

Service RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2014 - 2015

COUNCIL
10th December 2014

REPORT OF:
Group Director
Community & Children's Services

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| | Item No.7 |
| Licensing Act 2003 – Review of Licensing Policy Statement 2015 -2020 | |

1. PURPOSE

The purpose of the report is to consider the revised Statement of Licensing Policy for the period 2015 – 2020, as prepared by the Service Director Public Health & Protection.

2. RECOMMENDATION

It is recommended that Members:

- (i) Note the process of review and consultation that has been undertaken by the Service Director of Public Health & Protection with regard to revision of the current Licensing Policy Statement;
- (ii) Note the recommendation of the Council's Executive to approve the changes proposed; (Cabinet Meeting Decision Notice, 20th November 2014 refers)
- (iii) Adopt the revised Licensing Policy Statement as recommended by the Executive, with provision for implementation effective 7th January 2015.

3. BACKGROUND

The current Statement of Licensing Policy has been in force since 7th January 2011 and as a result of legislative change has been extended to have effect for a period of 5 years, terminating on 6th January 2015.

Consequently, the Service Director of Public Health & Protection has initiated a review process to ensure that the Statement of Policy is 'fit for purpose' for the forthcoming 5 years.

The format of the policy statement is prescribed by legislation and must meet specified criteria, but the key issue for each individual Licensing Authority is to ensure that it reflects best practice in the of light of experience and can assist in achieving local initiatives.

The review process has incorporated consultation with partner agencies and the wider community. However, in recognising that the policy statement did not need whole scale review, a limited consultation was considered appropriate, mindful of the discretion afforded to the Licensing Authority to have regard to cost and resource implications.

The review process was initiated with a 'Licensing Policy Development Day', held 19th May 2014, where all partner agencies were invited to consider the revisions that may be necessary, having regard to legislative change, best practice and local concerns.

The views of partner agencies were then distilled into a Draft Policy Statement, which was presented to the Licensing Committee, (acting in its role under the Licensing Act 2003), for comment on 2nd September 2014, prior to commencement of the consultation process.

Following a short consultation period and consideration of responses, (which generated further minor amendment), the final Policy Statement was the subject of a further report to Licensing Committee, (Acting in its role under Licensing Act 2003), on 21st October 2014.

Members resolved that the Draft Policy Statement be commended to the Executive, prior to submission for approval by Full Council. (Min. 2014/17 Refers).

The Policy Statement was approved by the Executive at the meeting of Cabinet held 20th November 2014.

A brief summary of the key changes contained in the revised Statement is detailed below:-

- Recognition of the Council's Single Integrated Plan 'Delivering Change' and how its strategic objectives impact on the Licensing Policy Statement;
- Recognition of the health implications of responsible, retailing, consumption & control of availability of alcohol;
- Changes to legislation which have directly impacted on the Licensing Act 2003, including the additional Responsible Authorities, (namely

Licensing Authority itself and Local Health Board); Live Music Act;
Suspension of Licences for non-payment of annual fees;

- The commitment to secure an improvement in local amenity through a reduction in alcohol related anti-social behaviour, engaging with Community Safety Partnership to address resident concerns;
- Recognition of confidence in management as a positive influencing factor when considering operating schedules;
- Changes to provisions for Temporary Event Notices, in particular impact of 'LATE TEN';
- Changes to expectations of Trading Standards Officers for control of supply of alcohol to young persons;
- Petrol Filling Stations and particular issues presented when determining applications;
- An expansion of the 'serious matters' likely to give rise to review;
- A revision of the premises inspection regime in order to make best use of existing resources and limit impact on well managed businesses.

4. Conclusion

It is considered that the revisions made to the Policy Statement will ensure that the Licensing Authority continues to meet its statutory obligations for the promotion of the licensing objectives in an expansive manner, which effectively supports the aims of the Council's Single Integrated Plan.

In order to continue to perform its statutory functions under the remit of the Licensing Act 2003, the Licensing Authority must now formally adopt a new Statement of Licensing Policy to be effective 7th January 2014.

A copy of the Statement of Licensing Policy 2015 - 2020 is reproduced for information as Appendix 1A. (Changes are highlighted in red for ease of reference)

5. Recommendation

It is recommended that Licensing Policy Statement 2015-2020 be approved, to take effect from 7th January 2015..

Paul J Mee

Service Director Public Health & Protection

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Rhondda Cynon Taf County Borough Council

Statement of Licensing Policy 2015 - 2020

Alcohol, Entertainment & Late Night Refreshment



STRONG HERITAGE | STRONG FUTURE
RHONDDA CYNON TAF
TREFADAETH GADARN | DYFODOL SICR

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1. The County Borough of Rhondda Cynon Taf

The County Borough of Rhondda Cynon Taf lies to the north of Cardiff at the heart of South Wales. It covers an area of approximately 162 square miles stretching from the outskirts of the City of Cardiff, north to the Brecon Beacons National Park.

As at Census 2011 it had a population of almost 234,300 inhabitants and 99,700 households. Townships include Pontypridd, Llantrisant, Aberdare, Mountain Ash, Tonypany and Porth, however there are numerous smaller commercial areas situated throughout the Borough, consistent with the communities they serve.

Rhondda Cynon Taf comprises a mixture of rural and urban areas with a series of communities of various sizes focused around key town centres. The area has a strong heritage of heavy industry and mining and the loss of this industrial base has resulted in a more diverse employment profile.

There are areas of social deprivation throughout the County Borough resulting in eight Communities First Partnerships in geographical clusters across seventeen wards. (Within these Clusters Communities First Teams work with residents, community organisations and other key agencies in order to support the Welsh Government's Tackling Poverty Agenda).

A key priority for the Council is therefore reconciling rapid social and economic change with the needs of our communities, whilst seeking to promote fairness and equality of opportunity in the regeneration of the area.

The regeneration proposal incorporates key strategic priorities for HEALTH, SAFETY and PROSPERITY where there are direct links to responsible alcohol retailing and responsible alcohol consumption. Such priorities in turn impact on aspects of community well-being such as reducing alcohol related anti- social behavior and protecting residents from alcohol related harm. It is these aspirations for our local communities, together with a commitment to community engagement and social responsibility that set the direction of this policy statement.

Further information about the Borough is contained in the document 'Delivering Change (a Single Integrated Plan for Rhondda Cynon Taf), which can be obtained at Council Offices or at <http://www.rhondda-cynon-taff.gov.uk/singleplan>

Map of Council Area



2.0 PURPOSE & SCOPE

The Licensing Act 2003 introduces a requirement for the Council to set out their policy in respect of licences for the sale of alcohol, provision of entertainment and provision of late night refreshment.

The Licensing Authority has a duty under the Act to carry out its functions with a view to promoting the four licensing objectives, **each having equal importance**. These are:-

- Prevention of crime and disorder
- Protection of public safety
- Prevention of public nuisance
- Protection of children from harm

2.1 Purpose

Key purpose of the Licensing Policy is as follows:-

- To inform licensing applicants of the parameters under which the Licensing Authority will make licence decisions and how a licensed premises is expected to operate within an area. (However, each application must be considered on merit);
- To inform residents & businesses of the parameters under which the Licensing Authority will make licensing decisions – and therefore how their needs will be addressed.

2.2 Scope

Licensing Functions Covered by this Policy

The policy relates to all those licensing activities that fall within the provisions of the Act, namely:-

- Retail sale of alcohol
- Supply of alcohol to club members
- Provision of “regulated entertainment” – to the public, to club members or with a view to profit, which may include:
 - A performance of a play
 - An exhibition of film
 - An indoor sporting event
 - Boxing or wrestling entertainment
 - A performance of recorded music
 - Any playing of recorded music
 - A performance of dance
 - Provision of facilities for making music
 - Provision of facilities for dancing
 - The supply of hot food and/or drink from any premises (or mobile vehicle) between 11pm and 5am

2.3 Aims

The aim of the policy is to set out how the Licensing Authority will seek to meet the *four licensing objectives* specified by the Act and in so doing will also seek to :-

- facilitate a sustainable and culturally diverse entertainment industry, within the wider freedoms given by the Act;
- secure the safety and amenity of residential and business communities affected by it.
- promote standards, by setting out expectations and seeking to translate such expectations into business practices through licence conditions
- to have regard to alcohol related harms, and the need to control availability of alcohol in the wider interests of our community.

The Council in adopting this Policy recognises both the needs of residents for a safe and healthy environment to live and work and the importance of safe and well run premises to the local economy and vibrancy of the County Borough.

However, it should be recognised that this policy covers a wide variety of premises and activities carried on in them including theatres, cinemas, restaurants, pubs, nightclubs, registered members’ clubs, village halls and community centres, as well as off-licences, late night food premises/ takeaways and vehicles selling hot food or hot drink after 11pm.

For this reason, this policy cannot detail all the factors that influence the achievement of the licensing objectives nor can this policy detail all the control measures that may be appropriate.

2.4 Effect

This Policy Statement takes effect on **7th January 2015** and will remain in force for a period of not more than **5 years**. It will be subject to regular review and further consultation prior to **January 2020**.

Nothing in the policy will:-

- undermine the right of any person to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits;
- override the right of any person to make representations on any application, or seek review of a licence or certificate where they are permitted to do so under the Act.

Appropriate weight will be given to all relevant representations made to the Licensing Authority, excluding those that are frivolous, vexatious or repetitious.

This policy has had regard to the following matters in its review:-

- The amendments to the Licensing Act 2003 made by:
 - The Police Reform and Social Responsibility Act 2010
 - The Live Music Act 2011
- Statutory instruments laid under the above legislation
- Revised Guidance issued under S182 of the Licensing Act 2003

2.5 Avoiding Duplication

The Licensing Authority recognises the need to avoid duplication of existing legislation and other regulatory regimes that place obligations on employers and operators e.g. The Health & Safety at Work Act; The Environmental Protection Act 1990.

This will be reflected by the commitment to only attach conditions of licence that will promote the licensing objectives. However it is recognised that the primary legislation of other agencies will not always adequately address specific issues that arise as a result of licensable or ancillary activity associated with a premises. In such circumstances supplementary conditions will be imposed proportionate to the promotion of the licensing objectives.

2.6 Planning permission and licence applications

The Licensing Authority recognises that Planning and Licensing are distinct but complementary disciplines. Planning primarily controls use of land and its impact on the surrounding amenity whereas Licensing is concerned with the operation and management of the premises.

In general, the Licensing Authority will expect applicants to have an appropriate planning consent for their premises prior to a licence application being made.

This will limit the risk of the Planning Authority making representation against a licensing application. The Licensing Committee may refuse to grant a licence following representations from the local Planning Authority that one of the licensing objectives is likely to be undermined. For example, granting a premises licence for longer hours than permitted in a planning permission may undermine the prevention of public nuisance objective.

The aim is to provide consistency in areas of common concern, where key criteria overlap. To further this aim the Licensing Authority & local Planning Authority will share information in the investigation of breaches of either licences or planning controls.

2.7 Integrating Strategies

This statement of Licensing Policy also recognises the role of licensing in contributing to the [Council's Single Integrated Plan](#).

By engaging with partners the Licensing regime can also help deliver the objectives of the Strategic Partnerships ([particularly the Community Safety Partnership, The Children and Young People Partnership and the Health and Social Care and Well Being Partnership](#)).

2.8 Responsible Authorities

A list of Responsible Authorities, their interest in the licensing system and current contact details is available on the Council's website [LINK](#)

2.9 The Licensing Authority as a Responsible Authority

The Licensing Authority will make representation where it considers it appropriate to do so, but in particular as follows:

- Where there is information relevant to an application that is not in the possession of other parties;
- Where an application conflicts with the statement of licensing policy;
- To improve upon conditions that might be offered in an operating schedule which has not been resolved through negotiation.

2.10 Health as a Responsible Authority

2.10.1 Background

Alcohol is a major preventable cause of death and illness in Wales.

Alcohol is more harmful than many illicit and legal drugs of abuse, and its use is far more widespread. It is the third highest of twenty-six risk factors for ill-health, behind only tobacco and high blood pressure. It contributes to the risk of around 60 diseases. Liver disease is only cause of premature mortality in Wales that is still increasing.

In addition, the social harms of alcohol misuse are numerous including violence, injury, family, work and financial problems, often leading to further health harms.

Alcohol consumption in the UK has increased over the past decade, as have deaths and diseases related to alcohol. The estimated health service cost in Wales of alcohol related chronic disease and acute incidents are between £70 million and £85 million each year.

The Government Alcohol Strategy (2012) estimates the overall cost of alcohol harm to our society in the UK to be around £21 billion annually.

2.10.2 Alcohol and Health in Rhondda Cynon Taf

Within Rhondda Cynon Taf, the latest Welsh Health Survey (2012/13) indicates that:-

- 44% of adults report drinking above guidelines
- 29% of adults report binge drinking at least one day in the last week

Both are above the Welsh average.

In Rhondda Cynon Taf there were 937 referrals to specialized services for alcohol misuse in the year commencing April 2012.

In Cwm Taf Health Board area, both alcohol-related and alcohol-attributable mortality are increasing. Cwm Taf has the highest alcohol-related mortality for females of any health board and the second highest for males. The Health Board has the highest rate of alcohol specific admissions in Wales Alcohol misuse is also a concern for the health and well-being of young people.

Although there is little robust data for this age group, the Health Behaviour in School aged Children Survey (2010) indicates that around half of all 15 year olds have been drunk at least twice in Wales – the third highest level of all 38 developed countries surveyed. About 20% of Welsh 15 year olds report that they were first drunk at age 13 . Within Cwm Taf ten per cent (7% boys, 13% girls) of secondary school-aged children reported being drunk at least four times in their life.

2.10.3 Engaging with the Health Agenda

The major health concerns associated with alcohol misuse have been recognized by both the UK and Welsh Government and a series of legislative provisions have been made to discourage irresponsible drinking including the mandatory conditions which are now automatically attached to licences.

Both Governments recognize that the consumption of alcohol is price sensitive and consideration is being given nationally to a minimum price per unit policy. The Home Office has consulted on a proposal to introduce an additional Public Health based licensing objective. Although this hasn't progressed it is an area that the Welsh Government is currently exploring.

The Police Reform & Social Responsibility Act 2011 introduced Health Boards for the first time as 'Responsible Authorities' within the Licensing Act. This change has enabled Health Boards to be routinely consulted and allowed to make representation in relation to applications for the grant or variation of a premises licence. However in the absence of health based legislation, there are limitations to the extent of this role confining current participation to generic observations regarding the effect of alcohol misuse on health for the local population in relation to the existing objectives particularly 'the protection of public safety'.

There are a number of local developments underway that may enhance the Health Board's position in contributing to this agenda. The Cwm Taf Violent Crime Reduction Project part of Commissioner's Police and Crime Reduction plan aims to allow more effective collection, analysis and sharing of data from health sources particularly emergency department and ambulance data to help reduce alcohol related violence in the Health Board area. This data could potentially be of use when considering certain applications. Likewise improving channels of communications between licensing and local health and community partners can help build local intelligence.

This is an area of partnership likely to be significantly developed during the currency of this policy and the Licensing Authority will review its policy statement in this context as appropriate.



3. PROMOTION OF LICENSING OBJECTIVES

- 3.1 In respect of each of the four licensing objectives, it will be in the interests of the applicants to provide evidence that suitable and sufficient measures, **as detailed in their operating schedule**, will be implemented and maintained, relevant to the individual style and characteristics of their premises and events.

- 3.2 In the absence of relevant representations the Licensing Authority must grant an application subject only to mandatory conditions and such conditions that are consistent with the applicant's operation schedule. However, where the discretion of the Licensing Authority is engaged as a result of relevant representations, it may take into account other matters when deciding what is necessary to promote the licensing objectives, providing each case remains to be treated on its individual merit.
- 3.3 The following factors, (but not exclusively so), will be viewed positively when determining an application:-
- Entertainment aimed at Over 25's
 - Provision of a full food menu, not only alcohol
 - Style/Type of venue (detailed description & customer profile required) which provides alternative choices to existing market;
 - Family friendly policies & facilities, operating hours,
 - Robust Age verification policy,
 - Involvement in local community events & organisations
 - **Demonstrated regard for the locality where the business is proposed to trade with appropriate procedures to mitigate any potential adverse impact to the area**

Such considerations will be consistent with the commitment of the Licensing Authority to promote quality, diversity, and accessibility to differing sectors of the community.

- 3.4 An application or notification for licensing purposes will be accepted as being valid only where it contains **all of the required detail specified by the Act and/or Regulations and is accompanied by the correct fee.** Incomplete applications will be regarded as invalid and suspended subject to all statutory criteria being met.
- 3.5 The Licensing Authority will seek to liaise with applicants and/or mediate between applicants and others who may make representations to achieve a satisfactory outcome for all parties wherever possible and where resources permit.

3.6 Pre application considerations & local concerns

The Licensing Authority strongly recommends that pre application enquiries are made in respect of proposals. This will allow the applicant to:-

- discuss the proposal with the Licensing Authority and those from whom representations are likely, **prior to submitting the application;**
- identify **local issues of concern.** This will be particularly relevant where the applicant may be located outside the County Borough, or may not be aware of issues relevant to the local environment in which it is proposed to trade. Such pre-application discussion will assist in the preparation of an appropriate operating schedule, best suited to the local environment.

Once the application has been lodged, there are statutory timescales imposed upon the determination process which restrict the opportunity for discussion, liaison and mediation.

3.7 Community Engagement

Applications for grant or variation to a Premises Licence are likely to be subject to public consultation by means of a letter drop to premises in the area, to ensure that those parties potentially affected are aware of the proposals.

Where parties indicate matters of concern, which may/may not be reflected by any incident/complaint history by partner agencies, parties will be given the opportunity to expand/amplify their original representation, prior to any hearing.

Where considered appropriate, in particular where representation reflects Anti-Social Behaviour, parties concerns will be passed to partner agencies such as the Community Safety Team, for further investigation & liaison with specialist officers. This reflects the commitment of the Council to secure an improvement in local amenity through a reduction in alcohol related anti-social behaviour.

3.8 Various factors need to be considered when addressing licensing objectives and the weight to be attached to addressing any particular objective will vary depending on the circumstances.

Relevant factors include:-

- The location of the premises and its proximity to such places as offices, schools, religious establishments and residential property;
- The size, capacity, facilities, design or state of repair of the proposed premises;
- The degree to which the premises contains the noise generated by the licensed activity. (This may include music and/or customer noise arising from entertainment, or noise arising from any ancillary activity, which may adversely affect the wider community.)
- The type and frequency of entertainment to be provided, with appropriate regard for the provisions of the Live Music Act where premises authorised for certain types of licensable activity have an automatic entitlement to provide unregulated entertainment.
- Access to public transport or off street parking (where this may be an issue).
- Provision of appropriate supervisory staff, where required.
- Confidence in management, where the capability and/or experience of the management team should be commensurate with the business proposed.

3.9 Applicants will only be expected to address issues that are in their direct control, in the vicinity of their premises.

- 3.10 However, appropriate protection will be sought in respect of the direct impact of the activities taking place at **and around** licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- 3.11 Therefore, applicants are encouraged to co-operate with official agencies in establishing strategies for minimising problems, potentially caused by their patrons or their licensable activity.
- 3.12 The Licensing Authority considers that the promotion of the licensing objectives will be best achieved by developing a culture of 'social responsibility', where stakeholders take responsibility for their impact on the communities in which they trade or socialise.

Therefore, the Licensing Authority expects every holder of a licence, certificate or permission to be responsible for minimising the impact of their activities and any anti-social behaviour by their patrons within the immediate vicinity of and related to the premises. This will require licence/certificate/permission holders to demonstrate that they have taken appropriate action to do so.

3.13 Licensing Forum

The Licensing Authority has established a Licensing Forum that comprises all Responsible Authorities, with a remit to facilitate efficient & effective co-operation between partner agencies in respect of licensing matters. The Forum will meet, as a minimum, on a quarterly basis and will invite relevant bodies/ persons to participate as appropriate.

Conversely, engagement with relevant agencies will give them the opportunity to contribute to achieving the licensing objectives. This holistic approach is more likely to provide comprehensive, lasting solutions, which are acceptable to all parties.

Careful consideration has also been given to the Welsh Assembly 'Working Together to Reduce Harm, the Substance Misuse Strategy for Wales 2008 - 18, and to the Council's obligations under section 17 of the Crime and Disorder Act 1998, to consider the likely impact of exercising its functions and to do all that it reasonably can to reduce crime and disorder in its area.

The Licensing Authority will have regard to transport strategies and complimentary initiatives that contribute towards reducing social exclusion and improving access to local facilities and services.



4. THE PREVENTION OF CRIME & DISORDER/ANTI SOCIAL BEHAVIOUR

The Council, in **conjunction with partners** is committed to:

- Improving the quality of life for our communities and make Rhondda Cynon Taf a safer place in which to live, work and visit
- By reducing crime and the fear of crime

Section 17 of the Crime & Disorder Act 1998 imposes an obligation on every police authority, local authority and other specified bodies to consider crime and disorder prevention/reduction in the exercise of their functions.

Such obligation includes the prevention of:

- (i) anti- social behaviour and other behaviour adversely affecting the local environment;
- (ii) misuse of drugs, alcohol and other substances.

The Licensing Act 2003 reinforces this duty for local authorities.

4.1 A 'Partnership & Multi Disciplinary' Approach

4.1.1 The Council recognises that, apart from the licensing function, there are other mechanisms available for addressing issues of unacceptable behaviour that can occur away from licensed premises, including:-

- planning controls
- ongoing measures to provide a safer and cleaner environment in partnership with local businesses and others
- police enforcement of the law with regard to disorder and anti-social behaviour
- police powers to close some premises for up to 24 hours in cases of disorder or excessive noise
- new powers of Environmental Health Officers under Anti- Social Behaviour Act 2003, with provision for temporary closure of noisy premises
- the power of relevant Responsible Authorities, local businesses or residents to demand a review of the licence
- powers of Trading Standards Officers to deal with sales of alcohol to minors
- enforcement action against those selling alcohol to people who are already intoxicated (from any form of substance misuse)

4.1.2 However, the promotion of the licensing objective, ***to prevent crime and disorder***, places a responsibility on licence holders to become key partners in achieving this objective.

- 4.1.3 Applicants for **personal licences** will be expected to be fully aware of their legal responsibility for ensuring adequate supervision and management of licensed activities at all times. They will also be expected to have knowledge of the relevant licensing law and also of how the law impacts on their role in practice.

The Licensing Authority strongly recommends that personal licence holders give specific written authorisations to individuals that they are authorising to retail alcohol.

Such authorisation, in accordance with best practice, should include:

- The person(s) authorised to be clearly identified;
- Detail the acts to be carried out by the person (s) nominated
- Written copy of authorisation to be given to the person being authorised
- Detail arrangements for monitoring activity authorised

- 4.1.4 Applicants for **premises licences** will be expected to address similar issues in respect of their legal responsibility for management of licensable activities at all times. They will also need to consider issues relating to “designing out” potential problems.

- 4.1.5 **When addressing crime and disorder the applicant should initially identify any particular issues (having regard to their particular type of premises and/or activities) that are likely to adversely affect the promotion of the crime and disorder objective. Suitable and sufficient steps to deal with these identified issues should be included within the applicant’s operating schedule.**

- 4.1.6 This approach will be consistent with the aim of the Licensing Authority to promote a culture of social responsibility, where due regard is given to the community in which a premises is located.

- 4.1.7 When addressing the issue of crime and disorder, the applicant should demonstrate that those factors that impact on crime and disorder, **both on and off** the premises, have been considered and acted upon. These may include:-

- Underage drinking (Challenge 21)
- Drunkenness on premises (Refusals Log;)
- Public drunkenness (provision of Internal and/or External CCTV)
- Substance misuse & supply (Toilet/beer Garden Checks; submission of ‘drugs policy’)
- Violent behaviour (Banning Policy; participation in local ‘Pubwatch’ scheme)
- Anti-social behaviour (Use of Door Supervisors)

- 4.1.8 In determining licence applications, the Licensing Authority will consider the adequacy of measures proposed to deal with the potential for crime & disorder having regard to all the circumstances of the matter.

4.2 Operating Schedules

Applicants are advised that the Operating Schedule proposals should focus on deterring and preventing crime and disorder. Good practice particularly advocated by the Police includes:-

- **CCTV**

The presence of close-circuit television cameras both inside and immediately outside the premises, which can actively deter disorder, nuisance, anti-social behaviour and crime generally.

Applicants may wish to have cameras on their premises for the protection of their own staff and for the prevention of crime directed against the business itself or its customers.

It may be necessary to ensure that the precise locations of cameras are set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the licence condition. Free advice may be obtained from Police Crime Reduction Officers regarding installation.

- **Door Supervisors**

Similarly, premises that operate later in the evening and provide entertainment may consider 'door supervision' as a necessary measure to ensure that persons who are drunk, or likely to increase potential for crime and disorder do not enter premises.

The Licensing Authority strongly recommends that Door Supervisors do not occupy a 'dual role', such as that of DPS or any other 'authorised person' involved with management of a premises as it may compromise the effective performance of either/ both roles.

- **Capacity Limits**

Where entertainment is provided applicants are requested to consider setting a capacity limit for their venue, where it may be necessary to prevent overcrowding likely to lead to disorder and violence, or a compromise to public safety.

- **Non Glass policy**

Other proposals may include a condition requiring that all glasses used on the premises for the sale of alcoholic drinks should be made of plastic or toughened glass; or not allowing bottles to pass across a bar may be necessary to prevent violence by denying assailants suitable weapons,

This may also benefit public safety by minimising potential injury to victims when assaults take place (for example, facial injuries resulting from broken glass). Applicants may wish to consider limiting this proposal to specific times or occasions, such as weekends and major sporting events.

4.3 'Pubwatch' Schemes

The Licensing Authority strongly recommends the participation of licensees and/or premises managers in such schemes, where they exist. It is considered to be a key element of positive partnership working, to address issues of concern and promote good practice.

4.4 Temporary Event Notices (TEN)

4.4.1 The use of a Temporary Event Notice (TEN) is intended to facilitate community events, or a special occasion celebration, at a specified location or venue that may or may not be licensed premises. Such events are not required to be licensed but must be notified to the Licensing Authority (and copied to the Police & Environment Health Officer (EHO) with responsibility for Pollution Control) using the Temporary Event Notice procedure. Most Temporary Events will not present any problems. However, depending on the nature and location of such events, there is the potential for noise, alcohol related disorder, anti-social behaviour and adverse impact to the community in which they occur.

Organisers of these events are encouraged to submit their notification as **soon as reasonably practicable** to enable the Responsible Authorities to work with them to identify and reduce the risk of crime and disorder, nuisance or anti-social behaviour.

For avoidance of doubt, the Licensing Authority require service of a TEN, (in accordance with statutory requirements) at the nominated address of the relevant Responsible Authorities, (Police & EHO) as listed on the Council's website [LINK](#)

The **minimum STATUTORY period** required before serving a STANDARD TEMPORARY EVENT NOTICE is **10 working days, excluding day of service of notice and day of event.**

4.4.2 Provision has been introduced for a LATE TEMPORARY EVENT NOTICE which, in the case of EXCEPTIONAL CIRCUMSTANCES may be served 5 working days before the date of the event **excluding the day of service of notice and the day the of event.**

However, the less time given to consider the impact of the event, will increase the likelihood of Police or EHO representation. Conditions may be added to a TEN which takes place in existing licensed premises, (where conditions already exist on the current Premises Licence/ Club Premises Certificate), by Police or EHO.

Event organisers should also be aware than an event cannot take place if representation is made to a LATE TEN, whereas representations to a STANDARD TEN will usually result in a hearing before the Licensing Sub Committee.

4.4.3 There is no discretion for Officers to accept Notices served outside this timescale and the service of an invalid TEN may jeopardise the proposed event taking place.

The Licensing Authority recommends that notice of a TEN be served a maximum of 4 months prior to the proposed event to ensure that consideration of the Notice reflects the prevailing local conditions relevant at that time.

To facilitate the smooth running of an event, the Licensing Authority recommends that a period of 3 months notice be given. This will allow organisers to liaise with relevant bodies and ensure any issues of concern are addressed at the earliest opportunity.

4.4.4 The Council has established an Events Panel, consisting of representatives from various agencies, whose role is to advise and co-ordinate the planning of events in the County Borough – whether or not a premises licence or TEN is required. Event organisers are encouraged to use the Events Panel as part of their event planning process. (The service is available free of charge to promote safe and varied events within the County Borough.)

Event organisers are strongly advised to consult with local Police & EHO regarding their proposals at the earliest opportunity, in order that appropriate advice & guidance is given and the success of the event assured.

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5. PUBLIC SAFETY

5.1 The Licensing Authority recognises that different types of premises will present differing issues of public safety that will need to be addressed. For example, the safety considerations of public houses, nightclubs, restaurants, hotels (with entertainment), theatres and cinemas will raise issues peculiar to them.

5.2 The prime responsibility, however, is placed on those who provide entertainment, refreshment (alcohol & food) or events to secure the safety and well being of their customers and staff.

5.3 Where an applicant identifies an issue in regard to public safety (including fire safety), which is not covered by existing legislation the applicant, should identify in their operating schedule the steps that will be taken to ensure public safety.

5.4 In particular, the Licensing Authority will expect applicants to address the following matters in their operating schedules:-

- Capacity**
- Use & maintenance of equipment**
- The use of special effects as part of regulated entertainment offered at the premises**

(The Licensing Authority will not expect applicants to duplicate provisions for Fire Safety as regulated by The Regulatory Reform (Fire Safety) Order 2005, which requires risk assessment of their activity in this respect.)

5.5 If not volunteered by the applicant in their operating schedule and following relevant representations, the Licensing Authority may need to attach conditions to licences to address safety issues. These conditions will only seek to secure the most cost effective solution, taking account of the nature of the premises and the scale or type of entertainment to be provided.

It is recognised that entertainment to be provided in purpose built “night club” premises presents special considerations. Entertainment organisers should be guided by the following document and be conversant with it’s content:

The Safer Clubbing Guide published by the Home Office in conjunction with the Departments of Health; Culture, Media and Sport. This is located on the Internet at: <http://www.drugs.gov.uk/Reportsandpublications/communities>

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6. THE PREVENTION OF PUBLIC NUISANCE

6.1 The Licensing Authority recognises that different people may have differing levels of tolerance to the unavoidable ordinary activity involved in the provision of entertainment or refreshment. The Licensing Authority also recognises the positive impact that a vibrant and varied entertainment scene can have on promoting tourism, on leisure opportunities, and on the local economy. However, it also recognises the unique environment of many neighbourhoods in Rhondda Cynon Taf where entertainment premises are situated in close proximity to residential properties.

6.2 Therefore, the Licensing Authority will look carefully at the impact of licensed premises and events with regard to potential noise and disturbance to nearby local residents or business interests. It is also recognised that the later the entertainment takes place then the greater will be the need to take steps to ensure that the effect of any activities does not cause unreasonable disturbance.

- 6.3 Where a premise is in close proximity to residential property an applicant may wish to consider including in their operating schedule details of sound insulation measures that have been (or will be taken) to ensure that entertainment noise will not cause public nuisance. Applicants will be required to clearly demonstrate that the acoustic integrity of the premises is such that it is suitable for providing entertainment and that noise from entertainment will not be audible in nearby residential properties.
- 6.4 **The Council's Environmental Health Officers would welcome pre-application enquiries on how to mitigate public nuisance from licensed activity, such as noise arising from entertainment, patrons in designated smoking areas, provision of litter bins etc.**
- 6.5 The Licensing Authority generally will seek to balance the rights of local residents and others with those wishing to provide entertainment or other activities. Conditions will be attached, where necessary, tailored to addressing public nuisance issues that may arise in particular premises.
- 6.6 The Licensing Authority intends to interpret " public nuisance " in its widest sense and takes it to include such issues as noise, light, odour, litter and disturbance from customers in the immediate vicinity of the licensed premises, where these matters impact on those living or working in an area.
- 6.7 The Licensing Authority will expect to see (and may impose) stricter controls on premises in sensitive locations (e.g. residential areas) to protect the community.

However, the Licensing Authority will also seek to balance the impact of frivolous complaint, being mindful of the nature & location of the nuisance.

- 6.8 On addressing the issue of prevention of public nuisance, applicants are advised to demonstrate that those factors that impact on the likelihood of public nuisance have been considered and acted upon. These may include:
- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship;
 - the hours of opening, particularly between 23.00 and 07.00;
 - the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises;
 - CCTV in all public areas (excluding toilet cubicles)
 - the design and layout of premises and in particular the presence of noise limiting features;
 - the occupancy capacity of the premises;
 - the availability and location of public transport/taxis facilities;
 - 'wind down period' between the end of the licensable activities and closure of the premises;
 - latest admission time;

- the impact of low level nuisance in the immediate vicinity of the premises, including such matters as the effect of customers congregating outside to smoke or disturbance from people leaving/entering the premises

6.9 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:

- appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance, e.g. to prevent disturbance from external smoking areas or to ensure customers leave the premises quietly;
- control of operating hours for all or parts (e.g. beer garden areas) of premises, including such matters as deliveries;
- adoption of noise control measures outlined in a document produced by the Licensing Authority titled *'Guidance to Licensees, Club Committees and Organisers of Licensed Events on How to Control Noise:-*
- employing a competent noise consultant to advise on suitable noise control matters such as installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;
- management of people, including staff, traffic (and resulting queues or crowds arriving and leaving premises);
- liaison with licensed 'taxi' providers;
- location of external lighting, including security lighting; (this needs to be balanced against the benefits of the prevention of crime and disorder, of providing bright lighting in certain places);
- management arrangements for collection and disposal of litter;
- effective ventilation systems to prevent nuisance from odour.

6.10 The Live Music Act 2012 was introduced to encourage live music in small venues. That development is welcomed in that it encourages musical expression and provides more cultural opportunities for local people. However, given that the majority of public houses in the Borough are in close proximity (or even attached) to residential premises, the potential for nuisance from unregulated entertainment, such as live music is clear.

6.11 Although it is no longer possible to deal with these matters directly as a breach of licence conditions, residents will still be protected from unreasonable noise. In the event of complaint, the matter will be investigated by Environmental Health Officers who will engage with the licensee and other stakeholders to determine whether a nuisance exists, (or is likely to exist or to recur) and to negotiate a solution. If need be, they will use their powers under The Environmental Protection Act 1990 to serve an Abatement Notice and will take appropriate action if necessary to enforce it. They may also instigate a review of the premises licence and invite the Licensing Sub Committee to impose conditions to control the nuisance or, if that is not practicable, to suspend or revoke the licence.



7. THE PROTECTION OF CHILDREN FROM HARM

7.1 General Considerations

7.1.1 The Licensing Authority recognises the great variety of premises for which licences may be sought. These will include Theatres, Cinemas, Restaurants, Pubs, Nightclubs, Cafes, Takeaways, Community Halls and Schools. Access by children to all types of premises will not generally be restricted unless it is considered necessary to do so in order to protect them from harm in some way.

7.1.2 The Licensing Authority will consider 'harm' to include any damaging, detrimental or injurious effects on children and will be concerned to afford protection from moral, psychological and physical harm.

7.1.3 When deciding whether to limit access to children or not the Licensing Authority will judge each application on its own individual merits, having regard to any representations that may have been received. Examples that may give rise to concern in respect of children would include:-

- Premises where there have been convictions for serving alcohol to minors or premises with a reputation for under age drinking
- Premises with a known association with drug taking or dealing
- Premises where there is a strong element of gambling
- Premises where entertainment of an adult or sexual nature is commonly provided
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises
- Premises with a reputation for being a location of proxy sales

7.1.4 Where a large number of children are likely to be present on any licensed premises, for example, a children's discothèque, show or pantomime, then conditions will be imposed requiring the presence of an appropriate number of adult staff to ensure their safety and protection.

At such events suitable safeguards, such as either the closure of the Bar area or removal of alcohol from sale will be required. Soft drinks/refreshment will be available, together with free water supply.

7.1.5 The Licensing Authority strongly recommends that to prevent illegal sales to underage persons, licence holders participate in a '**proof of age**' scheme, where the card incorporates the 'PASS' logo. The Licensing Authority supports the '**Validate**' scheme and actively works with local schools to encourage young persons to obtain a card.

7.1.6 The Licensing Authority would expect licensees to be able to demonstrate that the proof of age scheme has been properly implemented, by verifying that all their staff consistently asks young purchasers to provide proof of their age before selling alcohol to them.

The Licensing Authority supports the use of the following for proof of age verification:

- “Pass” accredited proof of age cards
- Driving licences
- Passports
- Home Office Identity/ Passport Service Identity cards
- Military Identity cards

The use of any other types of identity cards, which are more readily falsified, is not recommended. Simply asking for the purchaser to state their age is not considered sufficient, as underage persons are unlikely to give their true age.

- 7.1.7 Although the legal age for selling alcohol is 18, as an added protection for the licensee the Licensing Authority would strongly recommend that the licence holder should implement a “Challenge 21 policy”, whereby any person who appears to be under 21 is **always** asked to produce a valid proof of age card before being allowed to purchase alcohol.
- 7.1.8 Under a mandatory licensing condition, the steps that licence holders expect their staff to take should be detailed in an Age Verification Policy, together with any policy for ‘Challenge 21 etc; This document should be provided to all staff employed at the premises, in conjunction with training in respect of effectively operating the policy.

Licensees may wish to consider operating a ‘Challenge 25’ scheme, or similar, which will provide a visible deterrent to young persons purporting to be 18+ for the purpose of alcohol sales.

- 7.1.9 Officers from the Trading Standards Service will carry out test purchases at licensed premises, using young or underage volunteers. This will be done in order to check whether or not young persons are asked to produce proof of age verification, or whether sales are made to underage persons. Usually these test purchases will be observed by officers in plain clothes who have entered the premise and who will not announce their presence whilst the test purchase is taking place. Such test purchases will routinely be carried out on a frequency dependant on a number of factors, including the types of products sold, the previous compliance record of the premise, the systems in place to prevent such sales and confidence in the competence of management. As well as this, further test purchases may be made when appropriate intelligence or complaints are received.

In a similar manner officers may visit premises in plain clothes, without announcing their presence, in order to observe whether requirements regarding the prevention of underage sales or proxy sales are being complied with.

- 7.1.10 Failure to demonstrate appropriate implementation of the proof of age scheme is likely to undermine the licensing objective for protection of children from harm and may lead to the licence being the subject of review.

7.1.11 Although it is not the standard policy of Trading Standards to make an application for review of the licence after just one underage sale of alcohol, this may be done in more serious cases. For instance a serious view will be taken:

- Where underage sales appear to have been made deliberately by the seller;
- Where persons under 18-years-old have been allowed to make underage sales without proper authorisation;
- Where underage sales take place at the same time as other breaches of licensing conditions, (such as the non-operation of CCTV equipment or selling alcohol at less than the minimum unit price);
- Where the licensee shows an inability to actively promote the protection of children from harm by allowing sales to be made by persons with language / communication difficulties;

Also, there might be cause for concern if underage sales of age-restricted products other than alcohol take place, as this will undermine confidence in the management of the premise.

Proxy Sales

7.1.12 The Licensing Authority is aware that young persons attempt to obtain alcohol from licensed premises via proxy purchases, where adults purchase alcohol and supply it to an underage person. Proxy sales may occur even where the licensee has implemented an adequate system of age verification to prevent direct underage sales.

Applicants will be expected to identify steps to be taken to prevent such proxy sales taking place.

7.1.13 Where proxy sales are identified as a problem at a particular premises, or in a particular area, (perhaps characterized by groups of young persons congregating in the vicinity of the premises), consideration will be given to the imposition of conditions in order to reduce incidence of proxy sales.

Such measures could include:-

- A refusal to sell alcohol to persons who are known to have supplied alcohol to young persons previously;
- A requirement to mark alcohol containers with stickers, so as to identify the business that sold them;
- Require a personal licence holder to be present for retail sale of alcohol at specified times;
- A mechanism for challenge of persons suspected of purchasing alcohol for young persons

Licensees will be expected to provide adequate signage to deter proxy sales. The Licensing Authority strongly recommends that licence holders make clear that proxy purchasers will be banned from the premise and face the threat of prosecution. Licensees are encouraged to notify the Licensing Authority if they become aware of proxy sales issues at their premise, so that both parties can work together to address the problem.

7.2 Illicit Alcohol

Although the sale of counterfeit and smuggled alcohol is illegal in its own right, it is also particularly relevant to the protection of children, as well as to the prevention of crime and disorder. This is because the cheaper price at which illicit alcohol can be sold is likely to make it more appealing to young persons and because any contaminant within such alcohol could have a more significant adverse effect on a young person than it would have on a mature adult.

Therefore all licence holders are expected to take steps to prevent the purchase of alcohol from unofficial sources, such as from van drivers who cold call at premises to sell cheap alcohol. (This will include any purchases made by employees.) The Licensing Authority strongly recommends that licence holders ensure that they obtain proper, dated receipts for the purchase of all alcohol, where these receipts contain the full name, address and telephone number of the seller, as well as an itemised list of the alcohol that was purchased.

Licensees are reminded that the sale or possession of illicit alcohol may well result in an application for review of the licence, as such incidents are likely to undermine confidence in the management at the premise.

7.3 Showing of Films Videos etc

In the case of premises giving film exhibitions the Licensing Authority will require licensees to impose conditions that children will be restricted from viewing age-restricted films classified according to recommendations of the British Board of Film Classification, that is :-

- **U Universal – suitable for all**
 - **PG – Parental Guidance. Some scenes may be unsuitable for young children.**
 - **12A – Passed only for viewing by persons aged 12 years or older or younger persons accompanied by an adult.**
 - **15 – Passed only for viewing by persons aged 15 years and over.**
 - **18 – Passed for viewing by persons aged 18 and over.**
 - **Restricted 18 – Passed only for viewing by persons aged 18 years or over who are members of a properly constituted club or their guests aged 18 or over.**
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8. CUMULATIVE IMPACT OF A CONCENTRATION OF LICENSED PREMISES

- 8.1 “Cumulative impact” means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.
- 8.2 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter that the Licensing Authority is able to take into account. This should not, however, be confused with ‘need’ which relates more to the commercial demand for a particular type of premises e.g. a pub, restaurant or hotel. The issue of ‘need’ is therefore a matter for *planning consideration* or for the market to decide and not an issue of licensing policy.
- 8.3 The Licensing Authority does not **currently** consider it necessary to adopt a policy that restricts the number of licences in any part of the County Borough on the grounds of cumulative impact or saturation. **However, the absence of a ‘cumulative impact policy’ will not preclude the consideration of relevant representations on applications for Grant or Variation to Premises Licences/ Club Premise Certificates, where a Responsible Authority or other party are of the view that such premises will give rise to a negative impact on the licensing objectives. The burden of proof will be on the person making the representation to evidence their concern.**
- 8.4 The nature of the commercial areas within the County Borough is such that a significant number of licensable premises are located within mixed commercial and residential communities. The proximity of such residential areas will be taken into account when considering applications.
- 8.5 A concentration of licensed premises in a particular area can result in an increased number of people walking through or congregating in streets during the night with the potential impact of an increase in crime, anti-social behaviour, noise pollution and other disturbance to residents, together with an increase in littering or fouling. In such cases the amenity of local residents can be placed under severe pressure, but may not be attributable to any individual premises.
- 8.6 The Licensing Authority intends to keep the situation under review during the life of this policy and will take into consideration any representations it may receive from either a Responsible Authority or other person, that the cumulative impact of new licences is leading to an area becoming saturated with premises of a certain type, thereby creating exceptional problems of disorder and nuisance over and above the impact from the individual premises themselves.

In such cases the issue of cumulative impact can be taken into account when considering the individual merits of an application and the Licensing Authority will consider reviewing its policy in this regard.

In addition, NICE (National Institute for Health & Care Excellence) Evidence Update 54 (March 2014) supports taking into account the links between availability and alcohol related harm by examining alcohol outlet density as part of a licensing application review.

8.7 Other Mechanisms for Controlling Cumulative Impact

The Licensing Authority recognises that there are a variety of mechanisms outside the licensing regime that are available for addressing such issues. This includes, (but not exclusively so,) the following:-

- Planning controls;
- CCTV in town centres and other areas as appropriate;
- Positive partnerships for town centre management which includes local businesses /other local authority departments (Taxi Marshall schemes; street cleaning, litter patrols etc)
- Police enforcement of the law concerning disorder and anti-social behaviour;
- Designated Public Place Order

8.8 Designated Public Place Order (DPPO)

A Designated Public Place Order took effect in Rhondda Cynon Taf from 8th March 2012. The Order, which applies to all public places in the Borough, allows an authorised officer to require any person, in a public place, not to drink alcohol in that place if the officer reasonably believes that the person has consumed alcohol or intends to do so. The officer may also require the person to surrender the alcohol and any opened or sealed alcohol containers in the person's possession. Any person who fails without reasonable excuse to comply may commit an offence and be liable to prosecution.

In accordance with Home Office Guidance, authorised officers will reserve this power to deal with people who are drinking in a public place and making a nuisance of themselves.

9. SPECIAL EVENTS IN THE OPEN AIR OR IN TEMPORARY STRUCTURES

9.1 The Licensing Authority is keen to encourage and promote the organising of live musical and similar entertainment in the open air or in temporary structures like marquees etc. Such events can provide opportunities for community involvement and civic pride and can attract visitors to the Borough.

9.2 However, the success of such events by way of contribution to the Council's cultural and tourist strategies, depend upon the quality, levels of safety, consideration for the rights of people who live or work in the vicinity, and the standard of facilities provided for those coming to enjoy the event.

- 9.3 In recognition of the special factors that are relevant, particularly with respect to major open air events e.g. pop festivals, the Council has established an Events Panel to assist organisers in co-ordinating such events. The Events Panel is made up of representatives from Council Groups; external agencies and the Emergency Services who have an interest in, or enforce legislation relevant to such events.
- 9.4 The Events Panel is seen as a 'one stop shop' where all the relevant bodies can be gathered together for immediate consultation and advice.
- 9.5 Members of the Events Panel are notified about all proposals to hold such events and where necessary a special meeting will be organised in order to consider any issues that will require to be addressed and to open up lines of communication with organisers.

General guidance on planning such events is also available to organisers but it is important to appreciate that substantial notice should be given so that proper preparations and precautions can be put in place for the events.

When considering applications for relevant open-air events such as large scale concerts the Licensing Authority will have regard to:

- "HSE Guide to Health, Safety and Welfare at music and similar events"(The Purple Book)
- "Code of Practice on Environmental Noise Control at Concerts", published by The Noise Council 1995. (Available from the Chartered Institute of Environmental Health Publications ISBN 0900103515).

The Licensing Authority recommends the information and guidance from the Disability Rights Commission – **Organising Accessible Events**. Information and guidance is available from www.drc-gb.org/publicationsandreports



LICENSING HOURS

10.1 General Considerations

There is no general presumption in favour of lengthening licensing hours, and each application will be considered on its merit, subject to representation and its impact on the community.

In the interests of reducing crime, disorder and anti-social behaviour, the Licensing Authority strongly recommends that applicants demonstrate a responsible approach to alcohol sales by ending such sales a minimum of 30 minutes prior to premises terminal hour (closing time).

This demonstration of social responsibility may be reinforced by conditions in an operating schedule or may be imposed by the Licensing Authority on receipt of relevant representations.

The Licensing Authority will consider the issue of licensing hours having due regard to the individual merit of each application and having regard to any relevant representations received. When considering the terminal hour for individual premises the Licensing Authority will consider:-

- Avoidance of concentrations of persons late at night;
- The potential for conflict & anti-social behaviour in the vicinity;
- The ability of local transport providers to clear patrons from the area;
- The proximity of residential premises and potential impact of licensable activity on residents and their property
- History of activity associated with premises, with particular relevance to complaints

10.2 Shops, Stores & Supermarkets

Unless circumstances require otherwise, the Licensing Authority will consider licensing shops, store & supermarkets to sell alcohol for consumption off the premises at any times when they are open for trading.

However, it may consider that there are very good reasons for restricting those hours, particularly where Police representations are made in respect of any premises, or areas associated with a premises, which are reasonably linked to disorder or disturbance.

11. PETROL FILLING STATIONS

Section 176 of the Licensing Act prohibits alcohol sales from premises that are used primarily as a garage (or are part of premises used primarily as a garage) and are used for one or more of the following: retail sale of petrol/diesel; sale/maintenance of motor vehicles.

If premises are primarily used as a garage are granted a licence, that licence is of 'no effect' and alcohol may not lawfully be sold.

The Licensing Authority must therefore be satisfied whether or not any premises is used primarily as a garage before the grant of a licence.

Applicants will be required to demonstrate at the time of application that their premises are not primarily used as a garage and may consider submission of evidence such as sales and/or footfall for a minimum period of 2 years prior to the application.

Where information does not exist , (such as for NEW premises or where the trading period is less than 2 years) and there is insufficient evidence to establish primary use, the Licensing Authority will have regard to relevant information available at the time of determination and deal with each case on merit.

12. REPRESENTATIONS

12.1 Representations can be made in opposition to, or in support of an application. However, the Licensing Authority will consider that the receipt of a representation **in opposition to an application** to properly engage its discretion and trigger the hearing process. Where only supportive representations are received, the Licensing Authority will exercise its discretion to determine whether or not a hearing is held.

12.2 Representations may be made by: -

- Any person may make a representation in relation to an application for a new Premises Licence/ Club Premises Certificate or the variation of an existing permission;
- organisations representing such bodies e.g. resident's associations;
- organisations such as churches, schools or hospitals
- Ward Councillors may make representations in their capacity as elected representatives; on behalf of their constituents or in their own right as an individual living in the vicinity.

12.3 The Licensing Authority recommends that representations should:

- Be made in writing
- Indicate name, address of person making representation
- Indicate premises to which representation relates
- Clearly detail grounds for representation
- Indicate the proximity of the premises to the person making the representation and how they are affected by it.

12.4 Representations can only be considered if they are concerned with one or more of the 4 the licensing objectives.

In accordance with statutory requirements, copies of representations will be forwarded to the applicant in order that they may respond. Representations that are not withdrawn are included in public reports that are considered by Councilors at hearings.

12.5 In exceptional cases, where the Licensing Authority consider that an interested party has a genuine and well founded fear of intimidation, an alternative approach will be adopted, which will seek to maintain the anonymity of the interested party concerned. Such action will only be taken where the Licensing Authority is satisfied the representation is neither frivolous nor vexatious and genuine cause for concern has been established.

12.6 Petitions

There will be limited weight given to a petition, as a relevant representation, (either in support of, or in opposition to an application) unless it can be demonstrated that signatories have expanded/amplified their individual views regarding the application and/or premises under consideration.

It will be the responsibility of the individual signatory to demonstrate how the application premises affects them and promotes, or fails to promote, the licensing objectives.

Prior to initiating a petition as a means of representation, the Licensing Authority strongly advises that contact be made with the Licensing Team in order that appropriate advice can be given.



13. REVIEWS

13.1 The Licensing Authority recognise that the review process represents a key protection for our communities, where existing systems for control of licensed premises may have failed in some respect and require addressing.

13.2 A review can be called by either a Responsible Authority or other person and must be:

- relevant to the promotion of the licensing objectives, and
- be directly attributable to a particular premises, where a licence is in force

13.3 The Licensing Authority views particularly seriously applications for review of any premises where it involves use of licensed premises for:-

- sale/distribution of illegal substances;
- Sale/distribution of illegal firearms
- Evasion of copyright in respect of pirated films and/or music
- Purchase/consumption of alcohol by persons underage
- Prostitution/ unlawful pornography
- Adults seeking to promote behaviour that will place children at risk of significant harm ;
- Adults failing to prevent children from engaging in behaviour that will pose a risk of significant harm to those or other children
- illegal / improper use of school children working excessive hours
- Organisation of racist activity
- As a base for organised criminal activity, particularly gangs
- Illegal gaming/gambling
- Sale of smuggled tobacco & alcohol
- Knowingly employing a person who is unlawfully in the UK; or who cannot be lawfully employed as a result of a condition on that person's leave to enter.

13.4 OR, where management practices are failing to address adverse impact to the community in respect of the following criteria:

- The need for frequent Police intervention in respect of disorder,
- Prolonged and/or repeated instances of public nuisance
- Serious risk to public safety which licensee is unable or unwilling to address
- Where serious risk to children is identified
- Continuous non-compliance with conditions of licence, which indicates that the premises are being operated contrary to the operating schedule.

Promotion of Social Responsibility

13.5 The Licensing Authority will work closely with all partners to seek to promote a culture of social responsibility and good management, intended to facilitate sustainable businesses for the benefit of both the community and trader.

Promotion of social responsibility will be considered in its widest meaning and a serious view will be taken of businesses where profit & commercial advantage is pursued at the expense of wider public interest. Businesses are reminded that an activity may not be illegal for it to adversely impact on community well-being.

13.6 To this end, the Licensing Authority and partners will adopt a stepped approach, where early warning of concerns will be given to licensees to allow opportunity to address problems. A failure to take heed of a warning and effect an improvement is likely to result in a review.

13.7 When considering a review application, the Licensing Committee may take such of the following steps as it considers necessary for the promotion of the licensing objectives:

- Decide not to alter the licence and/or issue a warning as to improvement
- Amend the licence conditions
- Exclude a licensable activity
- Remove the DPS
- Suspend the licence for a period not exceeding 3 months
- Revoke the licence

The Licensing Authority will consider the imposition of a period of suspension as a punitive measure, in appropriate circumstances. It is considered that this can provide an effective deterrent, and, also eliminate any financial gain/benefit from non-compliance, consistent with the aim of our corporate enforcement policy.

- 13.8 The Licensing Committee, when considering a review application will have particular regard to poor management practices where it can be demonstrated that it is a direct reflection of poor company practice or policy. Consideration will be given to the adequacy of measures such as removal of DPS or interim management personnel but where the Licensing Authority is satisfied that a licensee is failing to promote the licensing objectives serious consideration will be given to revocation of the Premises Licence/Club Premises Certificate in the first instance.
- 13.9 Where a Premises Licence /Club Premises Certificate is revoked in response to a review, there will be a **presumption to refuse any subsequent application for licensable activity at the premises for a minimum period of 12 months, or such other period as considered necessary by the Licensing Committee.**

Where an applicant wishes an exception to this policy to be considered, it will be the responsibility of the applicant to demonstrate why an exception should be made



14. COMPLIANCE & ENFORCEMENT

- 14.1 The Council delivers a wide range of enforcement services aimed at safeguarding the environment, the community **at promoting** a fair-trading environment.
- 14.2 The Authority has adopted the Government's principles of good enforcement set out in the Government's Enforcement Concordat and the Regulators Code 2014.

The Corporate Enforcement Policy is available on the Council's web site <http://www.rhondda-cynon-taff.gov.uk> and in hard copy from the Licensing Team.

- 14.3 This is based on the principles that Regulators should:
- carry out their activities in a way that supports those they regulate to comply and grow
 - provide simple and straightforward ways to engage with those they regulate and hear their views
 - base their regulatory activities on risk
 - share information about compliance and risk
 - ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
 - ensure that their approach to their regulatory activities is transparent

(The full text of the Regulators' Code can be found at <http://www.gov.uk/government/publications/regulators-code>)

- 14.4 The Licensing Authority will work in partnership with other enforcement agencies, where there is a shared or complimentary role, for example Responsible Authorities. In addition, the Licensing Authority will work with other partner agencies, as may be relevant to a particular matter under consideration in order to ensure the promotion of the licensing objectives.

This partnership working may take a variety of formats, which include multi agency inspection and/or the exchange of relevant information (subject to appropriate statutory controls)

The 'Traffic Light System' currently operated by South Wales Police as an indicator of effective management control of crime & disorder in licensed premises will be given due regard by the Licensing Authority, when intervention for any non-compliance is considered.

(The 'Traffic Light System' is used by South Wales Police to highlight licensed premises which are particularly associated with crime & disorder, which may then merit intervention from partner agencies.)

Premises Inspection

- 14.5 Licensed Premises will be risk assessed and attributed a 'risk rating' in accordance with the following criteria:-

- Trading Profile of the Premises
- Confidence in management
- Complaint history
- Compliance history

- 14.6 All licensed premises will no longer be subject to pre-programmed inspections. In order to make best use of limited resources and limit the impact on well managed businesses, inspection will be conducted as follows:-

- as part of the application process to assess the risk they pose;
- following a change of management control, either by Transfer of Premises Licence, Variation of DPS or change of Tenancy;
- on premises where there are concerns regarding the ability of the Premises Licensee, DPS or Manager(s) to promote the licensing objectives, comply with conditions of licence, and/or give rise to an adverse impact on the community in which they trade;
- pre-programmed inspections will however be maintained for Category A & B premises (High & Medium risk) in accordance with priorities for 'Wales Programme for Improvement', as follows:-

| Risk Status | Inspection & Monitoring Frequency |
|--------------------|--|
| High A | Inspection @ 6 month interval; Frequent monitoring during operating hours/ non compliance |
| Medium B | Monitoring during operating hours / non compliance |
| Low C, D, E | Monitoring in response to change of management/ complaint/ non compliance |

- 14.7 From time-to-time the Licensing Authority and Responsible Authorities may make unannounced visits or carry out test purchases to check compliance without declaring themselves to the person in control at the premises. Officers in plain clothes will also be used to visit premises to check whether licensing conditions are being complied with and these officers will not announce their presence whilst such activity is taking place.
- 14.8 The Licensing Authority will properly investigate any complaints received regarding the operation of premises, however the views of vocal minorities will not be allowed to predominate over the general needs of the community or the rights of licensees unless those views are well founded on issues of demonstrable concern.
- 14.9 Formal enforcement will always be a last resort and proportionate to the degree of risk. To this end the key principles of fairness, consistency, transparency and proportionality will be maintained.



15. Annual Fees for Premises Licences and Club Premises Certificates

The Licensing Act 2003 (and subsequent regulations) set out requirements for annual fees and require that the fee is paid on the DUE DATE, which is every year on the anniversary of the original grant of the licence.

- **Licence suspension for non-payment of annual fee**

Amendments made to the Licensing Act 2003 by the Police Reform and Social Responsibility Act 2010 give Councils the power to suspend premises licences and club premises certificates where the annual fee is not paid.

The Council will suspend any licence or certificate where the required fee is not paid by the 'due date'.



16. LIVE MUSIC, DANCING & THEATRE

- 16.1 The Licensing Authority wishes to encourage and promote live music, dance and theatre for the wider cultural benefit of the community, particularly for children.

- 16.2 When considering applications for such events and the imposition of conditions on licensees, the Licensing Authority will carefully balance the **cultural benefit** with the necessity of promoting the licensing objectives. The Licensing Authority would wish to avoid, as far as is possible, measures that could deter live music, dancing & theatre.
- 16.3 The Licensing Authority has a commitment to actively promote live music, dance and all other art forms covered by the Licensing Act, in both public and private venues throughout the Borough.
- 16.4 Consideration will be given to the particular characteristics of any event including the type, scale and duration of the proposed entertainment.
- 16.5 The use of the minor variation process to include regulated entertainment as a licensable activity will be subject to routine consultation with the Responsible Authority with the remit for prevention of public nuisance. This is in recognition of the particular circumstances in the Borough where the majority of licensed premises are in close proximity to residential properties and the potential for nuisance arises from even low level activity.

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17. CONDITIONS OF LICENCE

- 17.1 The Licensing Authority will only impose conditions that are proportionate and will be tailored to the individual style and characteristics of the particular premises or event concerned. In certain circumstances, Authorised Officers may be required to draft appropriate conditions for Premises Licences and Club Premises Certificates from the information supplied in operating schedules accompanying Premises Licence and Club Premises Certificate applications. This will ensure that the condition is expressed in clear and unambiguous terms to avoid legal dispute and ensure that the holder of the licence or certificate is clear as to what is required. (The condition will reflect substantially the same as that intended by the proposal in the operating schedule).

18. SCHEME OF DELEGATION

- 18.1 It is recognised that most decisions made under the legislation are administrative in nature and relatively non contentious. Therefore, in the interests of efficiency, most decisions will be made by Officers under delegated authority.
 - 18.2 Only contentious applications or policy matters will be referred to the Licensing Committee. A scheme of delegation for dealing with various applications and decisions has been agreed and is set out at Appendix 1.
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19. CONTACTS & APPLICATIONS

Further information on any aspect of the licensing regime, including applications and representations can be obtained from:-

***The Licensing Team,
Public Health & Protection
Ty Elai, Dinas Isaf East
Williamstown
Tonypandy CF40 1NY***

***Telephone: 01443 425001
Facsimile: 01443 425301***

E-mail: Licensing.Section@rhondda-cynon-taff.gov.uk



TABLE OF DELEGATION OF LICENSING FUNCTIONS

| MATTER TO BE DEALT WITH | FULL COMMITTEE | SUB-COMMITTEE | OFFICERS |
|---|-----------------------|--------------------------|---------------------------|
| Application for Personal Licence | | If an objection made | If no objection made |
| Application for Personal Licence, with unspent convictions | | All cases | |
| Application for Premises Licence/Club Premises Certificate | | If a representation made | If no representation made |
| Application for Provisional Statement | | If a representation made | If no representation made |
| Application to vary Premises Licence/Club Premises Certificate | | If a representation made | If no representation made |
| Application to vary Designated Premises Supervisor | | If a police objection | All other cases |
| Request to be removed as Designated Premises Supervisor | | | All cases |
| Application for transfer of Premises Licence | | If a police objection | All other cases |
| Application for Interim Authorities | | If a police objection | All other cases |
| Application to Review Premises Licence/Club Premises Certificate | | All cases | |
| Decision on whether a complaint is irrelevant, frivolous, vexatious, etc | | | All cases |
| Decision to object when local authority is a consultee and not the relevant authority considering the application | | All cases | |
| Determination of a police objection to a Temporary Event Notice (TEN) | | All cases | |

