

## Extract of Statement of Licensing Policy

7.4 The intent of the Licensing Act 2003 is to regulate the supply of alcohol. Licensing is therefore the key mechanism by which the availability of alcohol can be regulated, through regulating the times and days of the week alcohol can be sold, premises which can supply alcohol and the conditions of sale.

10.1 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems.

10.2 The Licensing Authority will expect operating schedules (see section 27) to satisfactorily address these issues from the design of the premises through to the day-to-day operation of the business. Details of the factors that will need to be considered as part of the operating schedules are given in the Licensing Policies and matters for consideration when deciding applications, which are attached in the annex to this policy and in the Guidance notes for applicants.

10.3 Applicants are recommended to seek advice from the Licensing Authority's licensing officers and the police, as well as taking into account, as appropriate, local planning and transport policies, tourism, cultural and crime prevention strategies, when preparing their plans and operating schedules.

10.4 The Licensee/applicant should also use their own experience and knowledge of their customers and locations when drafting their operating schedule, which subsequently becomes the basis of conditions on the licence. Failure to do this may lead to a representation from the Authority, a responsible authority or other person. Applicants may wish to consider the following and are advised to refer to the Authority's 'Model Pool of Conditions' when considering an application.

- Is there CCTV, and, if so what are the areas covered, does it have the ability to see clear full face recording of patrons entering, does it record the patron search area at the entrance. What is the retention period of recordings, how easy it to access, produce copies or download images if requested by Police and Licensing.
- Are Security Industry Authority (SIA) door staff employed and what checks are made to the validity of the SIA licence? What records are kept of SIA checks, search policy, entrance policy, restriction of patrons using outside areas, such as smoking areas, employment times of SIA and their training?
- Is there ID scanning on entry to the premises? Will there be 'No ID No Entry' policy in place?
- Is there a clear drug and weapon policy? Is there a regular documented training of this policy carried out with staff when drugs/weapons are seized or stored. Are areas or surfaces designed to prevent the likelihood of drug use at the premises?

- Has the use of plastic or toughened glass for serving of alcohol been considered, will glass bottles be handed over the bar? Are there restrictions of drinks being taken outside?
- Is there a proof of age scheme, do the premises have a challenge 25 policy? Are staff trained regularly on this policy and is it documented?

11.1 Licensed premises have significant potential to impact adversely on persons living and working (including those carrying on business) in the area around the premises, and also further afield through public nuisances that arise from their operation. It is therefore important that in considering the promotion of this licensing objective, Licensing Authorities and Responsible Authorities focus on the effect of the licensable activities at the specific premises on these parties which may be disproportionate and unreasonable.

11.2 The definition of what may be considered as a potential or actual 'public nuisance' is to be interpreted in line with its broad common law meaning established through relevant case law. This is the interpretation which the Licensing Authority will apply when considering such matters. Matters giving rise to 'public nuisance' are mainly accepted to include issues relating to noise, light pollution, odour and litter. It may also arise as a result of the adverse effects of dust, insects, accumulations or any other matter which is determined to have an adverse impact on the living and working environment of other persons living and working in the area of the licenced premises.

11.3 The Licensing Authority recognises that limiting the public nuisance that may be associated with licensed premises and their operation is an important factor for health and well-being. The Licensing Authority recognises the key links to health and well-being from public nuisance in terms of disturbed sleep, stress caused by nuisance and pollution. Disturbed sleep and stress can add to residents' mental and physical health issues, and their wider wellbeing. Lack of sleep can have an impact on the immune system and can contribute to heart disease and diabetes. Lack of sleep can also contribute to anxiety and depression. Stress can contribute to anxiety and depression, and cardio-vascular diseases. Applicants should consider the potential impact their premise may have on public nuisance particularly from noise and put in place mitigating measures.

11.4 The Licensing Authority expects applicants for premises licences and club premises certificates to have made relevant enquiries and considerations about the local area before submitting their application. The purpose of this is to enable the applicant to consider the most appropriate controls for potential inclusion in the operating schedule with a view to ensuring their activities do not undermine the licensing objective with regard to the prevention of public nuisance. It is important to recognise that the impacts of licensed activity are not contained within a building. Inevitably there is a wider impact as people travel to and from the premises or congregate outside whilst it is in operation. Nuisance is best managed by careful consideration of the suitability of the selected site and any necessary mitigation at an early stage.

11.5 Applicants will be encouraged to demonstrate in their Operating Schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance. When a suitable site is identified, operating schedules should be prepared on the basis of a risk assessment of the potential sources of nuisance posed by the premises operation to those who may be impacted by their activities. The operating schedule should demonstrate an understanding of the level of risk of nuisance and include positive measures to manage any potential risks.

11.6 The Licensing Authority recommends that licensees apply a high standard of control to minimise the potential for any public nuisance that may arise from their operation of the premises, particularly where: • they are situated in a residential or noise sensitive area; or • extended opening hours are proposed.

11.7 The Licensing Authority recognises that beyond the immediate area surrounding the licensed premises the control that a licence-holder can exert over its patrons diminishes and individuals who engage in anti-social behaviour are accountable in their own right. However, applicants are encouraged to consider the actions they may take as a responsible licence-holder to mitigate the potential adverse impact of patrons. The operating schedule should again be used to demonstrate an understanding of the potential risks and the positive measures that may be implemented to manage such issues.

11.9 The Well-being of Future Generations (Wales) Act 2015, Noise & Soundscape Management. The Well-being of Future Generations (Wales) Act 2015 (hereinafter referred to as the WFG Act 2015) places a duty on Local Authorities including the Licensing Authority to embody sustainable development principles aimed at achieving seven prescribed well-being goals as part of its fundamental operation; this includes the delivery of its Licensing function. One of the cornerstone areas of consideration is the management of noise and its impact on health and well-being.

12.1 The council is committed to ensuring that the safety of any person visiting or working in licenced premises is not compromised. Applicants will be expected to demonstrate in their Operating Schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and events.

14.3 Amendments to the Act has inserted the term 'other person' to replace 'interested party' as someone who can make representations, it also removed the vicinity test for residents and the specific term of councillor. This opens up the range of persons who may make representation and includes for example the following:- • Residents living near the premises • Persons with an interest in the premises or locality • Local councillors • Businesses with an interest in the premises or locality. • Organisations with an interest in the locality, premises or licensable activities.<sup>22</sup> The Council will have to decide if the representation is relevant and/or reasonable, and in making that assessment will assess the person or organisation making the representation and their relationship to the premises and or vicinity.

14.4 Relevant representations will be taken as those that relate to the fundamental principles of the Licensing Act, any organisation or individual wishing to object to any application will therefore need to state whether they are doing so on the grounds of: • The prevention of crime and disorder; • Public safety; • The prevention of public nuisance; • The protection of children from harm.

14.5 Unreasonable, frivolous and vexatious representations will be disregarded. Representations that have been made and considered elsewhere, for example as an objection to a planning application, may also be disregarded where consideration of such representations would be duplication.

16.2 Therefore, any person is able to make representations in relation to certain types of applications as an "Other Person" However; all representations must relate to the licensing objectives and may not be frivolous or vexatious.

17.6 Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the Local Planning Authority.

25.6 The steps for consideration of licensing application, a licensing variation and a club premises certificate are: a) If no representations are made to an application, the Authority must grant it in full. Please see our website for further information [www.caerphilly.gov.uk](http://www.caerphilly.gov.uk) b) When an application is made, and relevant representation are made to the Authority it must hold a hearing of the Licensing Sub-Committee (unless those who have made representations agree in advance that this is unnecessary). 48 c) The Licensing Sub-Committee will then consider the evidence provided by applicants and by those making representations, the legislation and accompanying Guidance, the Statement of Licensing Policy and any other relevant data. d) The Licensing Sub-Committee will determine the application and will take any steps it considers appropriate for the promotion of the licensing objectives. e) Conditions on the licence, additional to those voluntarily offered by the applicant, may be considered. Appropriate conditions will focus on matters which are within the control of individual licensees and which also relate to the premises or places being used for licensable activities and the impact of those activities in the vicinity. If situations arise where the licensing objectives are compromised but cannot be dealt with by the use of appropriate conditions the Licensing Authority will consider whether it is appropriate for a licence to be issued or for the premises to continue in operation.

25.7 Conditions on a licence: • Must be appropriate for the promotion of the licensing objectives; • Must be precise and enforceable; • Must be unambiguous and clear in what they intend to achieve; • Should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation; • Must be tailored to the individual type, location and characteristics of the premises and events concerned; • Should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives

in an individual case; • Should not replicate offences set out in the 2003 Act or other legislation; • Should be proportionate, justifiable and capable of being met; • Cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and • Should be written in a prescriptive format.

26.1 All new and variation applications should incorporate an 'operating schedule' which outlines how the premises will be operated. This should include details of how the applicant will promote the four licensing objectives and reduce any potential negative impact from the operation of their business on the local community, depending on the type of premises, location and profile of customers. The proposals contained in the operating schedule will form the main body of the conditions to be applied to the licence, together with any applicable mandatory conditions, any conditions agreed with responsible authorities during the application process and any conditions imposed by a licensing sub-committee where representations have been made.

26.2 In completing an operating schedule, applicants are expected to have regard to this statement of licensing policy and to demonstrate suitable knowledge of their local area when describing the steps that they propose to take in order to promote the Licensing Objectives.

27.1 The Licensing Act 2003, as amended, imposes a number of mandatory conditions on licences. The council has the power to impose additional conditions if they consider that they are appropriate for the promotion of the licensing objectives.

27.3 Applicants may offer conditions in the operating schedule as part of their application; the council may remove or reword any of these conditions if they are considered to be unclear, ambiguous or unenforceable, with the agreement of the applicant. This will ensure that all parties fully understand their responsibilities to promote the licensing objectives.

28.1 When an application is made for the grant, variation or review of a premises licence or club premises certificate, representations about the application can be made by responsible authorities or other persons. However the Licensing Authority will usually give greater weight to representations that are made by people who can demonstrate that they would be directly affected by the carrying on of licensable activities at the premises concerned.

28.5 Representations should relate to the impact of licensable activities carried on from premises on the Licensing Objectives.

28.7 Whilst the Licensing Authority expects representations to be evidence based, there is no requirement for a Responsible Authority or other person to produce a recorded history of problems at premises to support their representations, and it is recognised that in fact this would not be possible for new premises.

28.12 The Licensing Authority will accept all reasonable and proportionate representations made by the police unless it has evidence that do so would not be

appropriate for the promotion of the Licensing Objectives. However the Licensing Authority will still expect any police representations to be evidence based and able to withstand scrutiny at a hearing.

28.21 Relevant representations about applications can also be made by any other person, regardless of their geographical position in relation to the relevant premises. However the Licensing Authority will usually give greater weight to representations that are made by people who can demonstrate that they would be directly affected by the carrying on of licensable activities at the premises concerned.