

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2014 – 2015.

SPECIAL LICENSING COMMITTEE
2nd September 2014

REPORT OF:
Service Director
Public Health & Protection

Part I	Item No. 3
Licensing Act 2003 - Review of Licensing Policy Statement 2015 – 2020	

1. PURPOSE

The purpose of the report is to consider revisions proposed by the Director of Public Health & Protection to the Council's Statement of Licensing Policy for the period 2015 – 2020

2. RECOMMENDATION

It is recommended that Members:

- i. Note the consultation undertaken with licensing practitioners and the development of the Draft Licensing Policy Statement for the period 2015-20;**
- ii. Note the proposal of the Director of Public Health & Protection to conduct a further short consultation on the proposals, targeted at licensees, trade organisations and members of the public;**
- iii. Agree the proposal of the Director of Public Health & Protection to report the outcome of the consultation to the next scheduled meeting of this Committee, together with any necessary changes to the Draft Licensing Policy Statement, prior to submission to the Executive.**

3. BACKGROUND

The current Statement of Licensing Policy took effect 7th January 2011 for a period of 3 years, which reflected the statutory period that the policy could be in force without review.

However, the Police Reform & Social Responsibilities Act 2011 amended the maximum period that a policy could have effect, (without formal review), to 5 years. The complimentary effect of the provisions was to give an option to Licensing Authorities to extend the life of their current policy to 5 years.

Whilst the policy has been subject to informal review throughout its currency, it was considered that it continued to be 'fit for purpose' and to extend its use for the permitted 5 year period to January 2015.

The date for statutory formal review and publication of revisions is now approaching and as a result of the extended process necessary for the policy to be adopted by Full Council, the consultation process for preparation of revisions has already commenced.

Members are reminded that the Statutory Guidance provided under Section 182 of the Act specifies the matters to be contained in the Policy Statement.

3.1 Consultation Process

It is recognised that following the publication of the original Statement of Policy, subsequent Statements are likely to largely reflect the original, with modifications in the light of experience. It is also important to have regard to legislative changes and best practice which can assist in achieving local initiatives.

Whilst there is a statutory requirement to consult on the policy revisions, discretion is afforded to the Licensing Authority to consider the level of consultation necessary, mindful of the modifications proposed. Due regard will also need to be made to the resource implications for a full consultation process and costs associated with same.

Having regard to the foregoing, the current policy was subject to review and whilst it was recognised that several legislative changes needed to be incorporated, the fundamental direction of the policy did not need significant amendment. (The legislative changes have already been implemented, albeit they may not be recognised in the Policy Statement.)

In order to assess the views of partner agencies, in preparation for revisions, a Licensing Policy Development Day was held on Monday 19th May 2014.

Parties invited to attend included representatives of Responsible Authorities, namely Police, Fire Service, EHO, Trading Standards Local Health Board, Community Safety Partnership, together with chairman & Vice Chairman of the Licensing Committee.

The day took the format of a series of presentations, intended to 'set the scene' of the licensing landscape in Rhondda Cynon Taf, highlight potential areas of policy that it was considered required review and pose a series of questions to prompt discussion as to the changes necessary to achieve the aims of the respective partners in the context of the licensing objectives.

This was considered a proportionate and effective mechanism to engage the views of practitioners, ensuring their views were incorporated into draft revisions.

3.2 Summary of Key Changes:

- 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.

A copy of the Draft Policy Statement for 2015 -20 is reproduced for information as Appendix 1A

(Revisions are highlighted in red for ease of reference.)

4. WAY FORWARD

Whilst there has been a comprehensive debate with practitioners from partner agencies in the development of the draft policy statement, there has not been the opportunity for comment from the licensed trade, trade organisations or members of the public.

Consequently it is proposed that the Draft Licensing Policy Statement be subject to a short period of public consultation, namely 28 days, where the outcome of such consultation is reported back to this Committee together with any changes that may be considered necessary.

Following approval of the Draft Statement of Policy, it can be commended to the Executive, prior to approval & adoption by Full Council on 26th November 2014..

This will allow the revised Policy Statement to take effect 7th January 2015, in accordance with statutory requirements.

Paul J Mee
Director of Public Health & Protection

APPENDIX 1

Rhondda Cynon Taf County Borough Council

DRAFT Statement of Licensing Policy 2015 - 2020

Alcohol, Entertainment & Late Night Refreshment



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

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1. Table of Delegation of Licensing Functions

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 is the second largest Authority in Wales, covering an area of approximately 162 square miles stretching from the outskirts of the City of Cardiff, north to the Brecon Beacons National Park.

It has a current population of almost 250,000 inhabitants and just below 100,000 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 is made up of a mixture of rural and urban areas with a series of communities of various sizes focussed around eight 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 twenty-three Communities First Partnerships in seventeen wards.

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 & PROSPERITY** where there are direct links to responsible alcohol retailing & responsible alcohol consumption. Such priorities in turn impact on aspects of community well-being such as reducing alcohol related anti-social behaviour and protecting residents from alcohol related harm. It is these aspirations for our local communities, together with a commitment to community engagement 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. 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

The Licensing Policy has 3 main purposes:-

- To inform licensing applicants of the parameters under which the Licensing Authority will make licence decisions – and therefore how a licensed premises is likely to be able 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;
- To outline to elected members of the Licensing Committee, the powers of the Licensing Authority and to provide parameters within which to make their decisions;

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.
- **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;

- over ride 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](#)

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.

Health as a Responsible Authority

The adverse health effects of excessive consumption of alcohol are well documented. Alcohol is the third highest of twenty-six risk factors for ill-health, ahead of overweight/obesity, and behind only tobacco and high blood pressure.

The effects of chronic alcoholism on the individual and family and social contacts can be devastating. The impact on the individual's capacity to work can also have serious financial consequences for both the individual and employer. The cost of treating alcohol related problems is immense and *HSIC Statistics on Alcohol (2013)* estimated a total £3.5 billion annual cost to the NHS. The *Government Alcohol Strategy (2012)* estimated the overall annual cost of alcohol harms to be £21 billion.

This has been recognised by successive governments both in Westminster and Cardiff and a series of legislative provisions have been made to discourage irresponsible drinking including the mandatory conditions, which are now automatically attached to licenses.

Both Governments recognise that the consumption of alcohol is price sensitive. Alcohol can no longer be sold as a loss leader at less than cost price and consideration is being given to introducing a minimum price per unit of alcohol to prevent the sale of very low cost alcohol.

The Home Office has consulted on a proposal to introduce an additional Licensing Objective to reflect the health concerns. This has not materialised but the Welsh Government is considering introducing a health based objective independently. Health Authorities have been made “responsible authorities” for the purposes of the Licensing Act and are now routinely consulted to inform policy and to inform the determination of individual applications.

Statistics describing the health effects of alcohol consumption in the general population of Rhondda Cynon Taf have been provided by Cwm Taf Local Health Board, which is the “responsible authority” for this area. The overall picture is bleak. Wales compares unfavourably with England and Rhondda Cynon Taf fares worse than the Welsh average on all significant indicators. For example:

- 46% of adults drink more alcohol than the recommended limits (42% Wales)
- 31% of adults indulge in binge drinking at least once a week (26% Wales)
- Cwm Taf has the highest alcohol-related mortality for females and the second highest alcohol related mortality rate for males in Wales (and this is increasing)

The Single Integrated Plan for Rhondda Cynon Taf recognises that drinking too much alcohol has adverse health effects and can cause conflict and antisocial behaviour. It pledges to raise awareness of the harms of binge drinking, to control the availability of alcohol and to monitor the percentage of adults who drink above safe limits. Stakeholders will therefore work hard to discourage harmful levels of drinking to mitigate both the chronic health effects of regular, long term over-consumption and the acute effects of binge-drinking. This Licensing Policy must support those efforts by promoting social responsibility among licensees and by discouraging the irresponsible sale of alcohol such as drinks promotions or low cost/ high volume sales especially in areas with high levels of vulnerable consumers, alcohol related ill health or antisocial behaviour.

However, in the absence of a health-based licensing objective, the Cwm Taf Local Health Board (LHB) is confined to making observations around the impact of alcohol consumption on the existing Licensing Objectives particularly “the protection of public safety”.



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)
 - 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 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.
- Pre application considerations**
- 3.6 Where an applicant considers that representations may be likely or probable it is recommended that the applicant discuss the proposal with the Licensing Authority and those from whom representations are likely, **prior to submitting the application**. 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 subject to public consultation by means of a letter drop to premises in the immediate vicinity, to ensure that those parties potentially affected are aware of the proposals.

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

Where considered appropriate, in particular where representation reflects alcohol related Anti-Social Behaviour, parties concerns will be passed to partner agencies such as the Community Safety Partnership, 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 un regulated entertainment in the form of live music;
- 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 is 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 the 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.

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 and the Community Safety Partnership is committed to:

- Improve 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 The Council adopts a partnership approach with the relevant Responsible Authorities, local businesses and local people to addressing a number of these issues through the Community Safety Action Plans in line with the strategic objectives of crime and disorder reduction within the Borough.

4.1.3 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.

4.1.4 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

4.1.5 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.

4.1.6 **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.**

4.1.7 The Licensing Authority strongly recommends liaison with the relevant Responsible Authorities, prior to making application for grant or variation in order to identify **local issues of concern**. This will be particularly relevant where the applicant may be located outside the County Borough and will assist in the preparation of an appropriate operating schedule, best suited to local conditions.

4.1.8 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.

4.1.9 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)

4.1.10 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 regulated 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.

- **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.

- **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 'Best Bar None'

The Licensing Authority is committed to the promotion of sustainable business and recognises the contribution, in both economic and leisure opportunities that the night time economy brings to our communities.

Best Bar None is a celebration of the positive aspects that licensed premises adds to our communities, where alcohol sales are provided in a controlled environment and are likely to be ancillary to other social activities.

Licensees in qualifying premises are strongly advised to participate in the scheme, where success is hopefully rewarded by commercial advantage.

The commitment to the Best Bar None initiative is intended to support this position, promoting safe, well managed, thriving businesses in our area.

4.5 Temporary Event Notices (TEN)

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 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.**

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

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.

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.



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>



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, patron 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. As a result, any establishment with a licence to sell alcohol will now automatically be allowed to play live music (without conditions) provided it is played only between 08:00 and 23:00 to an audience of 200 people or less. That development is welcome 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 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 or
- Where persons under 18-years-old have been allowed to make underage sales without proper authorisation or
- 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) or
- 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.

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 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.

Licenses 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 or CPC’s, 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.

Other Mechanisms for Controlling Cumulative Impact

8.7 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.

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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 provision of facilities 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

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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/derv; 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: -

- anybody living or working in the vicinity of licensed premises or qualifying clubs in relation to an application for a new licence/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**

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 Councillors 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 a **presumption to refuse** a petition, as a relevant representation, (either in support of, or in opposition to an application) unless it can be demonstrated that: -

- all signatories qualify as interested parties and live in the immediate vicinity of the premises concerned;
- all signatories have amplified their individual concerns regarding the application and/or premises under consideration.

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
- **Organised groups of paedophiles to groom children**
- 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.

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.

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 licence 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

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14. COMPLIANCE & ENFORCEMENT

14.1 The Council delivers a wide range of enforcement services aimed at safeguarding the environment, the community and promote 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 Compliance Code.

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 businesses should:

- receive advice & guidance to assist compliance
- Receive clear explanations from enforcers of what they need to do and by when;
- Have opportunities to resolve differences before enforcement action is taken - unless immediate action is needed;
- Receive an explanation of their rights of appeal

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.

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.)

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 licence, Variation of DPS or change of Tenant
- 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 will use officers in plain clothes 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. (TS)

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 and will follow the procedure detailed:-

- I. An invoice will be issued for sum of the annual fee due; this will be sent 14 days prior to the due date;
- II. Failure to pay sum due will result in warning letter of imminent suspension, allowing 7 days for payment
- III. Non payment will result in Notice of Suspension being issued, which will be effective 2 days from date of Notice
- IV. Receipt of payment will result in suspension being removed, with confirmation in writing
- V. Where a licence/certificate is suspended and licensable activities are provided the council will consider prosecuting the provider for offences under section 136 of the Licensing Act 2003

The Licensing Authority will exercise discretion where an administrative error is claimed or there is a query regarding liability for fee, provided queries are raised promptly with Licensing Officers.

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 need 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, especially where limited disturbance only may be caused.
- 16.5 The use of the minor variation process to include regulated entertainment as a licensable activity will however 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 that provide the most cost effective solution 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
Tonypany 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	

