	

Activities to be highlighted green upon completion

Activity	Key messages	When and how	Comments / other activities
	<p>These materials can all be recycled and from that we can produce energy or these items.</p> <p>(Key messages will be tailored according to the audience)</p>		
Website	<p>Our website has been improved to make it easier to find information on what bins are being collected each week and what can be recycled.</p> <p>We now have a seasonal section where you can quickly find out how to recycle or dispose of items that you may deal with at particular times of the year. This section will be updated throughout the year. For instance check back in the summer to find information on common barbecue items.</p>	<p>Website to be updated so that when a visitor clicks on the recycling and refuse icon they are taking to a page with icons for each sub-section</p> <p>Create a sub section for each bin (green, orange & black, grey, and brown)</p> <p>Create a sub section for recycling service news</p> <p>Create a sub section for seasonal materials. (updated as part of campaigns on any seasonal materials)</p>	
Livery	<p>Did you know you can recycle all of these items (change seasonally). Keep an eye out for this collection vehicle(change seasonally). Tweet a picture to @AshfordCouncil</p>	<p>Quarterly focus on a collection vehicle with livery regarding materials relevant to the season. E.g. garden waste artwork in spring.</p>	<p>Would follow on from changes to the livery of collection vehicles in late 2017</p>
Team meetings	<p>Council tax insert direction and message. Areas to be addressed through targeted bus shelter advertising. Street cleansing projects key messages to</p>	<p>Regular meetings to be held to discuss direction and key messages of communications and address any developments in</p>	

Waste and recycling communications plan 2016/17

Activities to be highlighted green upon completion

Activity	Key messages	When and how	Comments / other activities
	be decided upon.	waste and recycling.	

Agenda Item No: 7

Report To: Cabinet

Date of Meeting: 12th January 2017

Report Title: Fixed Penalty Notices for fly tipping

Report Author & Job Title: Mrs Tracey Butler,
Environmental Contracts and Operations Manager

Portfolio Holder Cllr. Mrs Clair Bell,
Portfolio Holder for: Public Interaction and Borough Presentation

Summary:	This report explains the provisions for fixed penalty notices for fly tipping, that became available in 2016 and asks Members to agree to set a fine level for this borough.
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Key Decision: YES

Significantly Affected Wards: All wards

Recommendations: **The Cabinet is recommended to:-**

- (i) **Authorise the issue of Fixed Penalty Notices for small scale fly tipping offences contrary to section 33 (1) (a) of the Environmental Protection Act 1990**
- (ii) **Set the maximum Fixed Penalty to £400 without the ability to pay a reduced fee**

Policy Overview: In May 2016, the provisions of the Environmental Protection Act 1990 were amended to extend the powers available to include fixed penalty notices to include fly tipping offences. This initiative, alongside enforcement on littering, supports corporate priority 4, Attractive Ashford.

Financial Implications: Setting a robust fine level should assist in deterring fly tipping in the borough and allow the street scene team to deal with this offence in the most expedient manner.

Legal Implications Setting a fine level for fixed penalty notices for fly tipping will mean that some cases do not proceed to court for prosecution but will offer an expedient deterrent alternative in all but the more serious of cases .

Equalities Impact Assessment See paragraphs 28 and 29

Exempt from Publication: No

Background Papers: N/A

Contact: tracey.butler@ashford.gov.uk – Tel: (01233) 330875

Agenda Item No. 7

Report Title: Fixed Penalty Notices for Fly tipping

Introduction and Background

1. From 2014 / 15 data, (the latest date for which statistics are currently available); Local Authorities dealt with a total of 900 thousand incidents of fly-tipping, an increase of 5.6 per cent since 2013/14 with nearly two thirds of fly-tips involving household waste.
2. The estimated cost of clearance of fly-tipping to local authorities in England in 2014/15 was nearly £50 million, an 11 per cent increase on 2013/14

Proposal/Current Position

3. Ashford Borough Council is part of the Mid Kent Joint Waste Partnership for household waste collection with Swale, Maidstone and Kent County Council and Biffa (as our service provider).
4. As part of our contractual agreement with Biffa, any fly tip under 2m³ is picked up as soon as it is reported or seen by cleansing operatives and disposed of inside the annual contract costs (no additional charge).
5. Fly tips collected by our contractor are checked for information relating to whomever may have deposited the fly tip or maybe associated with it (e.g. a letter with householder details, or a bill with personal information).
6. Fly tips reported directly to the street scene service, are usually larger in nature and are checked for information that may lead to an investigation and possible prosecution.
7. If fly tips are over 2m³ our contractor will clear the waste but as a chargeable service. The charge for this will depend on the size / nature of the waste and the manpower / vehicles required to clear it.
8. From the financial year 2015 / 16, if Ashford Borough Council was required to pay to clear reported fly tips (as opposed to them being covered by the contract), the commercial cost equivalent would have been approximately £48,700 (based on government return figures).
9. Enforcement action is undertaken on a reactive basis and would continue on that basis, alongside education and publicity of successful prosecution and fines paid where applicable.

10. Recently, the street scene team worked with corporate fraud investigation and our legal services team to secure the successful prosecution of an illegal fly tip from a commercial window replacement company.
11. Although the fines in the recent prosecution were £750, this is retained by the courts and not the local authority. The local authority receive awarded costs only.
12. There is currently another fly tipping case going forward for prosecution and two more under investigation.
13. However undertaking an investigation and prosecution is a complex and time consuming process which requires a significant input of staff resource and cannot be guaranteed to be successful. The fines from any successful prosecutions are paid to the court and not to the local authority.
14. In response to public concern about fly-tipping and the appropriateness of the sanctions available to deal with it the Government have brought forward The Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016 which came into force on 9 May 2016. The regulations add a section 33ZA to the Environmental Protection Act 1990 which provides for the issue of a FPN for contravention of section 33(1)(a) of that Act. The explanatory memorandum to the regulations explain that the purpose is to provide
'local authorities with a more efficient and proportionate response to small-scale fly-tipping of waste.'
15. These Regulations introduce a power enabling an authorised officer of a waste collection authority to serve a fixed penalty notice on a person found to be responsible for fly tipping offences.
16. Fixed penalty notices cannot be served on operators in the waste management industry, or those responsible for the fly tipping of hazardous waste. Government guidance indicates that the use of fixed penalty notice for repeat offenders is not appropriate.
17. Payment of a fixed penalty discharges the recipient from liability for conviction for the offence.
18. The legislation gives local authorities the power to set the level of fixed penalty notices within the range of £150 – £400, with the default being £200 if no other amount is specified.
19. The legislation also allows for an early payment discount to be applied to fines paid within 10 days of the issue of the penalty, setting a minimum level for discounted fines of £120.
20. Once a fixed penalty notice has been issued, no Court proceedings can be started until after the expiry of 14 days from the date of the fixed penalty notice.

Implications and Risk Assessment

21. In Ashford Borough Council, if the fly tip exceeds 2m³ the minimum cost for removal can vary dependent upon the manpower and disposal costs required to clear the fly tip (we are charged on an agreed bill of quantities rate). It is therefore considered that any fixed penalty levied at least covers clearance costs and should ideally cover at least some of the investigation costs.
22. As indicated above, the fines levied in the case of a prosecution for fly tipping are retained by the Courts (with only the costs of bringing the case being payable to the Council, if ordered by the Court).
23. A number of neighbouring local authorities have recently set their fixed penalty levels with many charging £400 for the full fine and £250 - £300 for the reduced rate, if paid inside 10 days.
24. Others are intending to set their fixed penalty fine at the maximum of £400 with no early repayment (on the basis that the potentially lesser offence of “failure to produce waste documentation” carries the lesser fine of £300).
25. There is no requirement for an early repayment level to be agreed and some local authorities in Kent have decided not to allow a reduced rate for early repayment. The recommendation of this report is that we do not accept a reduced fee for early repayment.
26. FPNs would be used for small scale fly-tipping where prosecution is unlikely to be cost-effective. Prosecution will still be pursued in more serious cases such as Commercial operators, hazardous, high volume, or organised tipping.
27. A FPN would only be served once, on someone who fly tips. A second offence by the same person would be considered for prosecution and not offered a Fixed Penalty Notice.

Equalities Impact Assessment

28. Members are referred to paragraphs 17 – 20 where consideration is given to the reasoning for recommendations for fine level.
29. An initial assessment identified no implications in relation to protected characteristics

Consultation Planned or Undertaken

30. This document has received feedback that has informed the report from legal services and the policy, compliance and scrutiny officer.

Options Considered

31. The level of fixed penalty can be set within the range of £150 - £400. If the Council does not set a level of fixed penalty to be applied, the default level of £200 will be applicable.

32. It is recommended that Cabinet set the fixed penalty level at the maximum level of £400 and do not allow an early payment discount.

Reasons for Supporting Option Recommended

33. The suggested level (amount) for the fixed penalty notice would ensure that the receipts from fixed penalty notices are in proportion to the actual cost of dealing with fly tipping in Ashford.
34. Fixed penalty receipts can be retained by the Council and used in exercising its functions in relation to fly tipping. These receipts could be used to fund increased work in detection of fly tipping and in education on the issue.
35. Providing an early repayment has not been adopted in litter enforcement (through the pilot with Kingdom). As such, it is suggested that this FPN does not allow for a reduced early repayment option.
36. In the event that a FPN is not paid, the perpetrator will be prosecuted for the original offence.

Conclusion

37. The provision of a Fixed Penalty Notice for fly tipping should provide an expedient way in which to deal with all but the most serious offences.
38. Dealing with all but the most serious fly tips in this way should save the courts time and act as an effective deterrent.

Portfolio Holder's Views

39. Fly tipping is a blight on the landscape for all local authorities to deal with. Setting a Fixed Penalty Notice at the maximum amount is a clear indication of how seriously this authority views this offence and the strong stance we take on enforcement. Councillor Clair Bell, Portfolio Holder for Public Interaction and Borough Presentation.

Contact and Email

40. Mrs Tracey Butler, Environmental Contracts and Operations Manager.
tracey.butler@ashford.gov.uk

Agenda Item No: 8
Report To: CABINET
Date of Meeting: 12 JANUARY 2017
Report Title: Film Classification Policy and Procedure
Report Author & Job Title: Trevor Ford
Environmental Protection & Licensing Team Leader
Portfolio Holder Cllr. G.J. Bradford
Portfolio Holder for:



Summary:

The report presents for approval a Film Classification Policy and Procedure.

Key Decision: NO

Significantly Affected Wards:

The policy has implications for all premises licensed for the showing of films across the Borough and therefore may affect all wards. It also has relevance to members of the public who attend the showing of films from businesses and events within the Borough.

Recommendations: It is recommended that cabinet: -

- i. **Approve the policy and procedure for dealing with the classification of films**
- ii. **Agree to adopt the Guidance issued by the British Board of Film Classification to assist in the classification of films.**
- iii. **Agree to amend the Council's scheme of delegation in line with the proposed policy, including delegating responsibility for the classification of films to the Head of Service and to permit authorisation of other officers as appropriate.**
- iv. **Recommend that Council set the level of fee for the classification of films at £75, plus £1 per minute of the full length of the submitted work. This fee to be revised annually as part of the Council's normal fee setting process.**

Policy Overview:

The rating of films in the absence of a BBFC is to protect children from unsuitable and even harmful content in films and videos, and to give consumers information they might need about a particular film or video before deciding whether or not to view it. The rating will apply within the Borough of Ashford and this independent scrutiny prior to release ensures the highest possible level of protection and empowerment.

Financial Implications:	There is at present no set fee for such applications and as a consequence the cost associated with processing the application would have to be met from the services overall budget. This report establishes an appropriate fee for the current financial year and subsequent fees will be set according to the Council's normal fee setting process.
Legal Implications	The policy outlined within this report satisfies the legal requirement to make provision to deal with the classification of previously unclassified films, appeals by distributors against the British Board of Film Classification's decisions or requests to reclassify films.
Equalities Impact Assessment	See <i>Appendix C</i>
Other Material Implications:	There are no other material implications.
Exempt from Publication:	NO
Background Papers:	British Board of Film Classification guidance on the classification of films.
Contact:	trevor.ford@ashford.gov.uk Tel: (01233) 330397

Report Title: Film Classification Policy and Procedure

1. The report advises of the Council's responsibilities in relation to the classification of films and establishes the necessary policy, procedure, guidance, and fees.

Introduction and Background

2. The public exhibition of all films on licensed premises such as cinemas, hotels, clubs, community halls, and public houses, must be either classified by the British Board of Film Classification or authorised by the Licensing Authority under the powers of the Licensing Act 2003.
3. Section 20 of the Act provides mandatory conditions, which must be attached to the licence. One of the mandatory conditions relates to age restriction. In most cases the classification body (BBFC) is specified in a licence and the premises must restrict the admission of children in accordance with the recommendation of that body. The BBFC thus performs a national film classification role.
4. However the council may have cause or obligation to classify a film for exhibition in the following circumstances:
 - Where no classification body is specified in a premises licence the admission of children to premises exhibiting films must be restricted in accordance with any recommendation by that authority or;
 - Where it is decided to classify a film to restrict age for that particular film; or
 - Where the licensing authority is requested to authorise the showing of an unclassified film, for which classification in respect of age will be required.
5. A typical example of when the council would set a classification is in relation to a locally made film to be shown at a local film festival. To cater for this situation it is appropriate for the council to have a formal policy and procedure in place to determine the appropriate classification.
6. A distributor of a film or other party may appeal to the Licensing Authority against a decision of the BBFC and request that the Licensing Authority reclassifies the film for local screening.
7. The Licensing Act 2003 also provides for a number of exemptions for certain types of film such as those exhibited for the purposes of advertisement, information, education etc. Films exhibited in a museum or art gallery that consist of, or form part of, an exhibit are also exempt. Not for profit film showings in community venues may also be exempt dependant on the relevant exemption criteria being met.

8. In respect to this policy, the council recognises the principle within the Human Rights Act 1998 that adults should be free to choose their own entertainment. However material should not be in breach of criminal law including material judged to be obscene under the current interpretation of the Obscene Publications Act 1959 or and the Copyright Design and Patents Act 1988.
9. The BBFC current fee for the classification of films is £75 plus £6.00 per minute of the full length of the film. A reduced rate for registered charity applications is also offered, at 75% of the standard rate.

Proposal/Current Position

10. In accordance with paragraph 10.31 of the Secretary of State's Guidance the council should concern itself primarily with the protection of children from harm. It should not seek to use its powers to censor films, save where there is clear cause to believe that this is required to promote the licensing objectives.
11. The cabinet is asked to approve the policy and procedure for dealing with the classification of films. The cabinet is also asked to adopt guidance relevant to film classification, agree delegations and set the level of fee.
12. In order to assist in the classification of films it is suggested that the council uses BBFC guidelines. These are provided at Appendix 2.
13. The guidelines are based on extensive research into public opinion and based on professional advice. They represent a nationally understood and accepted framework upon which to classify films.
14. In order to enable applications for the classification of films are determined quickly and as efficiently as possible, it is recommended that officers are delegated to undertake the classification. The most appropriate delegation being to the Head of Service and other appropriately authorised officers.
15. Any request to authorise an unclassified film may however be referred to the Licensing Sub-Committee for determination as deemed necessary by those delegated or authorised to classify films.
16. Commercial releases will be submitted to the BBFC as a matter of course, and therefore submissions to local authorities usually originate from local students and arts groups. These films are generally low budget, and would have a very limited release. A fee that is considerably lower than that charged by the BBFC would be appropriate given the nature of the films that will be submitted, to encourage local film making talent.
17. The proposed fee is £75, plus £1.00 per minute for the full length of the film. The fee will be reviewed annually as part of the normal fee setting process. However such a fee will ensure the costs of processing such applications are recovered from the applicant.

Implications and Risk Assessment

18. Failure to adopt a policy on Film Classification might result in inconsistent decision making and psychological harm being caused to members of the public. In particular children, through film exhibitions containing strong language, horror/violence, or sexual images.

Equalities Impact Assessment

19. Members are referred to the attached Assessment.

Consultation Planned or Undertaken

20. Due to the limited nature of the proposed policy and procedure it is recommended that the policy is adopted without full public consultation. It is not expected that a public consultation on this policy would result in any further amendment.
21. If cabinet deem necessary, the revised policy could be put out to full public consultation, with any amendments as deemed appropriate incorporated, and returned to cabinet prior to further consideration/adoption.

Other Options Considered

22. The requirement to implement and enforce the Act is not an adoptive duty. Alternate options to this policy include variations on the theme, or not having a formal policy however such a stance would leave the local authority open to the burden of the costs associated with such applications.

Reasons for Supporting Option Recommended

23. The recommended option uses the most thorough and relevant guidance from the BBFC, along with a procedure which allows for applications to be processed in the most resource efficient manner, whilst ensuring that costs of such applications are appropriately recovered.

Next Steps in Process

24. One adopted the revised policy will be made available through the council's website.
25. The policy will be subject to periodic review, along with review brought about by any change to the relevant legislation

Conclusion

26. It is recommended that to discharge the Council's responsibilities in relation to the classification of film, and to ensure the Protection of Children from Harm, the cabinet: -
- i. Approve the policy and procedure for dealing with the classification of films
 - ii. Agree to adopt the Guidance issued by the British Board of Film Classification to assist in the classification of films.
 - iii. Agree to amend the Council's scheme of delegation in line with the proposed policy, including delegating responsibility for the classification of films to the Head of Service and to permit authorisation of other officers as appropriate.
 - iv. Recommend that Council set the level of fee for the classification of films at £75, plus £1 per minute of the full length of the submitted work. This fee to be revised annually as part of the Council's normal fee setting process.

Portfolio Holder's Views

27. "I support the introduction of the film classification policy to ensure consistency, set fees to recover our costs, and to ensure the most effective use of council resources" - Cllr G.J. Bradford

Contact and Email

28. Trevor Ford
Environmental Protection and Licensing Team Leader
(01233) 330 397

Appendix A - Ashford's proposed 'Film Classification Policy and Procedure'

Appendix B - BBFC guidelines

Appendix C – Equalities impact assessment

Equality Impact Assessment

Lead officer:	Trevor Ford – Env. Protection and Licensing Team Leader
Decision maker:	Cabinet
Decision: <ul style="list-style-type: none"> • Policy, project, service, contract • Review, change, new, stop 	Introduction and adoption of a new 'Film Classification Policy and Procedure'
Date of decision: The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	12 January 2017
Summary of the proposed decision: <ul style="list-style-type: none"> • Aims and objectives • Key actions • Expected outcomes • Who will be affected and how? • How many people will be affected? 	<p>The rating of films in the absence of a BBFC is to protect children from unsuitable and even harmful content in films and videos, and to give consumers information they might need about a particular film or video before deciding whether or not to view it. The rating will apply within the Borough of Ashford.</p> <p>It is recommended that cabinet: -</p> <ol style="list-style-type: none"> Approve a policy and procedure for dealing with the classification of films Agree to adopt the Guidance issued by the British Board of Film Classification to assist in the classification of films. Agree to amend the Council's scheme of delegation in line with the proposed policy, including delegating responsibility for the classification of films to the Health, Parking & Community Safety Managers and to permit authorisation of other officers as appropriate. Recommend that Council set the level of fee for the classification of films at £75, plus £1 per minute of the full length of the submitted work. This fee to be revised annually as part of the Council's normal fee setting process. <p>The decision will affect will affect any prospective applicants and film viewers within the borough of Ashford.</p>
Information and research: <ul style="list-style-type: none"> • Outline the information and research that has informed the decision. • Include sources and key findings. 	Background research into this subject revolves around statutory requirements under the Licensing Act 2003, and the British Board of Film Classification guidance on the classification of films.
Consultation: <ul style="list-style-type: none"> • What specific consultation 	Consultation for this policy and procedure has taken place amongst relevant Health, Parking and Community Safety staff,

<p>has occurred on this decision?</p> <ul style="list-style-type: none"> • What were the results of the consultation? • Did the consultation analysis reveal any difference in views across the protected characteristics? • What conclusions can be drawn from the analysis on how the decision will affect people with different protected characteristics? 	<p>and with Legal Services.</p> <p>The consultation resulted in minor amendments but with no significant change to the original proposal.</p>
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Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.

When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.

Protected characteristic	Relevance to Decision High/Medium/Low/None	Impact of Decision Positive (Major/Minor) Negative (Major/Minor) Neutral
<u>AGE</u> Elderly	Low	Positive - minor
Middle age	Low	Positive – minor
Young adult	Low	Positive – minor
Children	High	Positive – major
<u>DISABILITY</u> Physical	Low	Positive – minor
Mental	Low	Positive – Major
Sensory	Low	Positive – minor
<u>GENDER RE-ASSIGNMENT</u>	Low	Positive – minor
<u>MARRIAGE/CIVIL PARTNERSHIP</u>	Low	Positive – minor
<u>PREGNANCY/MATERNITY</u>	Low	Positive – minor
<u>RACE</u>	Low	Positive – minor
<u>RELIGION OR BELIEF</u>	Low	Positive – minor

<u>SEX</u> Men	Low	Positive - minor
Women	Low	Positive - minor
<u>SEXUAL ORIENTATION</u>	Low	Positive - minor

Mitigating negative impact: Where any negative impact has been identified, outline the measures taken to mitigate against it.	None identified
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Is the decision relevant to the aims of the equality duty?	
Guidance on the aims can be found in the EHRC's Essential Guide , alongside fuller PSED Technical Guidance .	
Aim	Yes/No
1) Eliminate discrimination, harassment and victimisation	N/a
2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it	N/a
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	N/a

Conclusion:	
<ul style="list-style-type: none"> Consider how due regard has been had to the equality duty, from start to finish. There should be no unlawful discrimination arising from the decision (see guidance above). Advise on whether the proposal meets the aims of the equality duty or whether adjustments have been made or need to be made or whether any residual impacts are justified. How will monitoring of the policy, procedure or 	<p>The proposed policy identified no negative impact, and allows for greater freedom of choice when it comes to viewing films. It also provides protection for children, and the careers of those with mental disability who may otherwise be affected by the content of any film showing.</p> <p>Monitoring of the policy will occur periodically, and at a minimum reviewed every three years. It will also be reviewed in light of changes in legislation and update in the BBFC guidelines. Should significant revision be necessary then a revised policy will be submitted for adoption by cabinet</p>

decision and its implementation be undertaken and reported?	<i>The council's revised policy register will assist services to meet this</i>
EIA completion date:	24/11/2016

Film Classification Policy and Procedure

2017



ASHFORD
BOROUGH COUNCIL

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Purpose

1. The Licensing Authority (subsequently referred to as the Council) is responsible for authorising the public exhibition of films.
2. Section 20 of the Licensing Act 2003 (the Act) provides that where a Premises Licence or Club Premises Certificate authorises the exhibition of a film(s), the licence must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by the British Board of Film Classification (the BBFC) or by the Council itself.
3. The purpose of this Policy is to set out the formal procedure for the Council to determine the classification of previously unclassified films, appeals by distributors against the British Board of Film Classification's decisions, or requests to reclassify films.
4. Where a premise seeks or intends to exhibit film(s) that venue must be covered by a Premise Licence, Club Premises Certificate, or Temporary Event Notice under the Licensing Act 2003. There are some limited exemptions to the 2003 Act for community venues showing films without a view to profit, where the admission of children is subject to the recommendations of the BBFC or the Council itself.
5. The definition of 'children' is any person under the age of 18 years
6. Under the Licensing Act 2003, the definition of the 'exhibition of a film' is the exhibition of moving pictures.
7. In summary, the public exhibition of all films on licensed premises must either be classified by the BBFC or authorised by the Council under the powers of the Licensing Act 2003.
8. The Council when authorising film(s) shall at all time take into account the Guidance issued under section 182 of the Licensing Act 2003 (the National Guidance)
9. The Council may be requested to authorise a film that has already been classified by the British Board of Film Classification (BBFC) in two different circumstances:
 - (a) A distributor of a film may appeal against the decision of the BBFC and request that the Council re-classifies/authorises the film for local screening (with recommendations on age restrictions); and
 - (b) An independent party may request that the Council reclassifies / authorises the film for local screening (with recommendations on age restrictions).

10. In addition, the Council may be requested to authorise the showing of an unclassified film(s). This normally occurs in the following cases:

- A film festival covering a specific period of time
- A one off screening of a film
- A trailer for a film

Exemptions for the Showing of Films

11. The provision of the exhibition of a film(s) is exempt from regulation by the Licensing Act 2003 if either:

(a) It consists of or forms part of an exhibit put on show for any purposes of a museum or art gallery (the Licensing Act 2003 does not define a museum or art gallery so the ordinary meaning of the term is taken)

Or

(b) Its sole or main purpose is to:

- demonstrate any product,
- advertise any goods or services (excluding the advertising of films), or
- provide information, education or instruction

Policy

12. In accordance with paragraph 10.31 of the National Guidance, the Council shall concern itself primarily with the protection of children from harm. It will not use its powers to censor films save where there is clear cause to believe that this is required to promote the licensing objectives.
13. Under the Licensing Act 2003, the Council must carry out its functions with a view to promoting the licensing objectives;
 - (a) The prevention of crime and disorder
 - (b) Public Safety
 - (c) Prevention of public nuisance
 - (d) Protection of children from harm
14. In terms of film exhibitions and festivals, the most relevant licensing objective is the Protection of Children from Harm.

Protection of Children from Harm

15. Paragraph 2.41 of the National Guidance states:

The protection of children from harm includes the protection of children from moral, psychological and physical harm and this would include the protection of children from too early an exposure to strong language and sexual expletives, for example, in the context of film exhibitions or where adult entertainment is provided

Principles in Determining Film Classifications

16. The BBFC classifies films in accordance with its published Guidelines, which are based on extensive research into public opinion and professional advice. The National Guidance under Section 182 of the Licensing Act 2003 recommends that:

Licensing Authorities should not duplicate the BBFC's work by choosing to classify films themselves. The classifications recommended by the BBFC should be those normally applied unless there are very good local reasons for a Licensing Authority to adopt this role. Licensing Authorities should note that the provisions of the 2003 Act enable them to specify the Board in the licence or certificate and, in relation to individual films, to notify the holder or club that it will make a recommendation for that particular film.

17. The Council considers the classification system used by the BBFC to be nationally understood and accepted. It will therefore use this system and any amendments thereto, as a reference point for determining its recommendation(s) on the restriction of access of children to the film(s). It

should be noted however that the Council is not obliged to follow these guidelines.

18. Where a licensed premise seeks to exhibit a film that has not been classified by the BBFC then it will be the responsibility of the Council to authorise that film. As such, the procedures outlined later in this document will be followed.
19. The Council recognises the principle within the Human Rights Act 1998 that adults should be free to choose their own entertainment. Material should not be in breach of the criminal law, including material judged to be obscene under the current interpretation of the Obscene Publications Act 1959 or has been created through the commission of a criminal offence.
20. Applicants must ensure that all material that is the subject of the application complies with the current interpretation of the Obscene Publications Act 1959, the Copyright Design and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence.
21. Any authorisations for the exhibition of film(s) issued by the Council shall only apply when the film(s) is exhibited within the Borough of Ashford and does not effect the authorisation or recommendations in any other council area.
22. Once authorised by the Council a film will be authorised for a particular showing or festival only subject to the recommendations imposed by the Council (unless further application for re-classification is made). Details of the authorisation including any recommendations shall be available from the Council's Licensing Services.
23. The issue of any authorisation by the Council is strictly limited to the authorisation within the Borough of Ashford and it is assumed that all relevant third party consents and licences in respect of any and all copyright, confidential information and all other intellectual property rights have been obtained.
24. The Council will consider each authorisation on its own merit and may impose additional and more specific recommendations where it deems necessary in order to comply with the Protection of Children from Harm licensing objective
25. Where the Council authorises unclassified material to be shown the Council will require an undertaking from the applicant that he has satisfied himself after proper enquiry that no material to be exhibited contravenes the current interpretation of the Obscene Publications Act 1959, the Copyright Design and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence.

26. The Council shall also not be liable for any material that has been created through the commission of a criminal offence. It is the responsibility of the applicant to ensure that no film or trailer contravenes the law.
27. Where the Council has determined to refuse authorisation of a film(s) clear and concise reasons shall be given.

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Procedures for Authorisation Requests for Procedures for Approval of Films Already Classified by BBFC

28. Applications for authorisation of films already classified by the BBFC shall be referred to and determined by the Licensing Section on behalf of the Council. Applications should be submitted in writing to the Licensing Service.
29. In accordance with Annex D Part 5 of the National Guidance all requests shall be accompanied by the film(s) where possible in DVD format to avoid delays, the cost to be borne by the applicant. If DVD format is not possible then arrangements will be made to view the film in an alternative format as authorised by the Council or arrangements made for a suitable venue to view the film. This will allow the Licensing Section time to view and authorise the film(s) so that the licence holder is able to adhere to any recommendations on age restrictions the Council may impose. In any event, all requests should be submitted on the Council's application form a minimum of 28 days before the proposed screening.
30. Where an individual or organisation not connected with the film(s) requests re- classification of a BBFC classified film, they are not expected to provide a copy of the film(s). The Council will then make suitable arrangements to view the film. It is also accepted that in these circumstances, it may not be possible to give 28 days' notice before the proposed screening.
31. All requests must be accompanied with reasons for the request. Requests will be dealt with as expeditiously as possible as it is appreciated that films are generally only shown in cinemas for a relatively short period.
32. An authorised officer, normally within the Licensing Section, will then view the entire film and assess it against the BBFC guidelines and National Guidance and shall issue a Notice of Determination of the authorisation within five working days from the date of viewing. The Council will then formally advise the applicant and the licence holder of any recommendation(s) restricting the admission of children to the film(s).
33. Requests must be relevant to the protection of children from harm licensing objective and not frivolous, vexatious or repetitive. Requests may also be relevant to the prevention of crime and disorder licensing objective but only in relation to the contravention of the current interpretation of the Obscene Publications Act 1959 or any other relevant legislation.
34. In line with Annex D Part 5 of the National Guidance, where a film(s) is recommended by the Licensing Authority as falling into an age restrictive category, no person under the age specified shall be admitted. Where a film(s) is recommended by the Licensing Authority as falling into a category requiring any persons under a specified age to be accompanied

by an adult, no person under the age specified shall be admitted unaccompanied by an adult.

35. In these circumstances, the licence holder will be required to display in a conspicuous position a notice clearly stating the relevant age restrictions and requirements. With regard to the wording of such Notices, the Council shall have regard to National Guidance, for example, Persons Under the Age Of [insert appropriate age] Cannot Be Admitted To Any Part of The Programme and Persons Under the Age Of [insert appropriate age] Can Only Be Admitted To The Programme If Accompanied By An Adult.

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Procedure for Authorisation of Films that have not been classified by the BBFC or Ashford Borough Council

36. Applications for authorisation will in the first instance be considered by officers under delegated powers. Any request to authorise an unclassified film may however be referred by the Environmental Protection & Licensing Team Leader to the Licensing and Health & Committee or Sub-Committee for determination.
37. Applications should be submitted on the Council's application form a minimum of 28 days before the proposed screening.
38. An application for authorisation should include the following information:
 - (a) the filmmaker;
 - (b) such recommendation as may have been made by the filmmaker upon age limit for the intended audience for exhibition of the film;
 - (c) any existing classification issued by an existing classification body, whether within or outside the UK;
 - (d) a synopsis identifying the material within the film considered by the exhibitor to be likely to have a bearing on the age limit for the audience for exhibition of the film. Where an applicant seeks an authorisation allowing exhibition of the film to persons 18 years and over only, a detailed synopsis will not be required;
 - (e) if known, a legitimate and legal internet site where the film or a portion of the film is available to view without charge;
 - (f) any proposals on age restrictions for viewing the film that the applicant intends to impose; and
 - (g) details of how age restrictions will be enforced.
39. In accordance with Annex D Part 5 of the National Guidance all requests shall be accompanied by the film(s) where possible in DVD format to avoid delays, the cost to be borne by the applicant. If DVD format is not possible then arrangements will be made to view the film in an alternative format as authorised by the Council or arrangements made for a suitable venue to view the film. This will allow the Licensing Section time to view and authorise the film(s) so that the licence holder is able to adhere to any recommendations on age restrictions the Council may impose. In any event, all requests should be submitted on the Council's application form a minimum of 28 days before the proposed screening.
40. The Licensing Section, whilst viewing the film(s) will have regard to BBFC Guidelines and National Guidance and shall issue a Notice of Determination of the application within five working days from the date of the viewing.

41. When considering all such requests the Licensing Section will pay particular attention to the Protection of Children from Harm Licensing Objective.
42. In line with Annex D Part 5 of the National Guidance, where a film(s) is recommended by the Licensing Authority as falling into an age restrictive category, no person under the age specified shall be admitted. Where a film(s) is recommended by the Licensing Authority as falling into a category requiring any persons under a specified age to be accompanied by an adult, no person under the age specified shall be admitted unaccompanied by an adult.
43. In these circumstances, the licence holder will be required to display in a conspicuous position a notice clearly stating the relevant age restrictions and requirements. With regard to the wording of such Notices, the Council shall have regard to National Guidance, for example, Persons Under the Age Of [insert appropriate age] Cannot Be Admitted To Any Part of The Programme and Persons Under the Age Of [insert appropriate age] Can Only Be Admitted To The Programme If Accompanied By An Adult.
44. In order to ensure the promotion of the Protection of Children from Harm and Prevention of Crime and Disorder licensing objectives, the Council will formally advise the licence holder and applicant of any recommendation(s) on the restriction on the age of access for children to the film(s). This may also include any relevant notices required to be displayed by the licence holder inside and outside the premises. The licensed premises hosting the exhibition of film will be expected to comply with these recommendations.
45. The Council recognises the principle that adults should be free to choose their own entertainment and will not normally override this principle -as such, requests shall not normally be refused. However, in all cases, the Council will expect the applicant to follow the BBFC's Guidelines for 18 and R18 restricted films.

Licensing Act Mandatory Conditions

46. All premises permitted to exhibit films are subject to the following mandatory conditions under Section 20 of the Licensing Act 2003:

- (1) Where a Premises Licence or Club Premise Certificate authorises the exhibition of films, the licence or certificate must include a condition requiring the admission of children to the exhibition at any film to be restricted in accordance with these paragraphs.
- (2) Where a film classification body is specified in the licence or certificate, unless paragraph 3 (b) below applies, admission of children must be restricted in accordance with any recommendation by that body.
- (3) Where:
 - (a) the film classification body is not specified in the Licence or Certificate; or
 - (b) the Council has notified the holder of the Licence or the Club that holds the Certificate that this paragraph applies to the film in question; admission of children must be restricted in accordance with any recommendation made by the Council.
- (4) In these paragraphs "children" means persons aged under 18 and "film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings



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Guidelines





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Introduction

The British Board of Film Classification (BBFC) is an independent, non-governmental, not-for-profit, co-regulatory body. We are funded through fees charged to those who submit films and video works for classification.

We classify:

- films, trailers and advertisements on behalf of local authorities who license cinemas
- video works under the Video Recordings Act 1984
- video works which are distributed over the internet under a voluntary, self-regulatory service
- commercial and internet content distributed via mobile networks under a voluntary, self-regulatory service

Our Classification Guidelines follow extensive public consultation, as well as other research, expert advice and our accumulated experience over many years. The Guidelines, and our practice in applying them, pay particular attention to changes in public taste, attitudes and concerns, and changes in the law. They also take account of new evidence from research or expert sources. The Guidelines are reviewed periodically, and how we apply them is reviewed when necessary.

We take responsibility for the Guidelines and for their interpretation. This responsibility is subject to normal considerations of fairness and reasonableness.

Here, and throughout the Guidelines, video works are taken to include films and programmes released on DVD or Blu-ray, or distributed by means of download or streaming on the internet.

The Guidelines cannot be a comprehensive account of everything that may at any time be of concern. If issues arise which are not specifically covered here, they will be dealt with by us on their merits and in line with the standards expressed and implied in these Guidelines. The Guidelines are not a legal document and should be interpreted in the spirit of what is intended as well as in the letter.

We will provide guidance on the interpretation of these Guidelines on request.

Guiding Principles

Our guiding principles are:

- to protect children and vulnerable adults from potentially harmful or otherwise unsuitable media content
- to empower consumers, particularly parents and those with responsibility for children, to make informed viewing decisions

We fulfil these roles by providing age classifications and publishing advice (known as BBFCinsight) for individual films and videos. We do this without infringing the right of adults to choose what they view provided that it remains within the law and is not potentially harmful. We seek to ensure that films and videos reach the widest audience that is appropriate for their theme and treatment.

Media effects research and expert opinion on issues of suitability and harm can be inconclusive or contradictory. In such cases we must rely on our own experience and expertise to make a judgement as to the suitability of a work for classification at a particular age category, taking into consideration whether the availability of the material, to the age group concerned, is clearly unacceptable to broad public opinion. Our extensive research into public opinion guides us as we seek to ensure that classification decisions generally reflect public sensibilities and expectations as these change over time.

In relation to harm, we will consider whether the material, either on its own, or in combination with other content of a similar nature, may cause any harm at the category concerned. This includes not just any harm that may result from the behaviour of potential viewers, but also any moral harm that may be caused by, for example, desensitising a potential viewer to the effects of violence, degrading a potential viewer's sense of empathy, encouraging a dehumanised view of others, suppressing pro-social attitudes, encouraging anti-social attitudes, reinforcing unhealthy fantasies, or eroding a sense of moral responsibility. Especially with regard to children, harm may also include retarding social and moral development, distorting a viewer's sense of right and wrong, and limiting their capacity for compassion.

We will not classify material which is in conflict with the criminal law, or has been created through the commission of a criminal offence.

We act as a regulator across the United Kingdom. However, the United Kingdom does not have a single legal system, and so we take account of the different legal systems that coexist in the UK. Further details about the applicable legislation can be found in the Annex.

General Classification Considerations

There are general factors that may influence a classification decision at any level and in connection with any issue. These factors are of particular importance when a work lies on the borderline between two age categories.

Context

Context is central to the question of acceptability of film and video content. When considering context therefore, we take into account issues such as public expectation in general and the expectations of a work's audience in particular.

We consider the context in which an issue (such as sex, language or violence) is presented within a film or video. In doing this we take account of factors such as the setting of a work (historical, fantasy, realistic, contemporary); the manner of presentation (for example, an aggressive and directed use of bad language may result in a higher classification than a light-hearted and self-referential use of the same term); the apparent intention of the film; the original production date of the work (for example, outdated attitudes might be considered less offensive, and consequently classified at a lower category, in an old, obviously dated, work); and any special merits of the work.

Theme

Classification decisions will take into account the theme of a work, but will depend significantly on the treatment of that theme, and especially the sensitivity of its presentation. The most challenging themes (for example, drug misuse, sexual violence, paedophilia, racial hatred or violence) are unlikely to be appropriate at the most junior levels of classification. However, there is no reason in principle why most themes, however difficult, could not be presented in a manner which allows classification at 18 or even, where suitable, at lower levels.

Tone and impact

The overall tone of a work may also affect the classification decision. While the presentation of specific issues, such as sex and violence, may not be problematic at a particular category, a work with a dark or unsettling tone may receive a higher classification. Other tonal considerations which might have an influence on classification include the extent to which the work presents a despairing view of the world or the extent to which transgressive or harmful behaviour is condoned or made to appear normal.

We take into account the impact of a work (i.e. how it makes the audience feel), for example in relation to horror films where threat may be more significant than the level of violence.

Specific Classification Considerations

This section of the Guidelines identifies concerns which apply, to a greater or a lesser degree, at all classification levels, and sets out the general approach that we take. The concerns are listed in alphabetical order.

Pages 12 to 24 of the Guidelines provide specific guidance for U through to R18 with regard to such concerns. This should be read together with the General Classification Considerations.

Discrimination

Potentially offensive content relating to matters such as race, gender, religion, disability or sexuality may arise in a wide range of works, and the classification decision will take account of the strength or impact of their inclusion. The context in which such content may appear also has a bearing. Works with such content may receive a lower category where discriminatory language and behaviour is implicitly or explicitly criticised; or the work as a whole seeks to challenge such attitudes; or the work is obviously dated, with little or no appeal to children.

Drugs

No work taken as a whole may promote the misuse of drugs and any detailed portrayal of drug misuse likely to promote the activity may be cut. Works which normalise or glamorise drug misuse are likely to receive a higher classification than works which show drug misuse while emphasising the dangers.

Where smoking, alcohol abuse or substance misuse feature to a significant extent in works which appeal to children, this will normally be indicated in BBFCinsight. Classification decisions will also take into account any promotion or glamorisation of such activities.

Imitable behaviour

Classification decisions will take into account any detailed portrayal of criminal and violent techniques, and glamorisation of easily accessible weapons, such as knives. Works which portray anti-social behaviour (for example, bullying) uncritically are likely to receive a higher classification. Works which, taken as a whole, actively promote illegal behaviour may be cut or refused a classification.

Portrayals of potentially dangerous behaviour (especially relating to hanging, suicide and self-harm) which children and young people may potentially copy, will be cut if a higher classification is not appropriate.

Language

Language which people may find offensive includes the use of expletives with a sexual, religious or racial association, derogatory language about minority groups and commonly understood rude gestures. The extent of offence may vary according to age, gender, race, background, beliefs and expectations brought by viewers to the work as well as the context in which the word, expression or gesture is used.

For these reasons, it is impossible to set out comprehensive lists of words, expressions or gestures which are acceptable at each category. The advice at different classification levels, therefore, provides general guidance taking account of the views expressed in public consultation exercises.

Nudity

Nudity with no sexual context is in principle acceptable at all classification levels, but will not generally occur more than occasionally at U.

Nudity with a sexual context will receive a higher classification. Strong detail in such a context will usually only be passed at the adult categories (18 or R18).

Sex

The portrayal of sexual activity can range from kissing to detail of unsimulated sex. The normalisation of overtly sexualised behaviour is a concern at the junior categories. The classification system allows progressively stronger portrayals of sexual behaviour as the categories rise.

Sex works (works whose primary purpose is sexual arousal or stimulation) will normally only be passed at the adult categories. Sex works which only contain sex which may be simulated will usually be passed at 18. The R18 category is suitable for sex works containing clear images of real sex, strong fetish material, sexually explicit animated images, or other very strong sexual images. R18 video works may be supplied only in licensed sex shops which no one under 18 may enter. R18 films may be shown only in specially licensed cinemas.

We will apply these Guidelines in relation to sex to the same standard regardless of sexual orientation of the activity portrayed.

Threat

Where films are targeted at a younger audience, classification decisions will take into account factors such as the frequency, length and detail of scary or otherwise unsettling scenes as well as factors such as the impact of music and sound, and whether there is a swift and reassuring outcome.

The classification of threat and horror will take account of the general tone, impact, realism and supernatural elements of a work as well as the level of detail in individual scenes. Fantasy settings may be a mitigating factor.

Violence

Classification decisions will take account of the degree and nature of violence in a work.

Works which feature the following are likely to receive higher classifications:

- portrayal of violence as a normal solution to problems
- heroes who inflict pain and injury
- callousness towards victims
- the encouragement of aggressive attitudes
- characters taking pleasure in pain or humiliation
- the glorification or glamorisation of violence

Sadistic or sexual violence is likely to receive a higher classification. Any depiction of sadistic or sexual violence which is likely to pose a harm risk will be subject to intervention through classification, cuts or even, as a last resort, a refusal to classify.

We may refuse to classify content which makes sexual or sadistic violence look appealing or acceptable, reinforces the suggestion that victims enjoy sexual violence, or invites viewer complicity in sexual violence or other harmful violent activities.

We are also unlikely to classify content which is so demeaning or degrading to human dignity (for example, it consists of strong abuse, torture or death without any significant mitigating factors) that it may pose a harm risk.

Other Matters

Education videos

When classifying an education video, including a sex education video, for use in schools, we will take account of the educational purpose of the video and the context in which it is to be viewed (for example in the classroom mediated by a teacher).

Music videos

The classification of a music video will take account of any elements which are of concern to parents, including glamorisation of behaviour which they consider inappropriate. Where music videos are short and self-contained, material may be less likely to be justified by context.

Photo or pattern sensitivity, motion sickness and reactions to low frequency sound

A small number of viewers are sensitive to flashing and flickering light, or some shapes and patterns, and may experience seizures or other serious physical effects. Some viewers experience feelings of motion sickness or other symptoms when viewing works which feature hand held or otherwise moving camerawork, or which feature very low frequency sounds.

It is the responsibility of film makers and distributors to identify works in which such issues arise and to ensure that, when required, appropriate warnings are given to viewers. However, if it is obvious during viewing that the work contains strong examples of such imagery or sounds, we will advise the distributor of the need to ensure that appropriate warnings are in place. Where necessary, we may require assurances regarding the display of appropriate warnings as a condition of classification.

Release format

Classification decisions may be stricter on video works than on film. This is because of the increased possibility of under-age viewing as recognised in the Video Recordings Act (see Annexe), as well as the increased possibility of works being replayed or sections viewed out of context. Accordingly, a video work (either packaged or online) may occasionally receive a higher classification than on film, or require new or different cuts. (Video works may also receive a higher classification because they contain additional content.)

The screen format or visual presentation of a submission may also alter a classification, for example, if the image has been processed in the 3D format or is shown with an altered aspect ratio such as on an IMAX screen.

Titles

We will require changes as a condition of classification if the title of a work incites racial or religious hatred, or other criminal behaviour, or encourages an interest in abusive or illegal sexual activity.

If the title of a work is likely to cause significant offence to a significant number of people if displayed in a public place, we will advise the distributor to consider carefully the places in which it is likely to be seen and to take appropriate action, for example, by obscuring certain words on packaging or marketing materials. (This advice is not given in relation to video works classified R18 as such works may only be supplied or offered for supply in a licensed sex shop.) Where necessary, assurances on public display of the full title, or changes to the title, may be required as a condition of classification.

Trailers and advertisements

Audiences may choose to see a full-length feature based on expectations of the particular genre at the given classification and on the published BBFCinsight. In contrast, audiences have no choice, and often no expectation, about the accompanying trailers or advertisements which may be very different in tone and content to the film the audience has chosen to view. In addition, because trailers and advertisements are short and self-contained, material is less likely to be justified by context and more likely to cause offence.

For these reasons, classification decisions for trailers and advertisements may be more restrictive than for equivalent material in a main feature. Strong language will not be allowed in trailers at the U, PG and 12A/12 categories.

The more restrictive approach set out above may be relaxed where an advertisement is part of a public information campaign or has a charitable purpose.

Cinemas are responsible for the exhibition of cinema trailers and advertisements, and we have no involvement in deciding which films they precede. Questions or complaints about the exhibition of trailers or advertisements should be directed to the cinema management in the first instance.

Video games

With a few limited exceptions we do not classify video games. We consider for classification those video games contained on discs which feature primarily linear video content and pornographic video games which include for example:

- images of unsimulated human sexual activity involving genitals or anus
- sexual fetish material, including bondage or sadomasochistic activity, urination and other bodily functions
- material likely to encourage an interest in sexually abusive activity
- the portrayal of sexual activity which involves lack of consent whether real or simulated
- sexual threats, humiliation or abuse
- penetration by any object associated with violence or likely to cause physical harm
- images of sexual activity with animals

whether such images or material are of real events or activity or are animated.

We also advise the Games Rating Authority on the classification of linear video footage contained in games which is not integral to the game. This includes, for example, rewards and video content in games which is designed to be viewed in its own right, without taking forward the narrative drive of the game.

The Classification Categories

We endeavour to classify submitted works in one of the following categories:





The following pages set out guidance on how the specific classification considerations (for example, sex and violence) are specifically applied from U through to R18. The criteria should be read in combination with the general approach set out earlier under ‘Guiding Principles’, ‘General Classification Considerations’ and ‘Specific Classification Considerations’.

Because works from time to time present issues in ways which cannot be anticipated, these criteria will not be applied in an over-literal way if such an interpretation would lead to an outcome which would confound audience expectations.





U Universal – Suitable for all

A U film should be suitable for audiences aged four years and over, although it is impossible to predict what might upset any particular child. U films should be set within a positive framework and should offer reassuring counterbalances to any violence, threat or horror.

If a work is particularly suitable for pre-school children, this will be indicated in the BBFCinsight.

Discrimination

Discriminatory language or behaviour is unlikely to be acceptable unless clearly disapproved of.

Drugs

References to illegal drugs or drug misuse must be infrequent and innocuous, or have a clear educational purpose or anti-drug message suitable for young children.

Imitable behaviour

Potentially dangerous or anti-social behaviour which young children may copy must be clearly disapproved of. No emphasis on realistic or easily accessible weapons.

Language

Infrequent use only of very mild bad language.

Nudity

Occasional nudity, with no sexual context.

Sex

Only very mild sexual behaviour (for example, kissing) and references to such behaviour.

Threat

Scary or potentially unsettling sequences should be mild, brief and unlikely to cause undue anxiety to young children. The outcome should be reassuring.

Violence

Violence will generally be very mild. Mild violence may be acceptable if it is justified by context (for example, comedic, animated, wholly unrealistic).



PG Parental Guidance – General viewing, but some scenes may be unsuitable for young children

A PG film should not unsettle a child aged around eight or older. Unaccompanied children of any age may watch, but parents are advised to consider whether the content may upset younger, or more sensitive, children.

Discrimination

Discriminatory language or behaviour is unlikely to be acceptable unless clearly disapproved of, or in an educational or historical context, or in a particularly dated work with no likely appeal to children. Discrimination by a character with whom children can readily identify is unlikely to be acceptable.

Drugs

References to illegal drugs or drug misuse must be innocuous or carry a suitable anti-drug message.

Imitable behaviour

No detail of potentially dangerous behaviour which young children are likely to copy, if that behaviour is presented as safe or fun. No glamorisation of realistic or easily accessible weapons such as knives. No focus on anti-social behaviour which young children are likely to copy.

Language

Mild bad language only. Aggressive or very frequent use of mild bad language may result in a work being passed at a higher category.

Nudity

There may be nudity with no sexual context.

Sex

Sexual activity may be implied, but should be discreet and infrequent. Mild sex references and innuendo only.

Threat

Frightening sequences or situations where characters are in danger should not be prolonged or intense. Fantasy settings may be a mitigating factor.

Violence

Violence will usually be mild. However there may be moderate violence, without detail, if justified by its context (for example, history, comedy or fantasy).







12A/12 – Suitable for 12 years and over

Films classified 12A and video works classified 12 contain material that is not generally suitable for children aged under 12.

No one younger than 12 may see a 12A film in a cinema unless accompanied by an adult. Adults planning to take a child under 12 to view a 12A film should consider whether the film is suitable for that child. To help them decide, we recommend that they check the BBFCinsight for that film in advance.

No one younger than 12 may rent or buy a 12 rated video work.

Discrimination

Discriminatory language or behaviour must not be endorsed by the work as a whole. Aggressive discriminatory language or behaviour is unlikely to be acceptable unless clearly condemned.

Drugs

Misuse of drugs must be infrequent and should not be glamorised or give instructional detail.

Imitable behaviour

No promotion of potentially dangerous behaviour which children are likely to copy. No glamorisation of realistic or easily accessible weapons such as knives. No endorsement of anti-social behaviour.

Language

There may be moderate language. Strong language may be permitted, depending on the manner in which it is used, who is using the language, its frequency within the work as a whole and any special contextual justification.

Nudity

There may be nudity, but in a sexual context it must be brief and discreet.

Sex

Sexual activity may be briefly and discreetly portrayed. Moderate sex references are permitted, but frequent crude references are unlikely to be acceptable.

Threat

There may be moderate physical and psychological threat and horror sequences. Although some scenes may be disturbing, the overall tone should not be. Horror sequences should not be frequent or sustained.

Violence

There may be moderate violence but it should not dwell on detail. There should be no emphasis on injuries or blood, but occasional gory moments may be permitted if justified by the context.

Sexual violence may only be implied or briefly and discreetly indicated, and its depiction must be justified by context.



15 – Suitable only for 15 years and over

No one younger than 15 may see a 15 film in a cinema. No one younger than 15 may rent or buy a 15 rated video work.

Discrimination

The work as a whole must not endorse discriminatory language or behaviour, although there may be racist, homophobic or other discriminatory themes and language.

Drugs

Drug taking may be shown but the work as a whole must not promote or encourage drug misuse (for example, through instructional detail). The misuse of easily accessible and highly dangerous substances (for example, aerosols or solvents) is unlikely to be acceptable.

Imitable behaviour

Dangerous behaviour (for example, hanging, suicide and self-harming) should not dwell on detail which could be copied. Whether the depiction of easily accessible weapons is acceptable will depend on factors such as realism, context and setting.

Language

There may be strong language. Very strong language may be permitted, depending on the manner in which it is used, who is using the language, its frequency within the work as a whole and any special contextual justification.

Nudity

There are no constraints on nudity in a non-sexual or educational context. There may be nudity in a sexual context but usually without strong detail.

Sex

Sexual activity may be portrayed, but usually without strong detail. There may be strong verbal references to sexual behaviour, but the strongest references are unlikely to be acceptable unless justified by context. Works whose primary purpose is sexual arousal or stimulation are unlikely to be acceptable.

Threat

There may be strong threat and horror. A sustained focus on sadistic or sexual threat is unlikely to be acceptable.

Violence

Violence may be strong but should not dwell on the infliction of pain or injury. The strongest gory images are unlikely to be acceptable. Strong sadistic violence is also unlikely to be acceptable.

There may be detailed verbal references to sexual violence but the depiction of sexual violence must be discreet and justified by context.







18 – Suitable only for adults

No one younger than 18 may see an 18 film in a cinema. No one younger than 18 may rent or buy an 18 rated video work.

Adults should be free to choose their own entertainment. Exceptions are most likely in the following areas:

- where the material is in breach of the criminal law, or has been created through the commission of a criminal offence
- where material or treatment appears to us to risk harm to individuals or, through their behaviour, to society. For example, the detailed portrayal of violent or dangerous acts, or of illegal drug use, which may cause harm to public health or morals. This may include portrayals of sadistic or sexual violence which make this violence look appealing; reinforce the suggestion that victims enjoy sexual violence; or which invite viewer complicity in sexual violence or other harmful violent activities

- where there are more explicit images of sexual activity in the context of a sex work (see below) or where the primary purpose of the images in question is sexual arousal

In the case of video works, which may be more accessible to younger viewers, intervention may be more frequent than for cinema films.

Sex education at 18

Where sex material genuinely seeks to inform and educate in matters such as human sexuality or safer sex and health, explicit images of sexual activity may be permitted.

Sex works at 18

Sex works are works whose primary purpose is sexual arousal or stimulation. Sex works containing only material which may be simulated are generally passed 18. Sex works containing clear images of real sex, strong fetish material, sexually explicit animated images, or other very strong sexual images will be confined to the R18 category. Material which is unacceptable in a sex work at R18 is also unacceptable in a sex work at 18.



R18 - To be shown only in specially licensed cinemas, or supplied only in licensed sex shops, and to adults only

The R18 category is a special and legally-restricted classification primarily for explicit works of consenting sex or strong fetish material involving adults. Films may only be shown to adults in specially licensed cinemas, and video works may be supplied to adults only in licensed sex shops. R18 video works may not be supplied by mail order.

The following content is not acceptable:

- material which is in breach of the criminal law, including material judged to be obscene under the current interpretation of the Obscene Publications Act 1959 (see Annexe)
- material (including dialogue) likely to encourage an interest in sexually abusive activity which may include adults role-playing as non-adults
- the portrayal of sexual activity which involves real or apparent lack of consent. Any form of physical restraint which prevents participants from indicating a withdrawal of consent
- the infliction of pain or acts which may cause lasting physical harm, whether real or (in a sexual context) simulated. Some allowance may be made for moderate, non-abusive, consensual activity
- penetration by any object associated with violence or likely to cause physical harm
- sexual threats, humiliation or abuse which do not form part of a clearly consenting role-playing game. Strong physical or verbal abuse, even if consensual, is unlikely to be acceptable

These Guidelines will be applied to the same standard regardless of sexual orientation of the activity portrayed.



Advice Viewings

A customer may submit works for advice at any stage of the production process.

We will inform them of the likely classification a work will receive, and where appropriate any changes required to achieve the customer's preferred classification. However advice given in such circumstances is not binding and we reserve the right to reach a different decision when the final version of the work is submitted formally for classification. If the final version of the work submitted for classification differs in any significant respect from that seen for advice, and if those changes appear to reflect advice we have given, then details of the changes will appear on our website.

Intervention

Where possible we will carry out our responsibilities through appropriate use of the classification categories, particularly in order to protect children from any potential harm. If necessary, however, we may cut or even refuse to classify a film or video work.

In some cases, we require assurances, cuts or other changes (for example, the addition of warning captions) as a condition of classification, or as a condition of classifying at a particular category. In some circumstances we may refuse to classify a work at any category. We publish details of all interventions on our website.

Cuts for category

If the submitted work is suitable for classification, but only at a category higher than that requested by the customer, we will consider whether a lower category could be achieved through relatively minor or simple changes. If so, we may offer the customer a choice of accepting either the higher or lower category (the latter with defined changes as necessary).

Cuts for category are unlikely to be available if the required changes would be very extensive or complex, or would not address for example, a tonal or thematic issue running throughout the work.

Compulsory cuts

If a submitted work raises issues or concerns that cannot be addressed by classification at a particular age category, we may require cuts or other changes as a condition of classification. Such intervention is most likely when the submitted work contains:

- material which may promote criminal activity
- material which is obscene or otherwise illegal
- material created by means of the commission of a criminal offence
- portrayals of children in a sexualised or abusive context

- material which makes sexual or sadistic violence look normal, appealing, or arousing
- graphic images of real injury, violence or death presented in a salacious or sensationalist manner which risks harm by encouraging callous or sadistic attitudes
- material which reinforces the suggestion that victims enjoy sexual violence
- material which invites viewer complicity in sexual violence or other harmful violent activities
- sex works which contain material listed as unacceptable at R18

When the issue relates to the circumstances of filming (for example, in relation to animal cruelty or public indecency) the customer will normally be given an opportunity to present evidence before a final decision is reached.

Refusal to classify

As a last resort, the BBFC may refuse to classify a work, in line with the objective of preventing non-trivial harm risks to potential viewers and, through their behaviour, to society. We may do so, for example, where a central concept of the work is unacceptable, such as a sustained focus on sexual or sadistic violence. Before refusing classification we will consider whether the problems could be adequately addressed through intervention such as cuts. In deciding whether to refuse to classify, we will keep in mind the inherent difficulty of using behavioural research to draw conclusions about real world risks, and will have regard to the full range of available evidence, including the views of the public and our own knowledge and experience.

Appeals

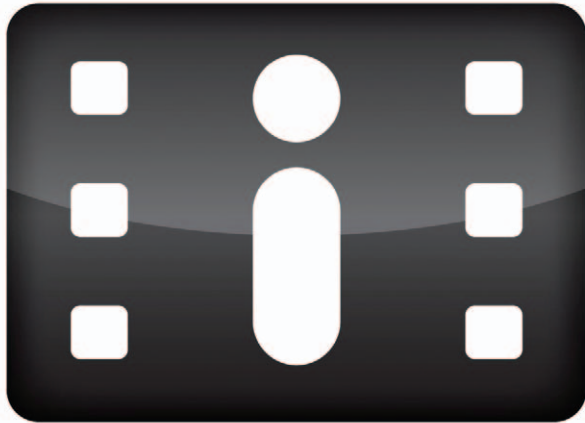
We offer a formal reconsideration procedure which is open to any customer dissatisfied with the determination made in respect of their work. The reconsideration is free of charge and will normally take fewer than 10 working days.

A customer may also appeal directly to an independent authority. Such an appeal may take place following, or instead of, our reconsideration. In the case of films, the customer (or any member of the public) may address itself to the local authority which licenses cinemas in a particular area. In the case of video works a customer may appeal to the Video Appeals Committee. The VAC is independent of the BBFC and can be contacted by post at **VAC, PO Box 6949, London, W1A 3TZ** or by email at **enquiries@vacappeal.co.uk**

Customers should note that a reconsideration or an appeal involves looking at the issues afresh. This means that the outcome could, in some circumstances, be more restrictive than the original determination.

Engagement with the Public

As part of our role we provide consumers, particularly parents, with as much information as possible to enable them to make a fully informed decision about what they will view. We therefore publish detailed information about the content of every film we classify. This is called BBFCinsight.



insight

BBFCinsight consists of the following:

- short content advice on film posters, some film advertising and video packaging, for example:



Strong language and sex references

- more detailed information, aimed particularly at parents, found on our website and free App

BBFCinsight is a short description of the issues found in a film or video work. It explains why an individual title received a particular classification. It highlights the key issues in a film, and gives examples of the content in the film, avoiding where possible any potential plot spoilers.

BBFCinsight also notes any other issues that might be important for parents, or those wishing to take younger viewers to see a film. This may include, for example, themes of divorce or bereavement, a film's overall suitability for family viewing and the likely familiarity of the audience with the film's source material or cast.

We encourage viewers to check BBFCinsight for a clear idea of the issues a work contains.

Websites



BBFC Website - www.bbfc.co.uk

Our website gives detailed information about every classification decision.

The website includes an online version of our Guidelines, detailed information about the different classifications, a library of our research, education tools and resources for use in the classroom and independent study, and a media centre including news and press releases.



Children's BBFC – www.cbbfc.co.uk

This website offers children clear information about how age classifications work and our role and history. It includes interactive elements, and material especially adapted for younger filmgoers and families.

The site also has an area for adults which contains information about BBFCinsight, the classification categories and details of our education and outreach work (for example, video conferencing) for schools.

BBFC App

We have a free App available to download for iOS and Android devices. It lets users check the latest film and video classifications on the go, along with BBFCinsight.

Twitter

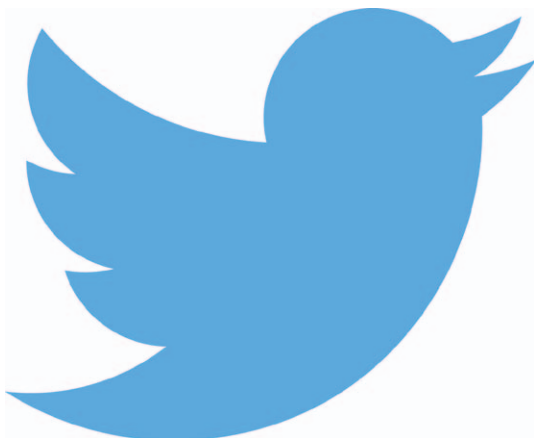
We regularly update our Twitter account, **@BBFC**, with BBFC news and the latest film and video classifications.

Newsletters

We produce regular newsletters for the industry, for those involved in education and for the general public. These give details about recent BBFC classification decisions as well as our resources, workshops and events. To sign up for any of the newsletters visit **www.bbfc.co.uk**.

Podcasts

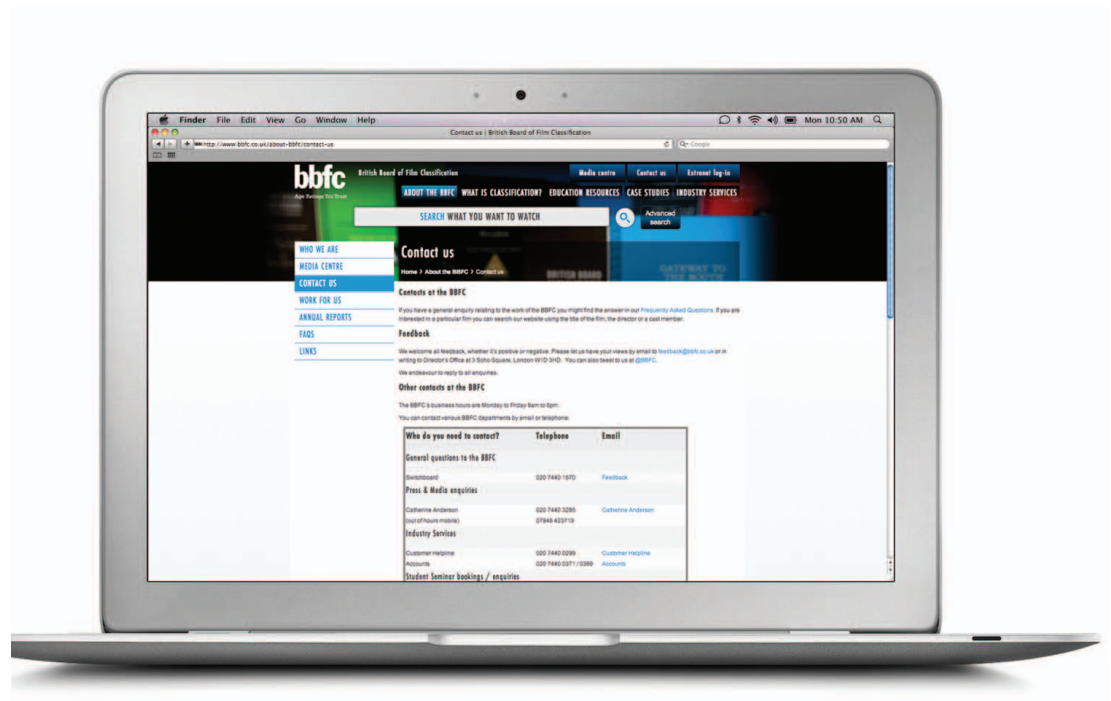
We produce themed podcasts which feature guest interviews, discussion of recent decisions and current classification issues. The podcasts can be downloaded from the website.



Feedback

We welcome all feedback, whether positive or negative, and any comments can be sent to feedback@bbfc.co.uk, or in writing to the **Director's Office, BBFC, 3 Soho Square, London, W1D 3HD.**

For further details see the 'Contact Us' page on www.bbfc.co.uk



Annexe

Legal Considerations

The following legislation is not listed according to chronology or importance. Instead, it reflects a useful way of explaining the structure of the legal framework that applies to our work.

The Licensing Act 2003 – England and Wales Cinemas (Northern Ireland) (Order 1991) – Northern Ireland

Cinemas Act 1985 – Scotland

Cinemas require a licence from the local authority in which they operate. The licence must include a condition requiring the admission of children (anyone under 18) to any film to be restricted in accordance with our recommendations or those of the licensing authority. One of the key reasons for the licensing requirement is the protection of children, including from potentially harmful content in films.

The Video Recordings Act 1984

Video works (including films, TV programmes and some video games) which are supplied on a disc, tape or any other device capable of storing data electronically must have a BBFC classification unless they fall within the definition of an exempted work.

When considering whether to award a certificate to a work, or whether a work is suitable at a particular category, we are required by the Act to have special regard to the likelihood of works being viewed in the home, and to any harm that may be caused to potential viewers or, through their behaviour, to society by the manner in which the work deals with:

- criminal behaviour
- illegal drugs
- violent behaviour or incidents

- horrific behaviour or incidents
- human sexual activity

In considering these issues we have in mind the possible effect not only on children but also on other vulnerable people.

The Obscene Publications Act 1959 & 1964 – England and Wales

The Obscene Publications Act 1857 – Northern Ireland

The Civic Government (Scotland) Act 1982 – Scotland

It is illegal to publish a work which is obscene. A work is obscene if, taken as a whole, it has a tendency to deprave and corrupt a significant proportion of those likely to see it. Under the Obscene Publications Act 1959, no offence is committed if publication is justified as being for the public good on the grounds that it is in the interests of science, art, literature or learning or other objects of general concern.

In Scotland, case law implies a similar test would be applied. In Northern Ireland, while there is no express defence of “public good” it is likely that English law would be taken into consideration.

Criminal Justice and Immigration Act 2008 – England, Northern Ireland and Wales

Criminal Justice and Licensing (Scotland) Act 2010 / Civic Government (Scotland) Act 1982 – Scotland

It is illegal to be in possession of an extreme pornographic image. Under the Criminal Justice and Immigration Act 2008 an extreme pornographic image is one which is pornographic and grossly offensive,

disgusting or otherwise of an obscene character, which features an apparently real person, and which portrays, in an explicit and realistic way, an act which:

- threatens a person's life
- results, or is likely to result, in serious injury to a person's anus, breasts or genitals
- involves sexual interference with a human corpse
- involves bestiality

In Scotland, the Civic Government (Scotland) Act 1982, includes as "extreme" for the purpose "an act which takes or threatens a person's life" and "rape or other non-consensual penetrative activity".

Works we classify under the Video Recordings Act are excluded from the scope of the offence across the UK.

The Protection of Children Act 1978 – England and Wales

Protection of Children (Northern Ireland) Order 1978 – Northern Ireland

Civic Government (Scotland) Act 1982 – Scotland

It is illegal to make, distribute, show or possess indecent photographs or pseudo-photographs of a child. It is also illegal to make, distribute, show or possess indecent images of children which have been derived from a photograph or pseudo-photograph (for example, by tracing). Offences relating to the possession of such images are contained within the Criminal Justice Act 1988 (England, Wales and Scotland), and the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988. A child is defined as a person under the age of 18.

The Coroners and Justice Act 2009 – England, Northern Ireland and Wales

The Criminal Justice and Licensing Act 2010 - Scotland

It is illegal to be in possession of a prohibited image of a child. A prohibited image of a child is a non-photographic or non-pseudo-photographic image which is pornographic and grossly offensive, disgusting, or otherwise of an obscene character, and which focuses solely or principally on a child's genitals or anal region, or which portrays specified sexual acts by, of, or in the presence of a child, including masturbation, oral sex or penetration, including sexual acts with animals. A child is defined as being under 18 and an image of a child or other person can include imaginary representations. Works we classify under the Video Recordings Act are excluded from the scope of the offence unless images have been extracted from such works for the purpose of sexual arousal.

The Sexual Offences Act 2003

It is illegal to expose oneself with intent to cause alarm or distress – this offence augments the common law misdemeanour of indecent exposure. The Act also prohibits a person recording the private act of another, where the intention of the recording is for the sexual gratification of himself or a third party and where the recorded party has not consented to so being filmed.

The Public Order Act 1986 – England, Scotland and Wales

The Public Order (Northern Ireland) Order 1987 – Northern Ireland

It is illegal to distribute, show or play to the public a recording of visual images or sounds which are threatening, abusive or insulting if the intention is

to stir up racial hatred or hatred on the grounds of sexual orientation, or if racial hatred or hatred on the grounds of sexual orientation is likely to be stirred up. It is also illegal to distribute, show or play to the public a recording of visual images or sounds which are threatening if the intention is to stir up religious hatred.

In Northern Ireland the relevant group of persons may be defined not only by colour, race, nationality or ethnic or national origins, but also by “religious belief” or “sexual orientation” or “disability”.

In Scotland, the communication of material that is threatening and is intended to stir up hatred on religious grounds is an offence under the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012.

The Cinematograph Films (Animals) Act 1937

It is illegal to show any scene “organised or directed” for the purposes of the film that involves actual cruelty to animals. This Act applies to the exhibition of films in public cinemas but we also apply the same test to video works. For the purposes of this legislation and The Animal Welfare Act 2006, only vertebrates which are domesticated or otherwise under the control of man are defined as “animals”.

The Animal Welfare Act 2006 – England and Wales

The Welfare of Animals Act (Northern Ireland) 2011 – Northern Ireland

The Animal Health and Welfare (Scotland) Act 2006 – Scotland

It is illegal to supply, publish or show or possess with intent to supply a video recording of an “animal fight” that has taken place within the UK since 6 April 2007.

The Tobacco Advertising and Promotion Act 2002

It is illegal, in the course of a business, to publish a tobacco advertisement.

Blasphemy

In Scotland and Northern Ireland, the common law crime of blasphemy exists but has not been utilised for prosecution in modern times. The offences of blasphemy and blasphemous libel under the common law of England and Wales were abolished in The Criminal Justice and Immigration Act 2008.

Human Rights Act 1998

The Act permits such restrictions on freedom of expression as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Other unlawful material

In carrying out its responsibilities, we will have regard to whether the material itself appears to be unlawful in the United Kingdom, or has arisen from the commission of an unlawful act.



bbfc

Age Ratings You Trust

British Board of Film Classification

3 Soho Square, London, W1D 3HD

T 020 7440 1570

www.bbfc.co.uk

Agenda Item No: 9
Report To: CABINET
Date of Meeting: 12 January 2017



Report Title: **Sex Shops, Sex Cinemas, and Sexual Entertainments Venue Policy**

Report Author & Job Title: Trevor Ford
Environmental Protection & Licensing Team Leader

Portfolio Holder Cllr. G.J. Bradford
Portfolio Holder for:

Summary:	The purpose of this report is to present to the cabinet a updated version of Ashford Borough Council's 'Sex Shops, Sex Cinemas, and Sexual Entertainment Venues Policy'
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Key Decision: NO

Significantly Affected Wards: All

Recommendations: **The Cabinet is recommended to:-**

- **approve the revised 'Sex Shops, Sex Cinemas, and Sexual Entertainments Venue Policy'**
- **amend the Council's scheme of delegation in line with the revised policy.**

Policy Overview: The determination of sex shop establishments, sex cinemas, and sexual entertainment venue applications is a statutory duty of the Council.

Although there is no legal requirement for a policy with respects to this licensing subject, such a policy guides members of the public, applicants, elected members and officers on matters relating to sex establishments, sex cinemas and sex shops

The existing policy expired on the 1st April 2016.

This report recommends the approval of the revised policy, with amendments to reflect a change in related legislation, and the process in which future amendments are considered

Financial Implications: None

Legal Implications None

Equalities Impact See Attached

Assessment

Other Material Implications: None

Exempt from Publication: **NO**

Background Papers: None

Contact: trevor.ford@ashford.gov.uk – Tel: (01233) 330 397

Report Title:

Sex Shops, Sex Cinemas, and Sexual Entertainments Venue Policy

Introduction and Background

1. The purpose of this report is to present to cabinet a revised licensing policy that has been prepared in accordance with the Local Government (Miscellaneous Provisions) Act 1982.
2. The Local Government (Miscellaneous Provisions) Act 1982 schedule 3 governs the control of sex establishments (sex shops, sex cinemas, and sex establishments).
3. On the 17th February 2011 the council adopted provisions of Schedule 3 of the Act, and adopted the council's *Sex Shops, Sex Cinemas, and Sexual Entertainment Venues Licensing Policy 2011*.
4. Although there is no legal requirement for a policy with respects to this subject, such a policy guides members of the public, applicants, elected members and officers on matters relating to sex establishments, sex cinemas and sex shops.
5. There are a number of mandatory grounds for refusal of such licenses. A license **must** not be granted:
 - to a person under the age of 18;
 - to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
 - to a person, other than a body corporate, who is not resident in an European Economic Area (EEA) State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
 - to a body corporate which is not incorporated in an EEA State; or
 - to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

In addition a licence **may** be refused where:

- the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;

- if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
 - the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
 - that the grant or renewal of the licence would be inappropriate, having regard to the:
 - i. character of the relevant locality; or
 - ii. use to which any premises in the vicinity are put; or to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
6. The policy sets out how the council will approach the making of such decisions, indicating what the council considers to be important, what control measures it will be looking for, and so forth.
7. It is vital that the policy does not turn into a rule that is applied inflexibly and fetters the exercise of discretion. There must be a willingness to consider individual applications on their particular merits.
8. A policy relating to the decision-making stage not only guides the decision-maker but also services to inform an applicant about what they should consider in preparing their application.

Proposal/Current Position

9. The cabinet is asked to approve this revision of the policy with any changes the cabinet deem necessary, and agree to amend the Council's scheme of delegation in line with the revised policy.
10. The updates to the policy include:
- General layout changes
 - Removal of comment that revisions of the policy within the five year period will be subject to consultation - to allow for minor non-contentious amendments to be made and authorised at relevant level (i.e. Head of Service) without full consultation
 - Removal of 'policy will remain in force for 5 years' to 'Policy will be reviewed after five years'
 - Reference to Community Safety Partnership 'strategy' removed and updated to include the 'strategic assessment'
 - Waivers to be determined by sub-committee, previously referred to 'licensing authority' only.
 - Summary of amendments and deregulation of entertainment under Licensing Act 2003 and link to LGMPA added.

- Removed phrase, that Ashford Borough Council ‘fully support EU convention on Human Rights’ as ambiguous.
- Inclusion of the comment that application fees are based on administration of the application process and not used for enforcement. In compliance with the *Hemming & Others v. Westminster City Council* case

Implications and Risk Assessment

11. The discretionary fee levels under the Local Government (Miscellaneous Provisions) Act 1982 are set to provide cost recovery of licensing functions including preparation and publication of a statement of licensing policy. Such fees cannot include the cost of enforcement against unlicensed operators, and this has been reflected clearly in the revised policy.
12. Judicial review is a risk if the policy strays beyond the requirements of the act, or restricts legal activities without due and appropriate cause

Equalities Impact Assessment

13. The policy will affect all persons involved or affected in licensable activity in the Borough, irrespective of gender, race, disability, sexuality or age. Direct recipients of the policy include holders of premises licences, members of licensing sub-committee, authorities e.g. Police, Trading Standards, Kent Fire & Rescue Service, etc. Indirect recipients of the policy are all of the Borough’s businesses, residents of the borough and those who visit to use the above premises.
14. An equalities impact assessment is attached as *Appendix A*

Consultation Planned or Undertaken

15. The following persons/organisations were consulted during the formation of the existing 2011 policy;
 - Kent Police
 - Kent Fire & Rescue Service
 - Kent County Council Trading Standards
 - Kent County Council Social Services
 - Members
 - Parish councils
 - Ashford Community Forum
 - Ashford Town Centre Partnership
 - Ashford Borough Council Planning Authority
 - Ashford Borough Council Legal Services
 - A representative sample of licensed premises
 - Trade representatives
 - Premises currently licensed as sex shops
 - Premises currently providing entertainment that would be included in the legislation
 - Religious organisations
 - UK Border Agency

- Lap Dancing Association
16. Due to the relatively minor changes proposed it is recommended that the revised policy is adopted without full public consultation. The prior policy was subject to such consultation, and it is not expected that a public consultation on these changes would result in any further amendments to the revised policy.
 17. If cabinet deem necessary, the revised policy could be put out to full public consultation, with any amendments as deemed appropriate incorporated, and returned to cabinet prior to further consideration/adoption.

Other Options Considered

18. The requirement to implement and enforce the Act is an adoptive duty. Alternate options to this policy include variations on the theme, or not having a policy. There is no statutory duty to have a written policy for this subject.

Reasons for Supporting Option Recommended

19. The revisions to the policy are relatively minor, reflect changes in legislation and seek to clarify some aspects of the original policy. This approach is recommended to ensure that the policy remains up to date, and effectively can be usefully applied by the council, officers, applicants, and the general public.

Next Steps in Process

20. One adopted the revised policy will be made available through the council's website.
21. The policy will be subject to review after five years, along with any periodic review brought about by changes in council approach, or change to relevant legislation

Conclusion

22. In summary a licensing policy would be unlawful if it gave the impression that it could dictate the contents of an application and give the impression that the Council would assess and exercise substantive discretionary powers in relation to all applications, unless there are relevant representations and the decision taking function is permitted under the authority of the Act. Ashford Borough Council's policy was reviewed by Counsel on this basis and has been updated to reflect changes in legislation.
23. Revisions have been made to sections of the policy, based on numerous revisions to Licensing Act 2003, need to clarify ambiguous points in the prior policy, and to allow the ability for non-policy legislative changes to be made by the relevant committee without full public consultation.

Portfolio Holder's Views

24. "I support the revised policy, which adds clarity to the prior policy, and ensures effective use of council resources" - Councillor G.J. Bradford

Contact and Email

25. Trevor Ford
Environmental Protection and Licensing Team Leader
(01233) 330 397
trevor.ford@ashford.gov.uk

Appendix A: Equalities Impact Assessment

Appendix B: The revised licensing policy

Equality Impact Assessment

Lead officer:	Trevor Ford
Decision maker:	Cabinet
Decision: <ul style="list-style-type: none"> • Policy, project, service, contract • Review, change, new, stop 	Revision of the 'Sex Shops, Sex Cinemas and Sexual Entertainments Venues Policy'
Date of decision: The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	12 January 2017
Summary of the proposed decision: <ul style="list-style-type: none"> • Aims and objectives • Key actions • Expected outcomes • Who will be affected and how? • How many people will be affected? 	<p>The decision is whether to adopt a revised version of the policy, which includes the following changes to the prior 2011 version;</p> <ul style="list-style-type: none"> • General layout changes • Removal of comment that revisions of the policy within the five year period will be subject to consultation - to allow for minor non-contentious amendments to be made and authorised at relevant level (i.e. Committee) without full consultation • Removal of 'policy will remain in force for 5 years' to 'Policy will be reviewed after five years' • Reference to Community Safety Partnership 'strategy' removed and updated to include the 'strategic assessment' • Waivers to be determined by sub-committee, previously referred to 'licensing authority' only. • Summary of amendments and deregulation of entertainment under Licensing Act 2003 and link to LGMPA added. • Removed phrase, that Ashford Borough Council 'fully support EU convention on Human Rights' as ambiguous. • Inclusion of the comment that application fees are based on administration of the application process and not used for enforcement of unlicensed operatives. In compliance with the High Court case <i>Hemming & Others v. Westminster City Council</i> <p>The aim of the update this to provide a current policy with modifications to ensure that the guidance within remains up to date and effective for the purposes of the policy.</p> <p>It is expected that members of the general public may be affected by the policy by means of access to such premises as customers and location of such premises in relation to proximity to residential areas, buildings for worship etc. Businesses providing such services will also be affected as to our general approach and limitation on the numbers of sex</p>

	shops within the Ashford town centre.
<p>Information and research:</p> <ul style="list-style-type: none"> • Outline the information and research that has informed the decision. • Include sources and key findings. 	<p>Research conducted as part of the revision of the policy includes;</p> <ul style="list-style-type: none"> • Updated case law (Hemming v Westminster) • General sex licensing law research • Licensing Act link to sex licensing law • Community safety partnership strategic assessment.
<p>Consultation:</p> <ul style="list-style-type: none"> • What specific consultation has occurred on this decision? • What were the results of the consultation? • Did the consultation analysis reveal any difference in views across the protected characteristics? • What conclusions can be drawn from the analysis on how the decision will affect people with different protected characteristics? 	<p>Consultation on these changes have occurred amongst colleagues within health, parking and community services, the portfolio holder (Cllr G.J. Bradford), and with legal services (Samantha Clarke).</p> <p>Consultation provided some minor comments, mainly regarding layout and structure, which were incorporated during the development of the draft policy.</p> <p>The basis for the policy, the original 2011 policy, was subject to full public consultation with the following groups/organisations;</p> <ul style="list-style-type: none"> • Kent Police • Kent Fire & Rescue Service • Kent County Council Trading Standards • Kent County Council Social Services • Members • Parish councils • Ashford Community Forum • Ashford Town Centre Partnership • Ashford Borough Council Planning Authority • Ashford Borough Council Legal Services • A representative sample of licensed premises • Trade representatives • Premises currently licensed as sex shops • Premises currently providing entertainment that would be included in the legislation • Religious organisations • UK Border Agency • Lap Dancing Association
<p>Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.</p> <p>When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.</p>	

Protected characteristic	Relevance to Decision High/Medium/Low/None	Impact of Decision Positive (Major/Minor) Negative (Major/Minor) Neutral
<u>AGE</u> Elderly	Low	Positive - minor
Middle age	Low	Positive – minor
Young adult	Low	Positive – minor
Children	High	Positive - major
<u>DISABILITY</u> Physical	Low	Neutral
Mental	Low	Neutral
Sensory	Low	Neutral
<u>GENDER RE-ASSIGNMENT</u>	Low	Neutral
<u>MARRIAGE/CIVIL PARTNERSHIP</u>	Low	Neutral
<u>PREGNANCY/MATERNITY</u>	Low	Neutral
<u>RACE</u>	Low	Neutral
<u>RELIGION OR BELIEF</u>	Medium	Positive – minor
<u>SEX</u> Men	Low	Neutral
Women	Low	Neutral
<u>SEXUAL ORIENTATION</u>	Low	Neutral

Mitigating negative impact: Where any negative impact has been identified, outline the measures taken to mitigate against it.	N/A
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Is the decision relevant to the aims of the equality duty?
Guidance on the aims can be found in the EHRC's [Essential Guide](#), alongside fuller [PSED Technical Guidance](#).

Aim	Yes/No
1) Eliminate discrimination, harassment and victimisation	N/A
2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it	N/A
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	Yes

<p>Conclusion:</p> <ul style="list-style-type: none"> Consider how due regard has been had to the equality duty, from start to finish. There should be no unlawful discrimination arising from the decision (see guidance above). Advise on whether the proposal meets the aims of the equality duty or whether adjustments have been made or need to be made or whether any residual impacts are justified. How will monitoring of the policy, procedure or decision and its implementation be undertaken and reported? 	<p>This particular legislation provides for the protection of children, and suitability of the locality for such premises to operate. The latter supports and fosters good relations between potential venues and places of worship by ensuring that premises are not in a location which directly conflicts with religious belief.</p> <p>Regard has also been had to equality through the full consultation for the original 2011 policy, and the minor changes as part of the updated policy are not considered to have any negative impacts on equality.</p> <p>Monitoring of the policy will be undertaken formally after five years, but will be subject to informal review as and when relevant applications are received and the policy is applied. Review may also be required should there be any change in legislation or a particular urge to change Council policy during the lifetime of the document. In addition the council's revised policy register will assist the service to meet this</p>
EIA completion date:	16/11/2016

Sex Shops, Sex Cinemas, and Sexual Entertainment Venues Policy

2017



ASHFORD
BOROUGH COUNCIL

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Overview

The purpose of this policy is to:

- Set out the expectations of the local authority in meeting the requirements of the legislation.
- Provide guidance to; members of the public, applicants, elected members, and officers on matters relating to Sex Establishments, Sex Cinemas, and Sex Shops.
- Assist any persons making representations in respect of an application to make a properly directed and evidenced representation.

Notwithstanding this policy, each application will be assessed on its individual merit and will be granted or refused purely on that merit. Whilst this policy will set out the broad scope of expectations, it should not be seen as restricting or predetermining the outcome of any application or representation in respect of the licensing of any premises.

This policy statement came into effect on **date to be confirmed** and will be formally reviewed after a period of 5 years.

In formulating this policy the Licensing Authority has taken into account the views of consultees approached as part of the original 2011 policy. Other strategies such as the Sustainable Community Strategy 2008-2018 and the Community Safety Partnership Strategic Assessment, as contained in *Appendix A*, have also been considered in relation to this subject.

The Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27, Policing and Crime Act 2009) provides that a local authority may, by resolution, adopt Schedule 3 to that Act. If adopted this will provide for the licensing of sexual entertainment venues (SEV), sex shops and sex cinemas within the borough.

Functions under Schedule 3 are the responsibility of the full council of the local authority, as defined. Under section 101 of the Local Government Act 1972, local authorities may arrange for the discharge of these responsibilities by a committee or sub-committee of the appropriate authority.

Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 was adopted on 17th February 2011 by Ashford Borough Council.

An authority may delegate its functions to those who sit on its licensing committee set up to discharge licensing functions under the 2003 Act. However, when dealing with an application for a sex establishment licence, the members of the committee would not be acting as the licensing committee under the 2003 Act and would instead be exercising their functions under Schedule 3.

Definitions

For the purposes of this policy the following definitions will apply:

Sex Shop

Any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating:

- a) sex articles; or
- b) other things intended for use in connection with, or for the purpose of stimulating or encouraging:
 - i. sexual activity; or
 - ii. acts of force or restraint which are associated with sexual activity.

No premises shall be treated as a sex shop by reason only of their use for the exhibition of moving pictures by whatever means produced.

Sex Article

Anything made for use in connection with, or for the purpose of stimulating or encouraging—

- a) sexual activity; or
- b) acts of force or restraint which are associated with sexual activity; and

anything to which sub-paragraph below applies.

This sub-paragraph applies:

- a) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and
- b) to any recording of vision or sound, which
 - i. is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
 - ii. is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

Sex Cinema

Any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which—

- a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage—
 - i. sexual activity; or
 - ii. acts of force or restraint which are associated with sexual activity;or
- b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions,

but does not include a dwelling-house to which the public is not admitted.

No premises shall be treated as a sex cinema by reason only—

- a) if they may be used for an exhibition of film (within the meaning of paragraph 15 of Schedule 1 to the Licensing Act 2003) by virtue of an authorisation (within the meaning of Section 136 of that Act), of their use in accordance with that authorisation.
- b) by their use for an exhibition to which section 6 of that Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of section 6 (6) of the Cinemas Act 1985.

Sexual Entertainment Venue

Any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

Exemptions from being a Sexual Entertainment Venue

The following are not sexual entertainment venues for the purposes of this policy:

- a) sex cinemas and sex shops;
- b) premises at which the provision of relevant entertainment is such that, at the time in question and including any relevant entertainment which is being so provided at that time
 - i. there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;
 - ii. no such occasion has lasted for more than 24 hours; and
 - iii. no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in subparagraph (i));
- c) premises specified or described in an order made by the relevant national authority.

Relevant entertainment:

Any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

Home Office Guidance states relevant entertainment would therefore apply to the following forms of entertainment, as they are commonly understood:

- Lap dancing
- Pole dancing
- Table dancing
- Strip shows
- Peep shows
- Live sex shows

However this list is not exhaustive and the licensing authority will judge each case on its merits. Decisions will be based on the content of the entertainment provided and not the name given to it.

Nudity

Schedule 3 sets out the definition of a 'display of nudity'. In the case of a woman, it means exposure of her nipples, pubic area, genitals or anus and, in the case of a man; it means exposure of his pubic area, genitals or anus.

Spontaneous Entertainment

Where activities that would otherwise be considered to involve the provision of relevant entertainment take place, but are not provided for the financial gain of the organiser or entertainer, such as a spontaneous display of nudity or a lap dance by a customer or guest, the premises will not be considered a sexual entertainment venue by virtue of those circumstances alone. This is because the relevant entertainment must be provided for the financial gain of the organiser or entertainer. However, it should be noted that an organiser might be considered to have provided the entertainment where he has permitted the activity to take place, whether expressly or impliedly.

The 'Organiser'

Any person who is responsible for the organisation or management of the relevant entertainment or the premises at which the relevant entertainment is provided. In most circumstances, this will refer to the manager of the premises, but could also refer someone who is responsible for organising the relevant entertainment on behalf of the persons responsible for the management of the premises.

The 'organiser' must be someone who is in a position of responsibility over the provision of the relevant entertainment and should not be interpreted to

mean a member of staff who is merely employed to work during the provision of relevant entertainment. It is only necessary for one person to hold a sexual entertainment venue licence for premises, even if there is more than one person who is responsible for the organisation or management of the relevant entertainment or the premises.

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Exemptions from the need for a Sexual Entertainment Venue Licence

Venues that intend to provide relevant entertainment less than 11 times in any rolling year are exempted from the need for a sex entertainment venue.

In order to avail themselves of this exemption, operators must not have held any relevant entertainment in the previous month.

The Licensing Authority encourages operators of such venues to consider the active promotion of the legislative aims and the licensing objectives under the Licensing Act 2003 in particular those relating to the protection of children from harm and the prevention of public nuisance.

Operators are encouraged to maintain written records of any relevant entertainment in order to assist the Licensing Authority to prove or refute any allegation of unlicensed events.

Waiving the need for a Sexual Entertainment Venue Licence

The amendments to Schedule 3, Local Government (Miscellaneous Provisions) Act 1982, allow for the Licensing Authority to waive the need for a sex entertainment venue licence under certain circumstances.

An applicant can apply for a waiver either as part of the application for a licence or separately. The local authority can grant a waiver if they consider that to require a licence would be unreasonable or inappropriate. Where a waiver is granted the appropriate authority should inform the applicant that a waiver has been granted. The waiver may last for such a period that the appropriate authority think fit, but can be terminated by the appropriate authority at any time with 28 days notice.

The licensing sub-committee will consider applications for such waiving of the need for licences on an individual basis. However it is felt that, unless clear and unambiguous evidence can be produced to support such a waiving of licence, the default position will be that a licence will be required.

Restriction on Numbers in Relevant Localities

Paragraph 12(3)(c) and 12(3)(d) of Schedule 3 allow appropriate authorities to refuse applications on grounds related to an assessment of the “relevant locality”. A licence can be refused if either, at the time the application is determined the number of sex establishments, or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the authority considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality, the use to which any premises in the vicinity are put or the layout, character or condition of the premises. Nil may be the appropriate number.

The Licensing Authority can set specific relevant localities in respect of each type of sex establishment (sex shop, sex cinemas and sex entertainment venues) and to set limits on each type of premises.

Sex Shops and Sex Cinemas

The Licensing Authority considers that there should be no more than two licensed sex shops permitted in the defined locality for Ashford Town Centre. The Licensing Authority currently has no limit on the number of sex cinemas that should be permitted within this area or any other defined locality. Ashford Borough Council would consider representations as to why our view should be changed about any particular locality.

By restricting the numbers to the above levels the Licensing Authority believes that it maintains its responsibilities under the legislation whilst allowing for fair competition. As stated previously it is aware of and has taken into consideration Section 17, Crime and Disorder Act 1998 and its regeneration policies.

Sex Entertainment Venues

In defining the localities in respect of sex entertainment venues the Licensing Authority is mindful of the potential for crime and disorder where such premises do not have robust management systems in place. The Licensing Authority is also mindful that, where there is a high volume of other premises licensed under the Licensing Act 2003, there is also the potential for conflict at the entrance to sex entertainment venues originating, not within the premises, but with would-be customers who are refused entry.

In licensing of sex entertainment venues the Licensing Authority will consider the impact of such premises and their operation on the vicinity. This would include:

- 1) the likely effects of any increased footfall or vehicular traffic,
- 2) any advertising or displays of an erotic or pseudo-erotic nature,

- 3) the type of location (residential, commercial, industrial)
- 4) the vicinity of establishments whose patrons are likely to be effected by the operation of the premise (e.g. schools, children's residential establishments, religious venues, historical or tourist attractions)
- 5) localities where the cumulative impact of the venue, taken with other licensed premises or commercial interests, is likely to have an adverse effect on the licensing objectives.
- 6) The need to provide effective door management
- 7) The management protocols within the premises

The council have not set a maximum limit on numbers that they are prepared to licence.

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Related Legislation

Licensing Act 2003

Schedule 7 to the Policing and Crime Act 2009 amends the Licensing Act 2003 to ensure that premises for which a sexual entertainment venue licence is required or held (or for which the requirement has been waived under paragraph 7 of Schedule 3 to the 1982 Act) do not also require a premises licence, club premises certificate or temporary events notice in order to provide relevant entertainment. This is because such entertainment is expressly excluded from the definition of regulated entertainment found in the 2003 Act. However, if the premises also carry on other licensable activities (e.g. the sale of alcohol or the provision of regulated entertainment that is not relevant entertainment), they will nevertheless continue to require a premises licence, club premises certificate or temporary event notice under the 2003 Act for those other activities, subject to any exceptions contained in that Act.

In practice, this will mean that the vast majority of lap dancing clubs and similar venues will require both a sexual entertainment venue licence for the provision of relevant entertainment and a premises licence or club premises certificate for the sale of alcohol or provision of other types of regulated entertainment not covered by the definition of relevant entertainment.

Live music or the playing of recorded music which is integral to the provision of relevant entertainment, such as lap dancing, for which a sexual entertainment licence is required, is specifically excluded from the definition of regulated entertainment in the 2003 Act. Therefore, a sexual entertainment venue will not require a premises licence or club premises certificate just because it plays recorded music for a performer to dance to. (Nor will providing entertainment facilities for the purposes of the provision of relevant entertainment be regulated entertainment under the 2003 Act).

Premises which fall under the exemption created for infrequent entertainment do not require a sexual entertainment venue licence but may instead need an appropriate authorisation under the 2003 Act, for example, to cover the performance of dance and the playing of live or recorded music.

There are however circumstances in which live or recorded music may be not be licensable under the 2003 Act due to deregulation. In summary, deregulation;

- Allows unamplified live music between 08:00 and 23:00 on any day on any premises
- Allows amplified live music between 08:00 and 23:00 on any day on premises authorised to sell alcohol, provided the audience does not exceed 500.
- Allows the playing of recorded music between 08:00 and 23:00 on any day on premises authorised to sell alcohol, provided the audience does not exceed 500.

The exemption from requirements of the 2003 Act for live music or the playing of recorded music that is integral to relevant entertainment does not apply to such venues.

The Licensing Act deregulation of entertainment does not extend to dance which is sexual in nature, and as such dancing remains licensable at all times unless a sexual entertainment licence is in place for that purpose.

Please refer to the *Revised Guidance issued under section 182 of the Licensing Act 2003* for full details of the circumstances where entertainment may and may not be a licensable matter.

Unless the performance of live or recorded music is appropriately authorised by a premises licence, club premises certificate, deregulation, or a Temporary Event Notice, allowing it to take place could lead to enforcement action.

Town and Country Planning Act

The Licensing Authority will not normally undertake action where another, more appropriate, regime exists to resolve matters. Failure to obtain planning permission is not a ground for refusal of the grant of an application under the 1982 Act and such a failure to obtain planning permission will normally be dealt with as part of the normal planning process.

Operators and persons making representations should be aware that in many cases there would be a need to obtain planning permission before a premises may be used for the purposes relevant to this policy. The Licensing Authority will not normally consider planning matters such as “need” in determining a licence application as this is more appropriately dealt with by planning legislation.

Applicants may wish to seek independent advice in relation to both planning and licensing prior to making any application under Schedule 3 Local Government (Miscellaneous Provisions) Act 1982.

European Convention on Human Rights

When determining applications for licences under this policy the Licensing Authority will have consideration to any rights an existing operator may have under Article 1, Protocol 1 of the European Convention on Human Rights (ECHR) (which entitles every person to the peaceful enjoyment of their possessions) and Article 10 (freedom of expression).

The Secretary of State has certified that the Policing and Crime Act 2009 is covered by Section 19, Human Rights Act 1998 as being in compliance with the ECHR.

Whilst the rights under Article 1 and 10 may be activated the weight to be accorded to these rights in this context is low level. The right to freedom of expression to participate in the activities of sex shops, sex cinemas and SEVs

is not prohibited but may be controlled by licensing. Similarly the right to possession of an existing licence is proportionally protected subject to a fair balance of the rights of the holder and the public interest.

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The Application Process

Applications for licences for sex shops, sex cinemas and sex entertainment venues must be made on the prescribed form and accompanied by the requisite fee.

Ashford Borough Council takes account of the findings of the *Hemming and Others v Westminster City Council* case concerning sex establishment licence fees. Application fees are used to cover the cost of administering the application process and do not include enforcement costs.

Notices

Applicants for a sexual establishment licence must give public notice of the application by publishing an advertisement in a local newspaper that is circulated in the local authority area no later than 7 days after the date the application is made.

Where the application relates to premises, a notice should also be displayed on or near the premises in a place where it can be conveniently read by members of the public. The notice should be displayed for a period of 21 days beginning with the date the applications was made.

All notices should be in the form prescribed by the appropriate authority and identify the premises or, if the application relates to a vehicle, vessel or stall, specify where it will be used as a sex establishment.

The applicant is required to submit a copy of any application to the Chief Officer of Police for the area within seven days of submitting the original application to the local authority. The requirement does not apply in the case of electronic applications as it is the duty of the local authority to send a copy to the police.

Objections

Any person can object to an application, however the licensing authority is likely to give greater weight to objections relevant to the grounds set out in paragraph 12, of Schedule 3, Local Government (Miscellaneous Provisions) Act 1982 for refusing a licence (See details below). Less weight is likely to be given to objections based on moral grounds/values and local authorities cannot consider objections that are not relevant to the grounds set out in paragraph 12. Objectors must give notice of their objection in writing, stating the general terms of the objection.

When considering an application for the grant, renewal or transfer of a licence the Licensing Authority will have regard to any observations submitted to it by the Chief Officer of Police and any objections that they have received from anyone else, (including statutory agencies such as Kent Fire and Rescue Service, UK Border Agency, The Local Safeguarding Children's Board) within 21 days of the application.

Where the Licensing Authority receives notice of any objection the authority will, before considering the application, give notice in writing of the general terms of the objection to the applicant. Unless an objector specifically requests their name or address to be withheld, their details will be made available to the applicant and the public as part of the hearing process.

Hearings

Under paragraph 10(19) of Schedule 3, before refusing an application, renewal or application to transfer a licence all applicants will be given the opportunity to appear before and be heard by the licensing committee or sub-committee that is responsible for determining the application.

Whilst Schedule 3 does not make explicit provision for objectors to be heard, this council believes it right to offer an oral hearing to objectors. This does however remain within their discretionary powers. Although a local authority is under a duty to consider any objections made within 28 days of the application, it has discretion to hear later objections provided the applicant is given the opportunity to deal with those objections.

Refusal of a Licence

Paragraph 12 of Schedule 3 sets out the grounds for refusing an application for the grant, renewal or transfer of a licence. A licence **must not** be granted:

- a) to a person under the age of 18;
- b) to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- c) to a person, other than a body corporate, who is not resident in an European Economic Area (EEA) State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- d) to a body corporate which is not incorporated in an EEA State; or
- e) to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

A licence **may** be refused where:

- a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;

- b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
- d) that the grant or renewal of the licence would be inappropriate, having regard—
 - i. to the character of the relevant locality; or
 - ii. to the use to which any premises in the vicinity are put; or
 - iii. to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

A decision to refuse a licence must be relevant to one or more of the above grounds.

In making any determination to refuse an application, renewal or transfer the local authority will give consideration to:

a) Unsuitability of the applicant

In determining the suitability or otherwise of an applicant the local authority will consider any previous convictions and in particular those that have been imposed in respect of offences involving violence, dishonesty, or a breach of the requirements of the legislation covering the type of establishment in respect of which the application is made.

b) Business carried out on behalf of a person who would be refused

The local authority takes a serious view of any application that seeks to subvert the underlying principles of the Act. Where it is considered that the applicant is effectively operating the business on behalf of a person who would, for whatever reason, be refused or disqualified from the grant of a licence due to the mandatory or discretionary grounds for refusal there will be a presumption towards refusal unless overwhelming reasons are accepted for the contrary decision to be made.

c) The application exceeds the limit set on the number of the specific type of sex establishment in an area

Where an application would exceed the number set it will be for the applicant to show reason why the authority should set aside the limit. In deciding whether to allow the application the authority will have consideration to:

- i. any nuisance associated with the premises or the activities undertaken thereon;
- ii. the possibility of children or other vulnerable persons being harmed or exploited by the provision of sexual entertainment or the operation of sex shops or sex cinemas;
- iii. the potential of the activities associated with the operation of the premises being a source of crime and disorder, being associated with crime or being used to support crime;
- iv. Any other reason including the existence of a police caution, representations from the police or others.

d) The grant of the licence would be inappropriate

In deciding whether the grant of a licence is appropriate the local authority will consider the type of area in which it is intended to site the premises and the hours during which it is intended to operate. In particular it will consider the factors outlined in part (d) of the discretionary grounds for refusal however these should not be seen as being the only factors under consideration and each case will be decided on its individual merits taking into account any representations made by statutory authorities or members of the public. The authority is also likely to consider:

- i. the proximity of any school or other educational establishment
- ii. the proximity of any religious establishment
- iii. the proximity of any premises intended for use of children or vulnerable adults
- iv. whether the area is predominantly residential rather than commercial in nature

Relevant Locality

Schedule 3 to the 1982 Act does not define “relevant locality” further than to say that:

- a) in relation to premises, it is the locality where they are situated; and
- b) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

Case law has indicated however that in defining the relevant locality the local authority should not seek to specify wide areas. Again in determining the relevant locality each case will be decided on merit having consideration to the individual circumstances of the application.

Once the council has determined the relevant locality, it should seek to make an assessment of the ‘character’ of the relevant locality and how many, if any, sex establishments, or sex establishments of a particular kind, it considers appropriate for that relevant locality. The council may decide that a particular locality is suitable for a sex shop but is not suitable for a sexual entertainment

venue or vice versa. Nil may be the appropriate number. No numbers were set for sexual entertainment venues as part of the consultation process.

Conditions

The Local Government (Miscellaneous Provisions) Act 1982 allows the Licensing Authority to attach conditions to a licence.

Whilst conditions may be prescribed on any matter it is likely that the following considerations will attract the attachment of conditions:

- Hours of opening and closing
- Visibility of the interior of the premises
- Displays or advertisements
- Any change in the type of premises

Every licence granted, renewed or transferred subject to model conditions shall be presumed to have been subject to model conditions unless specifically excluded or varied. The authority may specify other conditions specific to individual premises dependant on the type of activity undertaken. These may include specifying minimum distances between the audience and performers, the control of access to changing room facilities, and the control of private viewings.

In order to promote the legislation the Licensing Authority will formulate a pool of model conditions in respect of each type of licensed premises. Whilst these conditions form the basis for promoting the efficient operation of premises they will be applied only where a perceived necessity exists and in a manner that is both proportionate and reasonable to promote the legislation. Each case will be dealt with on its individual merit.

Appeals

In the event that the appropriate authority refuses an application for the grant, renewal or transfer of a sex establishment licence the applicant may appeal the decision in a magistrates' court, unless the application was refused under 12(3)(c) or (d), in which case the applicant can only challenge the refusal by way of judicial review.

Duration of Licences

Licences for sex establishments can be granted for up to one year.

Exchange of Information

The authority may from time to time exercise its powers under section 115 of the Crime and Disorder Act 1998 to exchange data and information with the police and other partners to fulfil its' statutory objective of reducing crime in the area.

Details of applications and objections which are referred to a licensing committee for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000.

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Appendix A

In formulating this policy the Licensing Authority has taken into consideration:

1. **The Sustainable Community Strategy** and in particular the following key themes that drive this strategy:

Economic

The aim to continue the transformation of Ashford town centre to ensure that the town meets the needs of new and existing businesses and a growing population.

Communities

Improving community safety and reducing anti social behaviour had consistently been identified by residents as a top priority for the council and its partners.

Visitor destination

The Borough has varied and high quality cultural, sporting and leisure activities which can also be an important factor in attracting families and business to relocate to the area. Ashford has a thriving cultural life and good sporting facilities. As the town grows, the challenge will be to ensure that adequate additional facilities are provided and that all parts of the community have good access to them.

2. **The Community Safety Partnership Strategic Assessment** and in particular the following key themes:

- Safeguarding;
 - Child sexual exploitation
 - Human trafficking
 - Modern Slavery
- Domestic abuse and sexual offences
- Organised crime;
 - Drugs
 - Gangs
 - Serious acquisitive crime
 - Digital Crime

The Licensing Authority have also taken into consideration the provisions of Section 17, Crime and Disorder Act, 1998 that requires responsible authorities to consider crime and disorder (including antisocial behaviour and other behaviour adversely affecting the local environment); and the misuse of drugs, alcohol and other substances in the exercise of all their duties, activities and decision-making. This means that in all policies, strategies and service delivery there is a need to consider the likely impact on crime and disorder.



ASHFORD
BOROUGH COUNCIL

**Sex Shops, Sex Cinemas and
Sexual Entertainment Venues
Policy 2011**

Overview

The Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27, Policing and Crime Act 2009) provides that a local authority may, by resolution, adopt Schedule 3 to that Act. If adopted this will provide for the licensing of sexual entertainment venues (SEV), sex shops and sex cinemas within the borough.

Functions under Schedule 3 are the responsibility of the full council of the local authority, as defined. Under section 101 of the Local Government Act 1972, local authorities may arrange for the discharge of these responsibilities by a committee or sub-committee of the appropriate authority.

An authority may delegate its functions to those who sit on its licensing committee set up to discharge licensing functions under the 2003 Act. However, when dealing with an application for a sex establishment licence, the members of the committee would not be acting as the licensing committee under the 2003 Act and would instead be exercising their functions under Schedule 3.

The purpose of this policy is to:

- Set out the expectations of the local authority in meeting the requirements of the legislation,
- Provide guidance to operators making applications,
- Assist any persons making representations in respect of an application to make a properly directed and evidenced representation.

This policy, along the amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 was adopted on 17th February 2011 by Ashford Borough Council. The policy to guide members of the public, applicants, elected members and officers on matters relating to Sex Establishments, Sex Cinemas and Sex Shops.

Notwithstanding this policy, each application will be assessed on its individual merit and granted or refused purely on that merit. Whilst this policy will set out the broad scope of expectations, it should not be seen as restricting or predetermining the outcome of any application or representation in respect of the licensing of any premises.

This policy statement came into effect on 1st April 2011 and will remain in force for a period of five years. However it will be kept under review throughout the five year period and such revisions as are considered necessary will be made following consultation. The list of consultees approached while developing this policy is provided in Appendix A.

In formulating this policy the Licensing Authority has taken into the Sustainable Community Strategy and the Community Safety Partnership Strategy. Further details can be found in Appendix B

Definitions

For the purposes of this policy the following definitions will apply:

1. Sex Shop

any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating:

- a) sex articles; or
- b) other things intended for use in connection with, or for the purpose of stimulating or encouraging:
 - sexual activity; or
 - acts of force or restraint which are associated with sexual activity.

No premises shall be treated as a sex shop by reason only of their use for the exhibition of moving pictures by whatever means produced.

2. Sex Article

Anything made for use in connection with, or for the purpose of stimulating or encouraging—

- i. sexual activity; or
- ii. acts of force or restraint which are associated with sexual activity; and

anything to which sub-paragraph below applies.

This sub-paragraph applies:

- a) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and
- b) to any recording of vision or sound, which
 - i. is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
 - ii. is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

3. Sex Cinema

Any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which—

- a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage—
 - i. sexual activity; or
 - ii. acts of force or restraint which are associated with sexual activity; or
- b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions,

but does not include a dwelling-house to which the public is not admitted.

No premises shall be treated as a sex cinema by reason only—

- a) if they may be used for an exhibition of film (within the meaning of paragraph 15 of Schedule 1 to the Licensing Act 2003) by virtue of an authorisation (within the meaning of Section 136 of that Act), of their use in accordance with that authorisation.
- b) by their use for an exhibition to which section 6 of that Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of section 6(6) of the Cinemas Act 1985.

4. Sexual Entertainment Venue:

Any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

Exemptions from being a Sexual Entertainment Venue

The following are not sexual entertainment venues for the purposes of this policy:

- a) sex cinemas and sex shops;
- b) premises at which the provision of relevant entertainment is such that, at the time in question and including any relevant entertainment which is being so provided at that time
 - i. there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;
 - ii. no such occasion has lasted for more than 24 hours; and
 - iii. no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in subparagraph (i));
- c) premises specified or described in an order made by the relevant national authority.

5. Relevant entertainment:

Any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

Home Office Guidance states relevant entertainment would therefore apply to the following forms of entertainment, as they are commonly understood:

- Lap dancing
- Pole dancing
- Table dancing
- Strip shows
- Peep shows
- Live sex shows

However this list is not exhaustive and the licensing authority will judge each case on its merits. Decisions will be based on the content of the entertainment provided and not the name given to it.

Nudity

Schedule 3 sets out the definition of a 'display of nudity'. In the case of a woman, it means exposure of her nipples, pubic area, genitals or anus and, in the case of a man; it means exposure of his pubic area, genitals or anus.

Spontaneous Entertainment

Where activities that would otherwise be considered to involve the provision of relevant entertainment take place, but are not provided for the financial gain of the organiser or entertainer, such as a spontaneous display of nudity or a lap dance by a customer or guest, the premises will not be considered a sexual entertainment venue by virtue of those circumstances alone. This is because the relevant entertainment must be provided for the financial gain of the organiser or entertainer. However, it should be noted that an organiser might be considered to have provided the entertainment where he has permitted the activity to take place, whether expressly or impliedly.

The 'Organiser'

Any person who is responsible for the organisation or management of the relevant entertainment or the premises at which the relevant entertainment is provided. In most circumstances, this will refer to the manager of the premises, but could also refer someone who is responsible for organising the relevant entertainment on behalf of the persons responsible for the management of the premises.

The 'organiser' must be someone who is in a position of responsibility over the provision of the relevant entertainment and should not be interpreted to

mean a member of staff who is merely employed to work during the provision of relevant entertainment. It is only necessary for one person to hold a sexual entertainment venue licence for premises, even if there is more than one person who is responsible for the organisation or management of the relevant entertainment or the premises.

Restriction on Numbers in Relevant Localities

Paragraph 12(3)(c) and 12(3)(d) of Schedule 3 allow appropriate authorities to refuse applications on grounds related to an assessment of the “relevant locality”. A licence can be refused if either, at the time the application is determined the number of sex establishments, or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the authority considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality, the use to which any premises in the vicinity are put or the layout, character or condition of the premises. Nil may be the appropriate number.

The Licensing Authority can set specific relevant localities in respect of each type of sex establishment (sex shop, sex cinemas and sex entertainment venues) and to set limits on each type of premises.

Sex Shops and Sex Cinemas

The Licensing Authority considers that there should be no more than two licensed sex shops permitted in the defined locality for Ashford Town Centre. The Licensing Authority currently has no limit on the number of sex cinemas that should be permitted within this area or any other defined locality. Ashford Borough Council would consider representations as to why our view should be changed about any particular locality.

By restricting the numbers to the above levels the Licensing Authority believes that it maintains its responsibilities under the legislation whilst allowing for fair competition. As stated previously it is aware of and has taken into consideration Section 17, Crime and Disorder Act 1998 and its regeneration policies.

Sex Entertainment Venues

In defining the localities in respect of sex entertainment venues the Licensing Authority is mindful of the potential for crime and disorder where such premises do not have robust management systems in place. The Licensing Authority is also mindful that, where there is a high volume of other premises licensed under the Licensing Act 2003, there is also the potential for conflict at the entrance to sex entertainment venues originating, not within the premises, but with would-be customers who are refused entry.

In licensing of sex entertainment venues the Licensing Authority will consider the impact of such premises and their operation on the vicinity. This would include:

- 1) the likely effects of any increased footfall or vehicular traffic,
- 2) any advertising or displays of an erotic or pseudo-erotic nature,
- 3) the type of location (residential, commercial, industrial)
- 4) the vicinity of establishments whose patrons are likely to be effected by the operation of the premise (e.g. schools, children's residential establishments, religious venues, historical or tourist attractions)
- 5) localities where the cumulative impact of the venue, taken with other licensed premises or commercial interests, is likely to have an adverse effect on the licensing objectives.
- 6) The need to provide effective door management
- 7) The management protocols within the premises

The Council have not set a maximum limit on numbers that they are prepared to licence.

Model Conditions

The Local Government (Miscellaneous Provisions) Act 1982 allows the Licensing Authority to attach conditions to a licence. In order to promote the legislation the Licensing Authority will formulate a pool of model conditions in respect of each type of licensed premises. Whilst these conditions form the basis for promoting the efficient operation of premises they will be applied only where a perceived necessity exists and in a manner that is both proportionate and reasonable to promote the legislation. Each case will be dealt with on its individual merit.

Exemptions from the need for a Sexual Entertainment Venue Licence

Venues that intend to provide relevant entertainment less than 11 times in any rolling year are exempted from the need for a sex entertainment venue.

In order to avail themselves of this exemption, operators must not have held any relevant entertainment in the previous month.

The Licensing Authority encourages operators of such venues to consider the active promotion of the legislative aims and the licensing objectives under the

Licensing Act 2003 in particular those relating to the protection of children from harm and the prevention of public nuisance.

Operators are encouraged to maintain written records of any relevant entertainment in order to assist the Licensing Authority to prove or refute any allegation of unlicensed events.

Waiving of the need for a Sexual Entertainment Venue Licence

The amendments to Schedule 3, Local Government (Miscellaneous Provisions) Act 1982, allow for the Licensing Authority to waive the need for a sex entertainment venue licence under certain circumstances.

An applicant can apply for a waiver either as part of the application for a licence or separately. The local authority can grant a waiver if they consider that to require a licence would be unreasonable or inappropriate. Where a waiver is granted the appropriate authority should inform the applicant that a waiver has been granted. The waiver may last for such a period that the appropriate authority think fit, but can be terminated by the appropriate authority at any time with 28 days notice.

The Licensing Authority will consider applications for such waiving of the need for licences on an individual basis. However it is felt that, unless clear and unambiguous evidence can be produced to support such a waiving of licence, the default position will be that a licence will be required.

Amendments to the Licensing Act 2003

Schedule 7 to the Policing and Crime Act 2009 amends the Licensing Act 2003 to ensure that premises for which a sexual entertainment venue licence is required or held (or for which the requirement has been waived under paragraph 7 of Schedule 3 to the 1982 Act) do not also require a premises licence, club premises certificate or temporary events notice in order to provide relevant entertainment. This is because such entertainment is expressly excluded from the definition of regulated entertainment found in the 2003 Act. However, if the premises also carry on other licensable activities (e.g. the sale of alcohol or the provision of regulated entertainment that is not relevant entertainment), they will nevertheless continue to require a premises licence, club premises certificate or temporary events notice under the 2003 Act for those other activities, subject to any exceptions contained in that Act.

In practice, this will mean that the vast majority of lap dancing clubs and similar venues will require both a sexual entertainment venue licence for the provision of relevant entertainment and a premises licence or club premises certificate for the sale of alcohol or provision of other types of regulated entertainment not covered by the definition of relevant entertainment.

Live music or the playing of recorded music which is integral to the provision of relevant entertainment, such as lap dancing, for which a sexual entertainment licence is required, is specifically excluded from the definition of regulated entertainment in the 2003 Act. Therefore, a sexual entertainment venue will not require a premises licence or club premises certificate just because it plays recorded music for a performer to dance to. (Nor will providing entertainment facilities for the purposes of the provision of relevant entertainment be regulated entertainment under the 2003 Act).

Premises which fall under the exemption created for infrequent entertainment do not require a sexual entertainment venue licence but will instead need an appropriate authorisation under the 2003 Act, for example, to cover the performance of dance. The exemption from requirements of the 2003 Act for live music or the playing of recorded music that is integral to relevant entertainment does not apply to such venues.

Planning

The Licensing Authority will not normally undertake action where another, more appropriate, regime exists to resolve matters. Failure to obtain planning permission is not a ground for refusal of the grant of an application under the 1982 Act and such a failure to obtain planning permission will normally be dealt with as part of the normal planning process

Operators and persons making representations should be aware that in many cases there would be a need to obtain planning permission before a premise may be used for the purposes relevant to this policy. The Licensing Authority will not normally consider planning matters such as “need” in determining a licence application as this is more appropriately dealt with by planning legislation.

Applicants may wish to seek independent advice in relation to both planning and licensing prior to making any application under Schedule 3 Local Government (Miscellaneous Provisions) Act 1982.

European Convention on Human Rights

The Local Authority fully supports the European Convention on Human Rights. When determining applications for licences under this policy the Licensing Authority will have consideration to any rights an existing operator may have under Article 1, Protocol 1 of the European Convention on Human Rights (ECHR) (which entitles every person to the peaceful enjoyment of their possessions) and Article 10 (freedom of expression).

The Secretary of State has certified that the Policing and Crime Act 2009 is covered by Section 19, Human Rights Act 1998 as being in compliance with the ECHR.

Whilst the rights under Article 1 and 10 may be activated the weight to be accorded to these rights in this context is low level. The right to freedom of expression to participate in the activities of sex shops, sex cinemas and SEVs is not prohibited but may be controlled by licensing. Similarly the right to possession of an existing licence is proportionally protected subject to a fair balance of the rights of the holder and the public interest.

The Application Process

Applications for licences for sex shops, sex cinemas and sex entertainment venues must be made on the prescribed form and accompanied by the requisite fee.

Notices

Applicants for a sexual establishment licence must give public notice of the application by publishing an advertisement in a local newspaper that is circulated in the local authority area no later than 7 days after the date the application is made.

Where the application relates to premises, a notice should also be displayed on or near the premises in a place where it can be conveniently read by members of the public. The notice should be displayed for a period of 21 days beginning with the date the applications was made.

All notices should be in the form prescribed by the appropriate authority and identify the premises or, if the application relates to a vehicle, vessel or stall, specify where it will be used as a sex establishment.

The applicant is required to submit a copy of any application to the Chief Officer of Police for the area within seven days of submitting the original application to the local authority. The requirement does not apply in the case of electronic applications as it is the duty of the local authority to send a copy to the police.

Objections

Any person can object to an application, however the licensing authority is likely to give greater weight to objections relevant to the grounds set out in paragraph 12, of Schedule 3, Local Government (Miscellaneous Provisions) Act 1982 for refusing a licence (See details below). Less weight is likely to be given to objections based on moral grounds/values and local authorities cannot consider objections that are not relevant to the grounds set out in paragraph 12. Objectors must give notice of their objection in writing, stating the general terms of the objection.

When considering an application for the grant, renewal or transfer of a licence the Licensing Authority will have regard to any observations submitted to it by the Chief Officer of Police and any objections that they have received from anyone else, (including statutory agencies such as Kent Fire and Rescue

Service, UK Border Agency, The Local Safeguarding Children's Board) within 21 days of the application.

Where the Licensing Authority receives notice of any objection the authority will, before considering the application, give notice in writing of the general terms of the objection to the applicant. Unless an objector specifically requests their name or address to be withheld, their details will be made available to the applicant and the public as part of the hearing process.

Hearings

Under paragraph 10(19) of Schedule 3, before refusing an application, renewal or application to transfer a licence all applicants will be given the opportunity to appear before and be heard by the Licensing Committee or sub-committee that is responsible for determining the application.

Whilst Schedule 3 does not make explicit provision for objectors to be heard, this Council believes it right to offer an oral hearing to objectors. This does however remain within their discretionary powers. Although a local authority is under a duty to consider any objections made within 28 days of the application, it has discretion to hear later objections provided the applicant is given the opportunity to deal with those objections.

Refusal of a Licence

Paragraph 12 of Schedule 3 sets out the grounds for refusing an application for the grant, renewal or transfer of a licence. A licence **must not** be granted:

- a) to a person under the age of 18;
- b) to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- c) to a person, other than a body corporate, who is not resident in an European Economic Area (EEA) State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- d) to a body corporate which is not incorporated in an EEA State; or
- e) to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

A licence **may** be refused where:

- a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
- d) that the grant or renewal of the licence would be inappropriate, having regard—
 - i. to the character of the relevant locality; or
 - ii. to the use to which any premises in the vicinity are put; or
 - iii. to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

A decision to refuse a licence must be relevant to one or more of the above grounds.

In making any determination to refuse an application, renewal or transfer the local authority will give consideration to:

a. Unsuitability of the applicant

In determining the suitability or otherwise of an applicant the local authority will consider any previous convictions and in particular those that have been imposed in respect of offences involving violence, dishonesty, or a breach of the requirements of the legislation covering the type of establishment in respect of which the application is made.

b. Business carried out on behalf of a person who would be refused

The local authority takes a serious view of any application that seeks to subvert the underlying principles of the Act. Where it is considered that the applicant is effectively operating the business on behalf of a person who would, for whatever reason, be refused or disqualified from the grant of a licence due to the mandatory or discretionary grounds for refusal there will be a presumption towards refusal unless overwhelming reasons are accepted for the contrary decision to be made.

c. The application exceeds the limit set on the number of the specific type of sex establishment in an area

Where an application would exceed the number set it will be for the applicant to show reason why the authority should set aside the limit. In deciding whether to allow the application the authority will have consideration to:

- any nuisance associated with the premises or the activities undertaken thereon;
- the possibility of children or other vulnerable persons being harmed or exploited by the provision of sexual entertainment or the operation of sex shops or sex cinemas;
- the potential of the activities associated with the operation of the premises being a source of crime and disorder, being associated with crime or being used to support crime;
- Any other reason including the existence of a police caution, representations from the police or others.

d. The grant of the licence would be inappropriate

In deciding whether the grant of a licence is appropriate the local authority will consider the type of area in which it is intended to site the premises and the hours during which it is intended to operate. In particular it will consider the factors outlined in part (d) of the discretionary grounds for refusal however these should not be seen as being the only factors under consideration and each case will be decided on its individual merits taking into account any representations made by statutory authorities or members of the public. The authority is also likely to consider:

- the proximity of any school or other educational establishment
- the proximity of any religious establishment
- the proximity of any premises intended for use of children or vulnerable adults
- whether the area is predominantly residential rather than commercial in nature

Relevant Locality

Schedule 3 to the 1982 Act does not define “relevant locality” further than to say that:

- a) in relation to premises, it is the locality where they are situated; and
- b) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

Case law has indicated however that in defining the relevant locality the local authority should not seek to specify wide areas. Again in determining the relevant locality each case will be decided on merit having consideration to the individual circumstances of the application.

Once the Council has determined the relevant locality, it should seek to make an assessment of the ‘character’ of the relevant locality and how many, if any,

sex establishments, or sex establishments of a particular kind, it considers appropriate for that relevant locality. The Council may decide that a particular locality is suitable for a sex shop but is not suitable for a sexual entertainment venue or vice versa. Nil may be the appropriate number. No numbers were set as part of the consultation process.

Conditions

The local authority has powers under the Act to prescribe conditions in relation to the operation of a licensed premises. Whilst conditions may be prescribed on any matter it is likely that the following considerations will attract the attachment of conditions:

- Hours of opening and closing
- Visibility of the interior of the premises
- Displays or advertisements
- Any change in the type of premises

Every licence granted, renewed or transferred subject to model conditions shall be presumed to have been subject to model conditions unless specifically excluded or varied. The authority may specify other conditions specific to individual premises dependant on the type of activity undertaken. These may include specifying minimum distances between the audience and performers, the control of access to changing room facilities, and the control of private viewings.

Appeals

In the event that the appropriate authority refuses an application for the grant, renewal or transfer of a sex establishment licence the applicant may appeal the decision in a magistrates' court, unless the application was refused under 12(3)(c) or (d), in which case the applicant can only challenge the refusal by way of judicial review.

Duration of Licences

Licences for sex establishments can be granted for up to one year.

Exchange of Information

The authority may from time to time exercise its powers under section 115 of the Crime and Disorder Act 1998 to exchange data and information with the police and other partners to fulfil its' statutory objective of reducing crime in the area.

Details of applications and objections which are referred to a Licensing Committee for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000.

Appendix A

Consultees

- Kent Police
- Kent Fire & Rescue Service
- Kent County Council Trading Standards
- Kent County Council Social Services
- Members
- Parish councils
- Ashford Community Forum
- Ashford Town Centre Partnership
- Ashford Borough Council Planning Authority
- Ashford Borough Council Legal Services
- A representative sample of licensed premises
- Trade representatives
- Premises currently licensed as sex shops
- Premises currently providing entertainment that would be included in the legislation
- Religious organisations
- UK Border Agency
- Lap Dancing Association

Appendix B

In formulating this policy the Licensing Authority has taken into consideration:

1. **The Sustainable Community Strategy** and in particular the following key themes that drive this strategy:

Economic

The aim to continue the transformation of Ashford town centre to ensure that the town meets the needs of new and existing businesses and a growing population.

Communities

Improving community safety and reducing anti social behaviour had consistently been identified by residents as a top priority for the Council and its partners.

Visitor destination

The Borough has varied and high quality cultural, sporting and leisure activities which can also be an important factor in attracting families and business to relocate to the area. Ashford has a thriving cultural life and good sporting facilities. As the town grows, the challenge will be to ensure that adequate additional facilities are provided and that all parts of the community have good access to them.

2. **The Community Safety Partnership Strategy** and in particular the following key themes:

- Reducing levels of anti-social behaviour
- Improving safer socialising and reducing violence in the night-time economy
- Reducing the most serious violence, including tackling serious sexual offences and domestic violence.
- Tackle the crime, disorder and anti-social behaviour issues of greatest importance in each locality, increasing public confidence in the local agencies involved in dealing with these issues.
- Reduce the harm caused by alcohol and drugs
- Reducing fear, improving perception of crime and anti-social behaviour and promoting feelings of safety through community engagement and communication.

The Licensing Authority have also taken into consideration the provisions of Section 17, Crime and Disorder Act, 1998 that requires responsible authorities to consider crime and disorder (including antisocial behaviour and other behaviour adversely affecting the local environment); and the misuse of drugs, alcohol and other substances in the exercise of all their duties, activities and decision-making. This means that in all policies, strategies and service delivery there is a need to consider the likely impact on crime and disorder.

Agenda Item No: 10

Report To: CABINET

Date: 12 January 2017

Report Title: Parking Enforcement Review

Report Author: Mike Cook, Civil Enforcement and TCAT Team Leader
Jo Fox, Health, Parking and Community Safety Manager

Portfolio Holders: Cllr Bradford – Portfolio responsibility for Highways, Wellbeing and Safety



Summary: The report reviews the level of Parking Enforcement within the Borough in line with the corporate enforcement priorities. The increase in resources recommend will allow for the continued delivery of our schools education programmes, support across the Council Services and effective HGV enforcement in addition to the level of parking enforcement that is required to ensure the safety and free flow of traffic across the borough.

Key Decision: Yes

Affected Wards: All

Recommendations: The Cabinet is recommended to:-

- i. Agree the increase of the number of Civil Enforcement Officers (CEO) from 8.5 FTE to 12.5 FTE.
- ii. Agree that a review be undertaken of the Civil Enforcement Officers' core working hours in order to ensure fit with current enforcement priorities.
- iii. Agree to further increase support to the parking and highways service by 1.5 FTE, namely 1 FTE Appeals and Representations Officer and 0.5 Business Administration Support Officer.
- iv. Agree the purchase of four Electric Bicycles.

Policy Overview: Links to the Five Year Corporate Plan in term responding to growth and generally in terms of ensuring an effective, efficient and sustainable financial, resources, service delivery

and enforcement environment. This delivers as part of the corporate enforcement agenda alongside areas such as Planning, Anti-Social Behaviour and Littering. This is also a specific Health, Parking and Community Safety service object as contained within the 2017/18 service plan.

Financial Implications:

There are costs associated with the increase however these will be offset by the income from penalty charge notices and increased efficiency of investing in electric bikes. The costs are not significant and can be delivered within the services budget for next financial year. There is an overall net income. Full details within the body of the report.

Risk Assessment:

Yes – addressed within the body of the report.

Equalities Impact Assessment:

No

Other Material Implications

None

Background Papers:

None

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Agenda Item No.10

Report Title: Parking Enforcement Review

Purpose of the Report

1. The purpose of the report is to review the current level of Parking Enforcement required. To ensure the team can deliver enforcement in line with the current restrictions and priorities including lorry parking whilst working proactively to ensure the free flow of traffic across the borough. In addition to continue to deliver a comprehensive education programme on road safety and enforcement to local primary schools and the general public.
2. Cabinet approval is specifically sought to increase the resources available to the parking, highways and administration teams.

Background

3. Ashford Borough Council commenced the enforcement of decriminalised on-street parking restrictions as agents of Kent County Council, the Highway Authority, in 2000. A team of Civil Enforcement Officers (CEOs) (then known as Parking Attendants) and a Supervisor were appointed to carry out both on-street parking restrictions covered by Traffic Regulation Orders (TRO's) in the borough and to continue enforcing parking in all of the borough's pay and display car parks.
4. In 2003 the borough was the first in the county to implement an overnight HGV parking ban in business parks, namely the Orbital and Sevington. This resulted in the CEOs contracts being amended to ensure that enforcement patrols mirrored the times illegal parking took place.
5. The CEO's have led on lorry parking enforcement across the County and following a pilot on lorry clamping recently this has achieved a significantly high level of compliance, the team continue to enforce where necessary. We are working as part of operation Kindle, a multi agency approach, to explore the opportunities to amend legislation to ensure the powers to enforce lorries are fit for purpose along with the necessary lorry parking provision across the county.
6. Over the years the number of TROs in the borough has increased tenfold. There are currently requests from the public for approximately 10 areas of further restrictions a month, these range from corner protection to a full review of a large area such as Tenterden or Wye. In addition there are now four overnight waiting bans, six resident parking schemes in Ashford and a new 'no return to zone' restriction there were none in 2000. These restrictions due to their greater complexity are difficult and time consuming to enforce.

7. Parking outside schools continues to be a growing concern. There are now 15 schools in the borough that have enforceable 'school keep clear' restrictions. Due to recent changes to the Traffic Signs Regulations and General Directions 2016 which removes the need for a TRO for certain parking restrictions including 'School Keep Clear' restrictions. This means that many more schools are likely to request and have restrictions put in place or advisory school keep clear markings signed to allow for enforcement. In 2000 there was only one school in the borough that had enforceable restrictions. There are now more than 30 primary schools alone in the borough, many in rural areas, and more school being built as the borough adding to the pressure. This situation alone is placing extreme pressure on the enforcement team.
8. The priorities of enforcement have changed and increased over the years and in order to continue to keep safety at the forefront of delivery further resources are required.
9. It is of concern that the number killed or seriously injured on our roads is high compared to other boroughs within Kent and the number under 16 is of particular concern. Indications are that the 2016 figures are likely to show a further increase in this worrying statistic. This further emphasises the needs for the service to give priority to our parking and highways activity which has road safety benefits.
10. There is also a need for the service to be proactive in terms of introducing appropriate and timely parking controls for new housing and commercial developments within the borough. They needs to be clear right from the beginning of a schemes development and not retrofitted with all the obvious difficulties. Ashford is a growing borough and as such there will be a continuing demand for further restrictions and enforcement.
11. More recently the team has started to take a proactive role in road safety and have begun visiting schools to promote road safety to educate and reinforce the dangers of parking outside school entrances. A recent presentation at Beaver Green school confirms this with the school reporting a noticeable reduction in problem parking. It will still be necessary to continue to focus on enforcement alongside education.
12. Due to a change in recent legislation, the team have recently being trained alongside KCC officer to ensure they are equipped to deal with Blue Badge abuse that they now have the power to take enforcement action.
13. Since 2013 the Parking and Highways team has been part of the Health, Parking and Community Safety Service and have become an integral part of that services workings with also supporting many other services across the Council. The CEO's are the eyes and ears of the borough, they assist with noise and licensing complaints, deal with abandoned vehicle, control illegal vehicle sales on the highway, deal with fly posting and much more. The team also assist with elections, support the council in dealing with emergency and

business continuity incidents and public events as and when necessary. Much of this work goes unseen but is invaluable.

14. Talent in this area (enforcement) is difficult to source and a benchmarking exercise has taken place to review terms and conditions offered by Ashford Borough Council in comparison with other local authorities and private sector organisations that offer a similar service.

Proposals

15. In order to respond to the pressures it is necessary to increase resources within the Parking and Highways team.

16. Proposal (i)

To increase the number of CEOs by four. All officers will be generic and will be trained in all areas, discussed within the body of the report, to ensure the highest level of resilience within the team. To increase the number of Highways, Parking and Administration staff by one and half to deal with the increase in PCN's, appeals and general queries and correspondence. Each CEO is self funding and it is estimated that there will be an overall net income of approximately 10,000pa.

Proposal (ii)

Commitment to undertake a review of the existing employees (CEO team) Job Descriptions, to consult on a proposed amendment to working hours, required modes of travel and anti-social hours allowance with a view to implementing a change to contracts of employment in order that the teams and condition of existing employees reflect proposed terms and conditions to new employees. This could potentially allow for more attractive shift patterns to further assist with recruitment and retention. This review will be undertaken with the support of Human Resources and any necessary staff consultation.

Proposal (iii)

The increase in work associated with the delivery of a parking service (on-street parking, off-street parking, enforcement activity and road safety campaigns) has the effect of increasing workload for not only the CEOs but also the supporting administration and appeals staff. For example we are now issuing 13000 Penalty Charge Notices compared to 9800 in 2013/14 and dealing with 4000 representations and appeals compared to 2500. Only 4 appeals were subsequently upheld by a Tribunal. We offer a number of warnings supported with advice to those receiving Penalty Charge Notices for the first time in categories such as incorrect registration number when using phone parking and those displaying disabled badges face down or with a missing time clock. This increase in overall volume of work needs to be balanced with a complimentary increase in the support services. The proposal is to employ an additional Appeals and Representations Officer

(which as well as dealing with the increasing volume of work but also provide resilience during leave periods that we have never had) and an increase in administration support by 0.5 FTE.

Proposal (iv)

The purchase of two bicycles in September 2015 has proven extremely successfully from both an enforcement and deterrent perspective. A CEO using a bicycle covers a much larger area than a CEO on foot patrol. Initial suggestions were that this would mainly act as a deterrent as opposed to an increase in the issue of Penalty Charge Notices, however, this has been proven incorrect with more PCN's being issued by those on bicycle patrol. The bicycle patrol supports the promotion of the council's wider environmental aspirations (i.e. when a bike is used in place of a vehicle) as having active travel and health and wellbeing benefits. The team have recently trialled an electric bike this has proven to have the same impact as the bicycles and covering an even larger area and taking into account reasonable daily physical exertion.

The proposal is to purchase four electric bicycles to complement the existing vehicles and standard bicycles. This would provide the best balanced approach to enforcement on the key priorities whilst supporting the officers to deliver effectively. Enforcing School parking will also be more effective using electric bicycles and will increase the number of schools that can be visited during the school run period.

The income figure per CEO is an average and it should be noted that officers patrolling using the bicycle issues significantly more PCN's due to the area that can be covered.

It must be emphasized that the requested increase in the number of CEO's is to achieve a better compliance with the increasing number of parking restrictions. There will be ongoing checks and balances between education, warnings and enforcement. Enforcement will continue to be proportionate and overt.

Financial Implications

17. Costs

Overall the proposals are expected to be cost neutral and will be reviewed regularly.

Proposed increased in staffing per annum	£152,000
Associated one off costs including bikes, training and uniform	£ 15,000
Expected income per annum	£160,000

Timescales

18. It is anticipated that the recommendations would be implemented in accordance with the following timescale:
 - Review of job descriptions and working hours, consultation and report to JCC for March 2017 with a view to having the same terms and conditions as proposed new employees.
 - Recruitment of the additional CEOs following JCC to start in March 2017
 - Recruitment of office staff on same timeline as recruitment of CEO's
 - Purchase of the electric bikes as soon as the proposal is agreed by Cabinet

Handling and Implications

19. As detailed in the body of the report the review of the Job Descriptions will go through the structured consultation process assisted by Human Resources.
20. A communications plan to be put in place to ensure those that live, work and visit the borough are informed of the changes.
21. The content of the report has been formulated with the input and support of the CEO Team.
22. Locations of use for the bicycles and electric bikes to be reviewed. With an increase in provision a permanent electric bike in Tenterden will be considered.

Risk Assessment

23. A saturation point on the maximum level of PCN's to be issued has been considered. However increasing the number of CEO's to the level recommended within the report will not meet this point. To ensure that the level of enforcement is fit for purpose we will review the need for staffing each and every time a post becomes vacant. The average turnover of staff within the Civil Enforcement Team is very low at only one or two per year. This is believed, in part, to be the result of the variety of work undertaken by our CEOs and the wider contribution they make to the delivery of services across the council.

Equalities Impact Assessment

24. The proposed changes are not discriminatory to any individual protected group.

Other Options Considered

25. There is an option to do nothing and keep the same level of Civil Enforcement Officers. This does not, however, support the operational need or the delivery of wider corporate and service objectives around enforcement, ensuring the free flow of traffic, the promotion of road safety and our Schools education programme.
26. The use of technology such as camera enforcement at schools has been considered. The cost of fixed enforcement cameras would be prohibitively expensive and also does not provide the flexibility to enforce when priorities change. The use of cameras is only recommended where the parking infringement it is dangerous or impractical to be undertaken by CEO's. A vehicle with a camera is extremely restrictive as the traffic volumes at the times when enforcement is required (e.g. school opening and closing times) makes movement to and from and around schools too slow to be effective. To date there has only been one trial of camera enforcement in Kent relevant to school parking enforcement and this is yet to be approved by Kent County Council as an appropriate enforcement tool.

Conclusion

27. The number of CEOs has not been reviewed in over 10 years yet the number of restrictions that need enforcing has increased ten fold and have increased in complexity.
28. The proposed changes, within this report, provide an overall review of the parking enforcement and addressing the current need and expectation within the growing Borough.

Portfolio Holder's Comments

29. The review of level of parking enforcement within the borough is long overdue and I welcome the proposals within the report to ensure that the staffing is at a level that is fit for purpose for the growth within the borough. The modes of travel that support the green agenda, the health and wellbeing of the staff along with an effective delivery of service are to be applauded.

Cllr Bradford - Portfolio for Highways, Wellbeing and Safety

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Agenda Item No: 11
Report To: CABINET
Date: 12TH JANUARY 2017
Report Title: SCHEDULE OF KEY DECISIONS TO BE TAKEN
Report Author: Corporate Director (Law and Governance)



Summary:	To set out the latest Schedule of Key Decisions to be taken by the Cabinet of Ashford Borough Council.
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Key Decision: NO

Affected Wards: Where appropriate, individual Wards are indicated.

Recommendations : **That the Cabinet receive and note the latest Schedule of Key Decisions.**

Policy Overview: Under The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, there is no longer a legal requirement to publish a Forward Plan of Key Decisions, however there is still a requirement to publish details of Key Decisions 28 clear days before the meeting they are to be considered at. The Council maintains a live, up to date rolling list of decision items on the Council's website, and that list will be presented to the Cabinet each month, in its current state, for Members' information.

Financial Implications: Nil

Other Material Implications: Nil

Exemption Clauses: Nil

Background Papers: None

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**CABINET
SCHEDULE OF KEY DECISIONS TO BE TAKEN**

The following Key Decisions will be taken by Ashford Borough Council's Cabinet on the dates stated.

Ashford Borough Council's Cabinet is made up of: - Councillors Gerry Clarkson; Neil Bell; Clair Bell; Mike Bennett; Jessamy Blanford; Gareth Bradford; Paul Clokie; Graham Galpin; Callum Knowles; Neil Shorter.

Copies of the reports and any other relevant documents that are submitted to the Cabinet in connection with a proposed decision will be available for inspection, or on screen, five clear days before the decision date at the Civic Centre, Tannery Lane, Ashford and at The Town Hall, 24 High Street, Tenterden, during opening hours, or at www.ashford.gov.uk/councillors_and_committees.aspx

Decision Item	Report Summary	Relevant Portfolio Holder	Report Author	Open or Exempt	Added to Schedule
12th January 2017					
Waste & Recycling – Costed Forward Education & Promotion Strategy	<i>Further to the report received by the Cabinet in February 2016, presentation of a costed forward education and promotion strategy, including forward recycling options and targets be approved.</i>	Cllr Mrs Bell	Patrick Brown	Open	13/2/16
A Review of Parking Enforcement	<i>To review current level of Parking Enforcement to ensure the team is able to deliver enforcement to the highest level and reasonably meet customer expectation in line with providing a value for money service. Also to increase the modes of transport, to include electric bikes, in addition to bicycles, to enhance performance.</i>	Cllr Bradford	Mike Cook/Jo Fox	Open	5/8/16

Decision Item	Report Summary	Relevant Portfolio Holder	Report Author	Open or Exempt	Added to Schedule
Fixed Penalty Notices for Fly-Tipping	<i>To outline the provisions of the legislation and ask Members to set a level for Fixed Penalty Notices, from the range made available under these powers, considering the possibility of a reduced fine for early payment.</i>	Cllr Mrs Bell	Tracey Butler	Open	18/10/16
Introduction of a 'Film Classification Policy and Procedure' - Licensing Act 2003	<i>To present a draft policy and procedure in relation to the classification of films.</i>	Cllr Bradford	Trevor Ford	Open	21/10/16
Revision of the 'Sex Shops, Sex Cinemas and Sexual Entertainment Venues Policy' – Local Government (Miscellaneous Provisions) Act 1982	<i>To adopt an updated version of the existing policy which expired on 1st April 2016.</i>	Cllr Bradford	Trevor Ford	Open	21/10/16
9th February 2017					
Financial Monitoring – Quarterly Report	<i>Quarterly budget monitoring report</i>	Cllr Shorter	Maria Seddon	Open	13/2/16
Revenue Budget 2017/18	<i>To present the draft revenue budget for 2017/18 to the Cabinet for recommendation to Council.</i>	Cllr Shorter	Paul Naylor/Ben Lockwood	Open	13/2/16

Decision Item	Report Summary	Relevant Portfolio Holder	Report Author	Open or Exempt	Added to Schedule
Corporate Performance Report	<i>The report seeks to give members and the Borough's residents an overview of how the Council is performing. It seeks to do this in a transparent and easily-accessible manner, giving a key performance 'snapshot'.</i>	Cllr Shorter	Nicholas Clayton-Peck	Open	13/2/16
Annual Report of Work Undertaken on Domestic Abuse and to Support Victims of Domestic Abuse	<i>Sets out for comment the progress the Council and its partners are making on projects focusing on domestic abuse over the past 12 months since the agreement by the Council to allocate up to £50,000 per year for three years to support the work on tackling domestic abuse.</i>	Cllr Bradford	James Hann/Elizabeth Mannington	Open	13/2/16
ABC's Response to NHS Consultation Document – Transforming Health and Social Care		Cllr Bradford	Sheila Davison	Open	24/11/16
Revenues & Benefits Recommended Write-Offs Schedule	<i>Proposed formal write-off of debts</i>	Cllr Shorter	Peter Purcell	Open (Exempt Appendix)	16/1/16
Conningbrook Country Park – Water Quality Management		Cllr Mrs Blanford	Len Mayatt	Open	8/12/16

Decision Item	Report Summary	Relevant Portfolio Holder	Report Author	Open or Exempt	Added to Schedule
Kingsnorth Recreation Centre – Section 106 Expenditure		Cllr Mrs Blanford	Christina Fuller/ Ben Moyle	Open	15/12/16
9th March 2017					
Annual Pay Policy Statement	<i>A review of the annual Pay Policy Statement and Ashford Living Wage Allowance</i>	Cllr Knowles	Michelle Pecci	Open	11/3/16
Royal Military Canal, Proposed Shared Pathway Progress Update.	<i>To provide an update on progress against the agreed project measures and on support from external agencies and very early indications of potential funding sources. The main focus of the Report will be to discuss the land acquisition options available for the project and identify the most appropriate agreement for ABC to enter into. Formal approval of the preferred acquisition option will be required. The Report will also provide a position statement on potential capital and revenue costs for the delivery phase.</i>	Cllr Mrs Blanford	Len Mayatt	Open (Exempt Appendix)	29/9/16
Private Sector Leasing Update		Cllr Clokie	Donna Michael	Open	12/9/16

Decision Item	Report Summary	Relevant Portfolio Holder	Report Author	Open or Exempt	Added to Schedule
Proposal for the Management of a Community Facility to Alleviate Homelessness in the Borough		Cllr Clokie	Donna Michael	Open	12/9/16
Private Sector Housing Assistance Policy		Cllr Clokie	Julian Watts	Open	11/7/16
Delivery Programme		Cllr Shorter	Charlotte Hammersley/ Richard Alderton	Open	23/12/16
Housing Home Ownership Opportunity – Opt to Buy	<i>To cover the detail of the scheme, the flexibility the Council can give itself in how it sets rents for the scheme and tenancies terms, how it can avoid any RTB issues, how it will borrow the necessary funding and acquire suitable properties and promote the scheme to interested parties</i>	Cllr Clokie	Richard Robinson	Open	20/6/16
6th April 2017					
11th May 2017					
Financial Monitoring – Quarterly Report	<i>Quarterly budget monitoring report</i>	Cllr Shorter	Maria Seddon	Open	13/5/16

Decision Item	Report Summary	Relevant Portfolio Holder	Report Author	Open or Exempt	Added to Schedule
Cemetery Memorial Safety Policy	<i>Report back on adoption of policy and set of operational guidelines to manage the forward process relating to the safe management of memorials in Ashford.</i>	Cllr Mrs Bell	TBC	Open	26/2/16
8th June 2017					
Final Outturn 2016/17	<i>Final budget outturn for previous financial year</i>	Cllr Shorter	Ben Lockwood	Open	10/6/16
Annual Report 2016/17	<i>The Annual Report will build upon the contents of quarterly performance monitoring, but will also include the following information – An Introduction from the Leader and Chief Executive; Facts and figures about Ashford; Timeline of key achievements in the Borough over the calendar year; Borough achievements; and a Financial Summary.</i>	Cllr Knowles	Nicholas Clayton-Peck	Open	10/6/16
Section 106 Agreements – Annual Progress Report	<i>Focus on s106 contributions received in the last year, contributions secured in new agreements and projects that have been supported by s106 funding.</i>	Cllr Bennett	Lois Jarrett	Open	10/6/16
13th July 2017					
Revenues & Benefits Recommended Write-Offs Schedule	<i>Proposed formal write-off of debts</i>	Cllr Shorter	Peter Purcell	Open (Exempt Appendix)	18/7/16

Decision Item	Report Summary	Relevant Portfolio Holder	Report Author	Open or Exempt	Added to Schedule
10th August 2017					
Corporate Performance Report	<i>To give Members and residents an overview of how the council is performing with a key performance 'snapshot'.</i>	Cllr Shorter	Nicholas Clayton-Peck	Open	11/8/16
Corporate Commercial Property – Annual Report	<i>To advise of the revenue performance of the Council's corporate property portfolio during the last financial period and to advise of proposals to increase profitability in the coming financial period.</i>	Cllr Shorter	Stewart Smith	Open	11/8/16
Financial Monitoring – Quarterly Report	<i>Quarterly budget monitoring report</i>	Cllr Shorter	Maria Seddon	Open	11/8/16
14th September 2017					
12th October 2017					
9th November 2017					
Corporate Performance Report	<i>To give Members and residents an overview of how the council is performing with a key performance 'snapshot'.</i>	Cllr Shorter	Nicholas Clayton-Peck	Open	11/11/16

Decision Item	Report Summary	Relevant Portfolio Holder	Report Author	Open or Exempt	Added to Schedule
Financial Monitoring – Quarterly Report	<i>Quarterly budget monitoring report</i>	Cllr Shorter	Maria Seddon	Open	11/11/16
7th December 2017					
Draft Budget 2018/19	<i>To present the preliminary draft service budget and outline MTFP for the purposes of subsequent formal scrutiny by the O&S Task Group and public consultation.</i>	Cllr Shorter	Ben Lockwood	Open	9/12/16
Council Tax Base	<i>To present for approval the estimated 2018/19 Council tax base calculation for the Borough and each parished area, on which the major preceptors and local Parish Councils will base their requirements.</i>	Cllr Shorter	Ben Lockwood	Open	9/12/16
Housing Revenue Account (HRA) Business Plan 2016 - 2046	<i>An annual update of the HRA Business Plan financial projections. This report updates the position for the period 2016-46.</i>	Cllr Clokie	Sharon Williams	Open	9/12/16

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3/1/17