



RHONDDA CYNON TAF

**CYNGOR BWRDEISTREF SIROL
RHONDDA CYNON TAF
COUNTY BOROUGH COUNCIL**

PWYLLGOR TRWYDDEDU

**YN GWEITHREDU YN UNOL Â'I
SWYDDOGAETH O DAN
DDEDDF TRWYDDEDU 2003**

Dolen gyswllt: Hannah Williams - Uned Busnes y Cyngor - Gwasanaethau Llywodraethol (Rhif ffôn (01443 424062)

Bydd cyfarfod o'r Pwyllgor Trwyddedu, (yn gweithredu yn unol â'i swyddogaeth o dan Ddeddf Trwyddedu 2003) yn cael ei gynnal yn **(Siambr y Cyngor, Y Pafiliynau, Parc Hen Lofa'r Cambrian, Cwm Clydach, Tonypandy CF40 2XX)** ar **DYDD LLUN, 29AIN GORFFENNAF, 2019** am **3.30 PM**.

MAE MODD I AELODAU O'R CYHOEDD OFYN I ANNERCH Y PWYLLGOR YN YSTOD CYFARFOD SY'N YMWNEUD Â'R MATER SYDD WEDI'I NODI. RYDYN NI'N GOFYN EICH BOD CHI'N RHOI GWYBOD AM EICH BWRIAD I SIARAD DRWY GYSYLLTU AG UWCHADRAN TRWYDDEDU, TŶ ELÁI, DWYRAIN DINAS ISAF, TREWILIAM, CF40 1NY ERBYN **5PM AR Dydd Iau, 25 Gorffennaf 2019**, GAN NODI A FYDDWCH CHI'N SIARAD YN GYMRAEG NEU'N SAESNEG.

MATERION I'W TRAFOD

1. DATGAN BUDDIANT

Derbyn datganiadau o fuddiannau personol gan Aelodau, yn unol â gofynion y Cod Ymddygiad.

Noder:

1. Mae gofyn i Aelodau ddatgan rhif a phwnc yr agendwm mae eu buddiant yn ymwneud ag ef a mynegi natur y buddiant personol hwnnw; a
2. Lle bo Aelodau'n ymneilltuo o'r cyfarfod o ganlyniad i ddatgelu buddiant sy'n rhagfarnu, mae **rhaid** iddyn nhw roi gwybod i'r Cadeirydd pan fyddan nhw'n gadael.

2. DEDDF HAWLIAU DYNOL 1998 A'R DDEDDF TROSEDD AC ANHREFN

I'w nodi: Pan fydd Aelodau'n ystyried y materion trwyddedu a chofrestru sydd ger eu bron, mae dyletswydd arnyn nhw i beidio â gweithredu mewn modd sy'n anghydnaws â'r confensiwn ar Hawliau Dynol a'r Ddeddf Trosedd ac Anhrefn.

ADRODDIAD CYFARWYDDWR MATERION IECHYD A DIOGELWCH Y CYHOEDD A GWASANAETHAU CYMUNED

3. ADOLYGU DATGANIAD POLISI TRWYDDEDU 2020–2025

3 - 60

Cyfarwyddwr Gwasanaeth y Gwasanaethau Democraidd a Chyfathrebu

Cylchrediad:-

Aelodau o'r Pwyllgor Trwyddedu:

Cadeirydd ac Is-gadeirydd y Pwyllgor Trwyddedu
(Y Cynghorydd A Fox a Y Cynghorydd D Williams)
Y Cynghorydd S Bradwick, Y Cynghorydd S Powderhill, Y Cynghorydd E Webster,
Y Cynghorydd T Williams, Y Cynghorydd W Lewis, Y Cynghorydd S Morgans,
Y Cynghorydd A Cox, Y Cynghorydd P Howe and Y Cynghorydd M Diamond

Paul Mee, Cyfarwyddwr – Iechyd a Diogelwch y Cyhoedd, a Gwasanaethau'r Gymuned.

Christian Hanagan, Cyfarwyddwr Gwasanaeth y Gwasanaethau Democraidd a Chyfathrebu

Louise Davies, Cyfarwyddwr Gwasanaeth – Gwasanaethau Diogelwch y Cyhoedd

Paul Nicholls, Cyfarwyddwr Gwasanaeth – Gwasanaethau Cyfreithiol

Rhian Hope, Rheolwr Gwasanaeth Trwyddedu a Diogelu Iechyd

Gary Black, Rheolwr Cymunedau Diogel a Phartneriaethau Strategol

Alan Morgan, Swyddog Gorfodi Trwyddedu

Martyn Owen, Rheolwr trwyddedu Cynorthwyol

Neil Evans, Swyddog Gorfodi Trwyddedu



RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

LICENSING ACT 2003 COMMITTEE

29th JULY 2019

REVIEW OF LICENSING POLICY STATEMENT 2020 – 2025

REPORT OF THE DIRECTOR OF PUBLIC HEALTH, PROTECTION AND COMMUNITY SERVICES.

Author: Martyn Owen, Assistant Licensing Manager

1. PURPOSE OF THE REPORT

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

2. RECOMMENDATIONS

It is recommended that Members:

- 2.1 Note the consultation undertaken with licensing practitioners and the development of the Draft Licensing Policy Statement for the period 2020-2025;
- 2.2 Note the ongoing consultation on the proposals, targeted at licensees, trade organisations and members of the public;
- 2.3 Contribute to the consultation exercise by commenting on the Draft Licensing Policy Statement; and
- 2.4 Approve the proposal of the Director of Public Health, Protection & Community Services 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

- 3.1 The current Statement of Licensing Policy took effect 7th January 2015 for a period of 5 years, which reflected the statutory period that the policy could be in force without review.
- 3.2 Whilst the policy has been subject to informal review throughout its currency with changing legislation and guidelines, no substantial amendments have been made and the policy was considered to be 'fit for purpose'.
- 3.3 The date for statutory formal review and publication of revisions is now approaching and it is necessary for the policy to be adopted by Full Council.
- 3.4 This Licensing Policy is intended to provide clear guidance on licensing matters to applicants, licensees and the public; promoting economic growth for local businesses whilst enabling the community to make constructive representations should the need arise.
- 3.5 Members should note that since the last revision of the Statement of Licensing Policy, the Statutory Guidance, issued under Section 182 of the Licensing Act 2003 has been amended, and now provides further guidance on matters to be contained in the Policy.

4. CONSULTATION

- 4.1 It is recognised that following the publication of the original Draft Statement of Policy 2020-2025, subsequent amendments are likely to largely reflect the original, with modifications in light of any further comments. It is also important to have regard to legislative changes and best practice which can assist in achieving local initiatives.
- 4.2 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, and to be mindful of the modifications proposed. Due regard will also need to be made to the resource implications, process and costs associated with same.
- 4.3 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.)
- 4.4 The consultation process is already in progress.
- 4.5 In order to assess the views of partner agencies, in preparation for revisions, a Licensing Policy Meeting was held on Wednesday 1st May 2019. All responsible authorities were invited to attend, those who did represented South Wales

Police, South Wales Fire & Rescue Service, Environmental Health, Licensing Authority, Trading Standards and Child Protection, apologies were provided by the University Health Board, who provided some literature.

- 4.6 The agenda intended to highlight potential areas of the policy that was considered required of review and to pose questions to prompt discussion as to the changes necessary to achieve the aims of the respective partners in the context of the licensing objectives. A discussion also involved whether there was a need to implement special policies within the draft, such as Cumulative Impact, Late Night Levy and Early Morning Restriction Orders.
- 4.7 The meeting was considered a proportionate and practical way to engage the views of practitioners, ensuring their views were incorporated into draft revisions.
- 4.8 Since the meeting a draft revised Statement of Licensing Policy has been compiled, which is the document presented to Members in this meeting.
- 4.9 A Public consultation is currently ongoing whereby the Policy can be observed and commented upon.
- 4.10 Three public event dates have been arranged during which the public can openly sit and discuss the policy with members of the licensing department. There is one event in each of the three boroughs Rhondda, Cynon and Taf.

5. SUMMARY OF KEY CHANGES

- 5.1 The key changes to the policy are:
 - Layout and structure of the report to allow a more user friendly viewing, and more consideration of the Guidance issued under section 182 of the Licensing Act 2003, published in 2018.
 - Recognition of the Council's Corporate Plan, Wellbeing of Future Generations (Wales) Act 2015 and the Corporate Enforcement Policy.
 - A change of the aims and purpose to reflect those contained within the 182 Guidance.
 - Strengthened consideration of safeguarding of children and the vulnerable.
 - Inclusion of the Home Office as a Responsible Authority since 6th April 2017, as a result of the Licensing Act being amended through the Immigration Act 2016.
 - Recognition of the health implications of alcohol and linking into that associated with underage;

- More information regarding the deregulation of entertainment through the Live Music Act 2012 and the Deregulation Act 2015;
- Powers to suspend and revoke Personal Licences when the holder is convicted of a relevant offence, introduced through amendments to the licensing Act 2003 made by the Policing and Crime Act 2017.
- Introduction into the Policy of Late Night Levy and Early Morning Restrictions Orders, introduced through the 'Police Reform and Social Responsibility Act 2011'.
- Introduction of Public Space Protection Orders (PSPO) and exclusion zones.
- Introduction of the Community Alcohol Partnership (CAP).
- Mention of Provisional Statement and Interim Authority Notice.
- Petitions – no longer accept all names on the list as individuals making representations.
- A focus on information sharing and partnership working is evident throughout the Policy document.

A copy of the Draft Policy Statement for 2020-2025 is reproduced for information as Appendix 1.

6. WAY FORWARD

- 6.1 This draft policy is currently open to comment from the responsible authorities, councillors and the public. Following any comments, the Policy will be further revised to incorporate any necessary changes.
- 6.2 The further revised document will be presented before Licensing Committee together with any changes that may have been considered necessary on 10th September 2019.
- 6.3 Following approval of the Draft Statement of Policy, it can be commended to the Executive, prior to approval & adoption by Full Council on 27th November 2019.
- 6.4 This will allow the revised Policy Statement to take effect 7th January 2020, in accordance with statutory requirements.

Appendix 1

Draft Statement of Policy (Licensing Act) for 2020 - 2025

Paul J Mee
Director of Public Health, Protection & Community Services



**Rhondda Cynon Taf
County Borough Council**

**Statement of Licensing
Policy**

**(Alcohol, Entertainment &
Late Night Refreshment)**

2020 - 2025

Date effective from *****

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1. INTRODUCTION

- 1.1 The Licensing Act 2003 came into force on 24th November 2005. Section 5 of the Licensing Act 2003 (as amended) places a requirement on each Licensing Authority to prepare and publish a Statement of Licensing Policy to outline how the authority will exercise its licensing functions under the Act in respect of licences for the sale of alcohol, provision of entertainment and provision of late night refreshment.
- 1.2 The Statement of Licensing Policy must be renewed every 5-year period. The Licensing Authority will also regularly review the Policy and revise if required within this period.
- 1.3 Rhondda Cynon Taf County Borough Council (RCTCBC) is the Licensing Authority for the County of Rhondda Cynon Taf. Within this document, RCTCBC may also be referred to as 'the Council'.
- 1.4 The Licensing Authority makes this Licensing Policy Statement in accordance with section 5 of the Act. In compiling this Statement of Licensing Policy the Licensing Authority has taken into account the Licensing Act 2003 together with the 'Guidance issued under section 182 of the Licensing Act 2003' ("the Guidance") issued by the Secretary of State for Culture, Media and Sport.
- 1.5 The Licensing Authority may also depart from this Policy and the Secretary of State's Guidance if there are circumstances appropriate to do so to promote the licensing objectives. Should the Licensing Authority do so full reasons will be provided.
- 1.6 The Key purpose of the Licensing Policy is as follows:-
 - To inform licensing applicants of the parameters under which the Licensing Authority will make licence decisions and how a licensed premises is expected to operate within an area. (However, each application must be considered on merit);
 - To inform residents & businesses of the parameters under which the Licensing Authority will make licensing decisions – and therefore how their needs will be addressed.
- 1.7 The Licensing Act regulates licensable activities through premises licences, club premises certificates, temporary event notices and personal licences.
- 1.8 The licensable activities as specified within the Act are:-
 - The sale by retail of alcohol

- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- The provision of regulated entertainment
- The provision of late night refreshment

1.9 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.

1.10 To achieve this the Licensing Authority seeks to curtail the negative elements of the licensed economy through providing advice, support, imposing conditions, which actively promote the licensing objectives, and through proactive enforcement.

1.11 This Policy does not override the right of any person to make an application and to have that application considered on its own merits. In addition, it does not undermine the right of any person to make representations on an application or to seek a review of a licence where a legal provision is available for them to do so.

1.12 The Council acknowledges that Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy.

2. LICENSING OBJECTIVES

2.1 RCTCBC will carry out its functions with a view to promoting the four licensing objectives. The objectives are:-

- **Prevention of crime and disorder**
- **Protection of Public safety**
- **The prevention of public nuisance**
- **The protection of children from harm**

2.2 RCTCBC Licensing Authority will consider each objective with equal importance. RCTCBC Licensing Authority will proactively promote these licensing objectives through the adoption, implementation and enforcement of this Policy.

- 2.3 There are no other statutory licensing objectives, so the promotion of the four objectives is a paramount consideration at all times.
- 2.4 The Licensing Authority will also have regard to other Council policies and initiatives that have been introduced to tackle issues that may influence crime and disorder or any of the other licensing objectives; such as Public Space Protection Orders (PSPO).

3. THE COUNTY BOROUGH OF RHONDDA CYNON TAF

- 3.1 Rhondda Cynon Taff covers an area of the South Wales Valleys stretching from the Brecon Beacons in the north, to the outskirts of Cardiff in the south. It comprises a mixture of urban, semi-suburban and rural communities, situated in mountains and lowland farmland.
- 3.2 Rhondda Cynon Taf is the second largest Local Authority in Wales, formed in 1996 from the former Boroughs of Rhondda, Cynon Valley and Taff Ely (part). The County Borough covers an area of 424 square kilometres with an estimated population of 239,127 (2017). The area has 75 electoral wards.
- 3.3 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.
- 3.4 The area is land locked and lies between the County Boroughs of Powys, Merthyr, Neath Port Talbot, Caerphilly, Vale of Glamorgan, Bridgend and Cardiff.
- 3.5 Strategic highway links with the wider regions are provided by the M4, A470 and A465. A range of bus and rail services provides public transportation links across the region.
- 3.6 The Council has a Corporate Plan with a vision *“for a County Borough that has high aspirations, is confident and promotes opportunity for all”*, and a purpose *“to provide strong community leadership and effective services for the people of Rhondda Cynon Taf to enable them to fulfil their potential and prosper”*. The Corporate Plan also takes account of the requirements of the Wellbeing of Future Generations (Wales) Act 2015 and the seven associated national goals. This licencing policy will consider the values of the Corporate Plan.
- 3.7 A map of the Borough is shown on the next page:-



4. OTHER AIMS AND PURPOSE

4.1 The legislation also supports other key aims and purposes and should be principal aims for all parties involved in licensing for the promotion of the licensing objectives. The licensing authority will have regard to these key aims in its decision making.

They are:

- Protecting the public and local residents from crime, anti social behaviour and noise nuisance associated and caused by irresponsible licensed premises;
- Giving the police and licensing authorities the powers they need to effectively manage and police the night time economy and take action against those premises that are causing problems;
- the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on the business, encouraging innovation and supporting responsible premises;
- Providing a regulatory framework for alcohol that reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area.
- Encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

5. CONSULTATION

5.1 This Statement of Licensing Policy has been drawn up after consultation with:

- South Wales Police
- South Wales Fire and Rescue Services
- RCT Trading Standards
- RCT Environmental Health Department
- Persons/bodies representing local holders of Premises Licences
- Persons/bodies representing local holders of Club Premises Certificates
- Persons/bodies representing local holders of Personal Licences
- Local businesses and their representatives
- Local residents
- Children's Safeguarding Unit
- Cwm Taf Local Health Board
- RCT Community Safety Department
- The Events Safety Advisory Group

5.2 The consultation took place between *****. During the consultation period copies of the draft policy were placed in the public libraries of the County

Borough as well as being available at Ty Elai council offices. Three consultation events were held, one in each of the districts, as well as a Special meeting of the committee members to discuss the policy.

- 5.3 The full list of comments made and the consideration by Licensing Authority of those comments is available by request to: Licensing Department, Ty Elai, Dinas Isaf East, Williamstown, Tonypany, CF40 1NY.
- 5.4 The policy was given final approval at a meeting of the Full Council on the ***** and was published via our website on the *****.
- 5.5 The policy will remain in force for a maximum period of five years from 7th January 2020. The policy will then be subject to review and further consultation prior to the expiry of the five-year period. The Authority may revise the Policy at any time during the five-year period if it considers it appropriate to do so and will consult on any substantial revisions to the Policy.

6. DUPLICATION

- 6.1 The Licensing Authority recognises the need to avoid duplication of existing legislation and other regulatory regimes that place obligations on employers and operators.
- 6.2 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 may be imposed proportionate to the promotion of the licensing objectives.

7. DISCRIMINATION

- 7.1 The Equality Act 2010 places a legal obligation on public authorities to have regard to the need to eliminate unlawful discrimination, to advance equality of opportunity and to foster good relations between all persons.
- 7.2 The Licensing Authority will not tolerate discrimination towards any section of the public on the grounds of colour, race, ethnic or national origin, disability, religious beliefs, sexual orientation or gender.

8. INFORMATION SHARING

- 8.1 The Council will share information about licensable activities with responsible authorities and other relevant stakeholders in order to enable:
 - the development of an overarching view of all licensable activity across the Borough;
 - the identification of risks;

- information and intelligence to be fed back to the Council (and to other licensing authorities) to support it to carry out its regulatory responsibilities;

8.2 The Council recognises that shared regulation depends on effective partnerships and collaboration and that the exchange of information is an important aspect of this and benefits all parties. Where the Council is required or wishes to exchange information with other persons/bodies, the information will be relevant and it will be appropriate, necessary and proportional to do so for the purposes of carrying out its functions under the Act and to also enable those other persons/bodies to carry out their functions under the Act.

8.3 The exchange of information will be undertaken in accordance with the Data Protection Act 2018, the General Data Protection Regulation (GDPR) and subsequent guidance published by the Information Commissioner's Office (ICO).

9. LOCAL LICENSING PRINCIPLES

9.1 The Council aims to provide a clear, consistent and responsive service to prospective and current licence/notice holders, members of the public and other relevant stakeholders.

9.2 The Council will seek to build and maintain good liaison and working relationships with the Responsible Authorities, including sharing relevant information and, where appropriate, investigating offences.

9.3 The Council aims to ensure that all relevant Responsible Authorities give full consideration to applications and that the most appropriate Responsible Authority provides advice to the applicant and, where necessary, take the opportunity to submit formal representations to the Council. The Licensing Team will provide guidance and assist Responsible Authorities to submit representations.

9.4 RCTCBC, as the Licensing Authority, is also a Responsible Authority. The Licensing Team, acting as a Responsible Authority will, when necessary, make representations on applications to ensure that all four licensing objectives are being properly promoted.

9.5 The Council will be mindful of the needs of the applicant but this will be balanced against the clear duty that the Council has to ensure that the licensing objectives are promoted and the Council's desire to ensure the overall purpose of this Policy is delivered.

9.6 In all cases, licence applications and notices will be considered and determined on their own individual merits.

9.7 The Council will make general advice, relating to its functions under the Act, available through its website. In addition, on request, the Council will provide specific advice about compliance to prospective and actual licence/notice holders

and will advise the public on what activities they may undertake without the need for specific licences/notices.

10. LICENSING ACTIVITIES

10.1 The Licensing Act regulates licensable activities through premises licences, club premises certificates, temporary event notices and personal licences. The licensable activities under the Act are:

(A) *The sale by retail of alcohol* (including sales made via the internet or mail order). This includes the sale to the general public of alcohol in wholesale quantities.

(B) *The supply of alcohol to members of qualifying clubs.*

(C) *The provision of regulated entertainment.* The definition of 'regulated entertainment' is set out in Schedule 1 of the Act and includes:

- a performance of a play
- a film exhibition
- an indoor sporting event
- boxing or wrestling events
- a contest, exhibition or display which combines boxing or wrestling with one or more martial arts (combined fighting sports)
- a performance of live music
- the playing of recorded music (except incidental music)
- a performance of dance
- entertainment of similar description to live music, the playing of recorded music and performance of dance, but only where provided as entertainment in the presence of an audience

(D) *The provision of late night refreshments* (i.e. the supply of hot food or drink between 11pm and 5am). This applies to any premises, including mobile vehicles.

11. DEREGULATION

11.1 The Live Music Act 2012 (<http://www.legislation.gov.uk/ukpga/2012/2>) resulted in deregulatory changes to the Licensing Act. Paragraphs 16.1 to 16.72 of the Secretary of State's Guidance covers at length examples of regulated entertainment that has been deregulated, some key examples are as follows:

a) Live music - no licence is required for a performance of unamplified live music between 0800hrs and 2300hrs on any premises. Further, no licence is required for a performance of amplified live music between 0800hrs and 2300hrs on premises that have a licence to sell alcohol on the premises.

b) Recorded music – no licence is required for a performance of recorded music between 0800hrs and 2300hrs on any day on premises that have a licence to sell alcohol on the premises and is performed to an audience of no more than 500 persons.

- 11.2 The Live Music Act 2012 <http://www.legislation.gov.uk/ukpga/2012/2> and Deregulation Act 2015 <http://www.legislation.gov.uk/ukpga/2015/20/contents/enacted> amended the Licensing Act 2003 by deregulating aspects of the performance of live and recorded music so that in certain circumstances, it is not a licensable activity.

However, live and recorded music remains licensable;

- Where a performance of live (amplified or unamplified) and/or recorded music—whether amplified or unamplified – takes place before 0800 and after 2300 on any day
 - Where a performance of amplified live and/or recorded music does not take place either on relevant licensed premises, or at a workplace that is not licensed other than for the provision of late night refreshment
 - Where a performance of amplified live and/or recorded music takes place at relevant licensed premises, at a time when those premises are not open for the purposes of being used for the supply of alcohol for consumption on the premises
 - Where a performance of amplified live and/or recorded music takes place at relevant licensed premises, or workplaces, in the presence of an audience of more than 500 people or
 - Where a licensing authority intentionally removes the effect of the deregulation provided for by the 2003 Act when imposing a condition on a premises licence or certificate because of a licence review.
- 11.3 The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 (from 27th June 2013) deregulates aspects of the performance of a play, performance of dance and indoor sporting events. It deregulates
- performance of plays / dance for audiences of up to 500 people, between the hours of 08:00 and 23:00 (with the exception of dancing for which a Sexual Entertainment Venue Licence is required);
 - indoor sporting events for audiences of up to 1000 people, between the hours of 08:00 and 23:00; and
 - It clarifies that Combined Fighting Sports (Mixed Martial Arts etc) are a form of Boxing and Wrestling and will continue to be regulated.
- 11.4 Applicants, licence holders or members of the public who are unclear whether an activity is licensable or not should contact that licensing authority for information.

12. PROMOTION OF THE LICENSING OBJECTIVES

Introduction

- 12.1 When carrying out its functions and exercising its powers under the licensing Act the Licensing Authority will aim to promote the licensing objectives at all times. In promoting these licensing objectives, the authority aims to encourage a safe, crime free environment where everyone can enjoy the full range of licensable activities offered.
- 12.2 The licensing objectives are:
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 12.3 Each licensing objective is of equal importance, they are the only factors that can be taken into account in determining an application and any conditions attached to a licence.
- 12.4 The Authority will require applicants to take appropriate and proportionate measures to promote the licensing objectives.
- 12.5 The below licensing objectives are the principles with which applicants should reference when making applications.
- **PREVENTION OF CRIME AND DISORDER**
- 12.6 The Authority will endeavour to reduce crime and disorder throughout the district in accordance with its statutory duty under s.17 of the Crime and Disorder Act 1998.

Partnership working

- 12.7 The Licensing Authority looks to the police as the main source of advice on crime and disorder, it should be noted however that any responsible authority under the 2003 Act can make representations with regard to any of the licensing objectives if they have evidence to support such representations. South Wales Police strongly advocates the use of CCTV for deterring and preventing crime and disorder, and emphasises the importance of such conditions on all operating schedules for licensed premises. The presence of CCTV both inside and immediately outside the premises, which can prevent crime and disorder, anti-social behaviour and assist in the investigation and detection of offences.

- 12.8 The Licensing Authority will also work with South Wales Police and other other partners such as community safety to manage and prevent offences within the night time economy, in an effort to promote a healthy, diverse and safe community.
- 12.9 Within certain areas of the Borough, the licensing authority utilise street pastors and taxi marshalls to assist with the safe dispersal of revellers leaving the clubs. The authority would expect all responsible licence holders to embrace these procedures and assist the authorities in the efforts.
- 12.10 In the exercise of its functions, the Licensing Authority seeks to co-operate with the Security Industry Authority (“SIA”) as far as possible and will consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people, who are drunk, appear intoxicated by drugs, drug dealers, known sex predators or people carrying firearms do not enter the premises and ensuring that the police are kept informed and / or paramedics called where there are health concerns.
- 12.11 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. The Licensing Authority will work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.

- **PUBLIC SAFETY**

- 12.12 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than that of public health, which is addressed in other legislation.

Fire Safety

- 12.13 Fire precautions and means of escape from licensed premises are particularly important. Large numbers of people, some of whom may be under the influence of alcohol, must be safely contained, managed and, if necessary, evacuated from premises. The attachment of conditions to a premises licence or club premises

certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including the Health and Safety at Work etc. Act 1974, associated regulations and especially the requirements under the Management of Health and Safety at Work Regulations 1999 and the Regulatory Reform Fire Safety Order 2005 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control these risks.

Risk Assessments

12.14 When addressing public safety, an applicant or licence holder should initially identify any particular issues (having regard to their particular type of premises and/or activities), which are likely to adversely affect the promotion of the public safety objective. Such steps as are required to deal with these identified issues may be suitable to include within the applicant's Operating Schedule.

12.15 It is recognised that special issues may arise in connection with outdoor and large-scale events. Risk assessment should be used to assess whether any measures are necessary in the individual circumstances of any premises.

Disability

12.16 Consideration should be given to matters to ensure that:

- when disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency
- disabled people on the premises are made aware of those arrangements
- disabled people may have physical and / or mental problems which should be considered

12.17 A policy to manage capacity should be adopted to prevent overcrowding and patrons possibly becoming injured or even aggressive through accidental jostling.

12.18 Environmental Health (safety) officers may be able to provide advice to licence holders to ensure this objective is promoted.

- **PREVENTION OF PUBLIC NUISANCE**

12.18 The Licensing Act 2003 covers a wide variety of premises, including cinemas, concert halls, theatres, nightclubs, public houses, cafes, restaurants, fast food outlets and takeaways. Each of these premises presents a mixture of risks, with many common to most premises and others unique to specific operations. It is important that premises are constructed or adapted and maintained to acknowledge and safeguard occupants and neighbours against these risks, as far as is practicable.

12.19 Public nuisance is not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include issues around nuisance, noise, disturbance, light pollution, noxious smells, vermin and pest infestations and accumulations of rubbish and litter.

12.20 The Licensing Authority recommends that applicants and licensees apply a higher standard of control to minimise the potential for any public nuisance that may arise from their operation of the premises where:

- They are located in a residential or noise sensitive area
- They have or are proposing extended open hours

12.21 Where a premises is situated in close proximity to residential property it is strongly advised that the operating schedule includes details of sound insulation measures that have been or will be taken to ensure that noise will not cause public nuisance. Applicants (and current licence holders) will be required to clearly demonstrate that the acoustic integrity of the premises is suitable so that noise will not be audible in nearby residential properties.

The Council's Environmental Health Officers would welcome pre-application enquiries on how to mitigate public nuisance from licensed activity, such as noise arising from entertainment, patrons in designated smoking areas, provision of litter bins etc.

12.22 The Licensing Authority recognises that beyond the immediate vicinity of the premises, the control that a licence holder can exert over its customers diminishes and individuals who engage in anti-social behaviour are accountable in their own right. The licensing regime is not a mechanism for the general control of nuisance and anti-social behaviour by individuals once they are beyond the direct control of the licence holder. Though the authority does recognise that dispersal policies can assist in this area, and encourages applicants to include within their operating schedule.

12.23 The licensing authority will avoid unnecessary or disproportionate measures to limit noise nuisance, however recommend that the following measures (or similar) be considered:

- A simple requirement to keep doors and windows at the premises closed;
- Limiting live music to a particular area of the building;
- Moving the location and direction of speakers away from external walls or walls that abut private premises;
- Installation of acoustic curtains;
- Fitting rubber seals to doorways;
- Installation of rubber speaker mounts;
- take measures to ensure that music will not be audible above background level at the nearest sensitive location;
- undertake routine monitoring to ensure external levels of music are not excessive and take appropriate action where necessary;

- Noise limiters on amplification equipment used at the premises (if other measures have been unsuccessful).
- Prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
- The use of explosives, pyrotechnics and fireworks of a similar nature that could cause disturbance in surrounding areas are restricted.
- The placing of refuse – such as bottles – into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

- **PROTECTION OF CHILDREN FROM HARM**

12.24 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment).

12.25 The Council expects licensed businesses to work actively to prevent:

- Child sexual exploitation
- The sale or supply of alcohol to persons under the age of 18
- The sale or supply of alcohol to adults seeking to purchase on behalf of persons under the age of 18
- The sale or supply of any other age restricted products to underage persons
- Access by children to gambling activities
- Access by children to any entertainment of a sexual nature

Child Sexual Exploitation

12.26 Child sexual exploitation involves children being groomed and then sexually abused. The Council recognises that child sexual exploitation is a major child protection issue across the UK.

12.27 The Council takes a strict “zero tolerance” approach in respect of child sexual exploitation and expects licensed businesses to do the same. Conditions may be added by way of review of a licence if there is a specific CSE issue at the premises.

12.28 Measures designed to prevent underage sales and other harmful activities will have the secondary effect of preventing child sexual exploitation by reducing or removing opportunities for abusers to groom children for sexual purposes.

Underage Sales and Age Verification

12.29 The Council expects licenced premises to work rigorously to prevent the sale or supply of alcohol to children. The mandatory licence conditions include a condition that requires all premises that are licensed to sell or supply alcohol to adopt an age

verification policy whereby those who appear to be under 18 will be asked to provide photographic ID to prove their age before selling or supplying them with alcohol.

- 12.30 The Council encourages licensed businesses to go further than the requirements of the mandatory conditions and asks premises which are licensed for the sale or supply of alcohol to adopt the voluntary “challenge 25” scheme. This scheme requires members of staff who carry out sales of alcohol to request photographic ID from anyone who appears to be under the age of 25 years. This does not preclude anyone over the age of 18 from purchasing alcohol, but does provide a much clearer framework for staff members in deciding when to ask for ID.

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

- “Pass” accredited proof age cards
- Driving Licence
- Passport
- Home Office Biometric identity card
- Military Identity Card

- 12.31 Applicants for premises licences or other permissions to sell or supply alcohol are encouraged to include the challenge 25 scheme within their operating schedule and it will be included as a condition, where appropriate.

- 12.32 Holders of premises licences and other permissions to sell or supply alcohol and their designated premises supervisors must ensure that all staff employed at their premises receive regular training. Training must include child protection issues and the prevention of underage sales and proxy sales.

12.33 **Proxy Sales**

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.

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

Such measures could include:-

- A refusal to sell alcohol to persons who are known to have supplied alcohol to young persons previously;

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

12.35 Responsible Licence holders 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 premises and face the threat of prosecution. Licensees are encouraged to notify the Licensing Authority if they become aware of proxy sales issues at their premises, so that both parties can work together to address the problem.

12.36 Licence premises MUST NOT use irresponsible drinks promotions, especially where they appear to be directed at the younger person.

Children in licensed premises

12.37 The Licensing Authority recognises the great variety of premises for which licences may be sought. Access by children to all types of premises will not be limited unless it is considered necessary to do so in order to protect them from physical, moral or psychological harm.

12.38 When deciding whether or not to limit access to children the Licensing Authority will judge each application on its own individual merits. Examples which may give rise to concern in respect of children include premises:

- where entertainment of an adult or sexual nature is provided
- where there is a strong element of gambling taking place
- with a known association with drug taking or dealing
- where there have been convictions of the current management for serving alcohol to minors or with a reputation for allowing underage drinking
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises

12.39 In such circumstances as listed above the Licensing Authority would expect the applicant to suggest restrictions in relation to access for children. If such restrictions are not contained within the operating schedule and if relevant representations are made, the Licensing Authority will consider applying conditions deemed necessary to meet the licensing objectives.

12.40 Conditions may be imposed, if not covered in other legislation, on licences for premises where children will be present at places of regulated entertainment to the effect that sufficient adult staff must be present to control the access and egress of children and to ensure their safety. Where children may be present at an event as entertainers there may be a requirement for there to be a nominated adult responsible for such child performers at such performances.

12.41 The options available for limiting access by children would include:

- a limit on the hours when children may be present
- a limitation or exclusion when certain activities are taking place
- the requirement to be accompanied by an adult
- access may be limited to parts of the premises but not the whole
- age limitation (for under 18s).

12.42 The Licensing Authority will not impose any condition which specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual licence holder or club.

Display of Films and theatrical entertainment

12.43 In the case of premises giving film exhibitions, the Licensing Authority expects the holders of premises licences or other permissions to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the Licensing Authority itself.

12.44 In relation to theatrical entertainment, it may be necessary to impose a condition to restrict the admission of children to theatres which are incorporating adult entertainment in their productions. It may also be necessary where entertainment is provided specifically for children, to consider whether a condition should be attached requiring the presence of a sufficient number of adult staff to ensure the wellbeing of children during an emergency.

13. PLANNING

13.1 The Planning Authority within RCTCBC is a Responsible Authority under the Licensing Act 2003, and can make representations on applications or call reviews of existing licenses, based on any of the four licensing objectives.

- 13.2 There is a clear distinction and separation between the Licensing Authority and the Planning Authority, but there are also complementary disciplines. Planning primarily controls the development and use of land, whereas Licensing is concerned with the operation and management of the premises upon that land.
- 13.3 However, the 'prevention of crime and disorder' and the 'prevention of public nuisance' are shared concerns of the planning and licensing authorities.
- 13.4 The Licensing Authority advise applicants to check for/or obtain the relevant planning permission to allow the required activities.
- 13.5 It is ultimately the responsibility of the applicant/licence holder to ensure that operations at premises are compliant with both planning permissions and licensing authorisations.

14. FIRE & RESCUE SERVICE

- 14.1 South Wales Fire and Rescue Service (SWFRS) is a Responsible Authority. The prime consideration within the Licensing Act of (SWFRS) is to promote the objective of 'public safety'.
- 14.2 The Licensing Authority recommends that all premises (including those used for temporary events) carry out a fire risk assessment by a competent person. Where a premises licence is held this assessment should be in written form.
- 14.3 The Local Authority will work closely with SWFRS and share information relevant to the promotion of the licensing objectives.
- 14.4 For further information on fire safety at events click on the link below,

<https://www.southwales-fire.gov.uk/your-safety-wellbeing/your-community/outdoor-event-planning/>

or alternatively the business fire safety website <https://www.southwales-fire.gov.uk/your-safety-wellbeing/in-business/>

15. HOME OFFICE IMMIGRATION

- 15.1 The Home Office is a Responsible Authority. The licensing authority will work closely with the Immigration Enforcement and Compliance unit within the Home Office to assist in the prevention of illegal working, as well as combating the issues of trafficking and modern slavery.
- 15.2 Illegal working breaches the promotion of 'prevention of crime and disorder'.

- 15.3 The licensing authority will conduct joint inspections with the Home Office and will seek to actively share information to assist in the promotion of the licensing objectives.
- 15.4 The licensing authority recommends that licence holders check and copy documentation of all staff members showing their entitlement to work in the UK. During inspections of premises, officers may ask to see evidence of this, to which any responsible licence holder will be able to provide copies of the identity documents.

16. HEALTH AUTHORITY

- 16.1 Alcohol is a major preventable cause of death and illness in Wales.
- Alcohol is more harmful than many illicit and legal drugs of abuse, and its use is far more widespread. It is the third highest of twenty-six risk factors for ill-health, behind only tobacco and high blood pressure. It contributes to the risk of around 60 diseases. Liver disease is only cause of premature mortality in Wales that is still increasing.
- 16.2 In addition, the social harms of alcohol misuse are numerous including violence, injury, family, work and financial problems, often leading to further health harms.
- 16.3 Alcohol consumption in the UK has increased over the past decade, as have deaths and diseases related to alcohol. Many of those affected by alcohol are unaware of how it is harming their health until the disease process is well established.
- 16.4 Reducing the availability of alcohol is identified by the World Health Organisation (WHO) as one of the 'best buys' for preventing alcohol related harm.
- 16.5 The use of the licensing process to regulate the number and location of outlets selling alcohol is, therefore, a key element of prevention.
- 16.6 Health Boards in Wales have been one of the named Responsible Authorities on alcohol licensing since the 2003 Licensing Act was amended in 2012. Cwm Taf University Health Board is the Responsible Authority for RCT.
- 16.7 Within Cwm Taf there are significant areas of deprivation, particularly in the post-industrial regions of the Rhondda.
- 16.8 The gap for healthy life expectancy between the most and least deprived areas of Cwm Taf is 14.8 years for men and 15 years for women. A contributing lifestyle factor will be alcohol. Information in 2015-2016 show Rhondda Cynon Taf to have the tenth highest of all local authorities for admissions to hospital for alcohol specific conditions.

- 16.9 New guidelines for alcohol consumption, produced by the UK Chief Medical Officer, warn that drinking any level of alcohol increases the risk of a range of cancers.
- 16.10 The Health Behaviour of School aged Children (HBSC) survey in 2013/14 reported that 10% of children aged between 11-16 years of age in Cwm Taf reported drinking alcohol at least once a week. Drinking in children and young people across Wales remains a particular concern.
- 16.11 In Cwm Taf, alcohol specific hospital admissions in the under 18 year olds are the highest across all the Welsh Health Boards (*PHW Observatory, 2014*).
- 16.12 The opportunity to include a public health perspective within the licensing process may have a positive impact on licensing decisions where health concerns are raised.

17. SAFEGUARDING

- 17.1 Licence holders are in a responsible position. The Council expects licence holders to promote all the objectives one of them being 'The protection of children from harm'. The Council would expect any responsible licence holder to report something that may raise concern to them. The information below is to help not just licence holders, but all staff working within the licensing trade to report to the relevant authorities, matters of concern that could relate to the safety of children, young people and adults with care and support needs, particularly as it relates to child sexual exploitation, abuse, modern day slavery and human trafficking.
- 17.2 The Licensing Authority is helping to tackle child sexual exploitation, abuse, modern day slavery and human trafficking by working together with key partners. The Licensing Authority is a participant in Multi Agency Child Sexual Exploitation (MACSE) and Cwm Taf Multi Agency Safeguarding Hub (MASH) meetings, and works closely with the Cwm Taf Safeguarding Board.
- 17.3 Safeguarding is everyone's responsibility and through partnership working, the Council aims to identify such exploitation to protect children, young people and adults with care and support needs, and disrupt the activities in order to hold perpetrators of abuse to account.
- 17.4 The Council places the highest priority on the protection of children and vulnerable people from this kind of harm and expects all licence holders and potential licence holders to take cognisance of all national guidance in relation to preventing this kind of activity taking place at their premises.
- 17.5 The authority will work proactively to undertake test purchase operations in partnership with South Wales Police and Trading Standards officers in order to ascertain whether premises have sufficiently robust policies and procedures in place to safeguard children.

17.6 The Authority would expect any responsible licence holder to constantly review their policies and practices to maintain promotion of the licensing objectives.

17.7 Where it is brought to the authority's attention that any licensed premises is continually exposing children and vulnerable people to harm, the authority – in consultation with other responsible authorities – will look to take immediate remedial action to prevent further harm, by utilising any or all of the powers at its disposal.

If you have reason to suspect that a child is being abused or at risk of abuse it is your responsibility to report your concerns to and share information with South Wales Police (Tel: 101) and RCTCBC Monday - Friday 8.30am - 5.00pm (Tel: 01443 425006) or out of hours team on (01443 743665).

Further information about Cwm Taf Safeguarding Children Board can be found at: <https://www.rctcbc.gov.uk/EN/Council/Partnerships/Workingwithothers/CwmTafSafeguardingBoard.aspx>

17.8 The Licensing Authority would expect all responsible applicants for grants or variations of their premises licence or club premises certificate to outline robust measures to protect children from harm.

18. CHILDREN IN LICENSED PREMISES

18.1 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). The Secretary of State's Guidance to the Licensing Act 2003 also makes clear that the authority must also consider the need to protect children from sexual exploitation when undertaking licensing functions.

18.2 It is recommended that applicants make clear in their operating schedules the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.

18.3 Responsible licence holders or applicants when preparing an operating schedule, would be expected to set out the steps to be taken to protect children from harm when on the premises. It is advised that any person wishing to hold events for children provide the authority and South Wales Police with a detailed risk assessment of that event including how the event will be managed, staffing levels for the event and how any child will be prevented from being exposed to any harm.

- 18.4 The authority will give considerable weight to representations about child protection matters particularly from the Cwm Taf Safeguarding Children’s Board who act as the Responsible Authority under the Act for matters relating to child protection. The authority will also give serious consideration to any such representations from all other Responsible Authorities.
- 18.5 These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol- related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced.
- 18.6 In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, the licensing authority will consider what robust conditions may be appropriate to ensure that this objective is promoted effectively.
- 18.7 The Licensing Act makes it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for the supply of alcohol for consumption on those premises.
- 18.8 Responsible licence holders who wish to allow children on their premises will be expected to ensure that access is restricted where appropriate. This would include, ensuring that all children are accompanied and that they do not have access to or sight of alcohol.
- 18.9 The 2003 Act requires that any premises showing films must ensure that children are not able to view age restricted films (as classified by the British Board of Film Classification). Responsible licences holders or applicants who intend to show films should outline suitable robust measures on how they will protect children from exposure to this potential harm. The authority may impose suitable conditions if it believes it is required for the promotion of the four licensing objectives.
- 18.10 Where a large number of children are likely to be present on any licensed premises, for example a children’s pantomime, disco/rave or similar event, the authority recommends all children be supervised by an appropriate number of adults and the premises have measures in place to prevent any child being exposed to harm.
- 18.11 Premises operators may also apply their own admissions policy to their premises. If a venue has carried out a risk assessment that deems it appropriate to exclude children the premises operators may also apply their own admissions policy. If a premises has carried out a risk assessment that deems it appropriate to exclude children or young persons from their premises then that is a matter for them.

- 18.12 It is recommended that all premises operators risk assess their venues accordingly against the nature of the licensable activities they intend to carry out.
- 18.13 Events where there is a mixture of persons under the age of 18 years and persons over 18 years have historically shown to be problematic and difficult to control and manage, leading to exposure to alcohol to those under the age of 18 years. Such events can have an adverse impact on a young person's well-being as well exposing them to unacceptable levels of harms.

19. CUMULATIVE IMPACT ASSESSMENT

- 19.1 The Licensing Authority does not currently believe that a special policy on cumulative impact is required within the Borough. The aim of a Cumulative Impact Assessment (CIA) is to limit the growth of licensed premises where the promotion of the licensing objectives is undermined within a specific area.
- 19.2 Should the authority satisfy itself after considering all evidence as well as consulting in accordance with Section 5(3) of the Act, then it may implement a special policy of cumulative impact within an area. Such a policy will be continuously reviewed to ensure the facts remain relevant.
- 19.3 Should this policy be adopted, the licensing authority will make assumptions that any further application to grant or vary a licence within the said area will be refused, that said the authority will still consider the application and should the applicant demonstrate that the new licence would not add to the cumulative impact then this will be given full consideration.
- 19.4 The Licensing Authority will review the need for a special policy on cumulative impact at least every five years as part of the review of this policy to see if circumstances have changed.
- 19.5 It should be noted that the absence of such a policy does not prevent any responsible authority or interested party making representations on an application that the said premises will potentially give rise to a negative cumulative impact on any of the licensing objectives.

20. EARLY MORNING RESTRICTION ORDERS (EMROs)

- 20.1 Early Morning Restriction Orders (EMROs) are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to a specific premises. This power was allowed on the licensing authority through the Police Reform and Social Responsibility Act 2011.

- 20.2 An EMRO applies;
- to the supply of alcohol authorised by premises licences, club premises certificates and temporary event notices;
 - for any period beginning at or after 12am and ending at or before 6am. It does not have to apply on every day of the week, and can apply for different time periods on different days of the week;
 - for a limited or unlimited period (for example, an EMRO could be introduced for a few weeks to apply to a specific event);
 - to the whole or any part of the licensing authority's area;
- 20.3 An EMRO will not apply;
- to any premises on New Year's Eve (defined as 12am to 6am on 1 January each year);
 - to the supply of alcohol by those who provide hotel or similar accommodation to their residents between 12 am and 6am, provided the alcohol is sold at those times only through mini-bars and/or room service; and
 - to a relaxation of licensing hours by virtue of an order made under section 172 of the 2003 Act.
- 20.4 An EMRO is a powerful tool in tackling issues which negatively impact on the night time economy and more so the licensing objectives. The licensing authority will consider carefully the potential impacts any such implementation will have on licenced premises.
- 20.5 It is not currently the view of the Licensing Authority that an EMRO is required to be introduced within the Borough at present time. However, the situation within the Borough remains under constant review and should information suggest it be deemed required, the Authority in consultation with partners - may decide that an EMRO is an appropriate measure to take to address issues of crime and disorder associated with the night time economy.

21. LATE NIGHT LEVY

- 21.1 The late night levy enables the Authority to raise contributions towards the cost of policing the night time economy. The levy is payable by the holders of any premises licenced to sell alcohol between the hours of midnight and 06.00hrs. Any proposal to introduce such a levy must be evidenced and approved by full Council.
- 21.2 It is not currently the view of the Authority that a late night levy is required within the Borough. If this view was to change, then the Authority will follow the guidance issued by the Home Office and consult the persons or businesses that will be effected.

22. DESIGNATED PUBLIC PLACE ORDERS (DPPO) / PUBLIC SPACE PROTECTION ORDER (PSPO)

- 22.1 A County wide Designated Public Place Order (DPPO) is applicable to all public places in the County Borough of Rhondda Cynon Taf. This does not ban or make it illegal to

carry alcohol or to drink alcohol in a public place as long as drinking is done responsibly.

- 22.2 The **County-wide** alcohol controls **will not** make it an offence to drink alcohol in a public place however failure to comply with a request by a Police Constable or authorised officer in relation to public drinking or to surrender alcohol, without reasonable excuse, is an offence.
- 22.3 The county wide DPPO automatically became a PSPO on the 20th October 2017 through the enactment on the Anti-Social Behaviour, Crime and Policing Act 2014. This Act introduced new powers including the use of Public Space Protection Orders (PSPO). The new orders are more flexible and can be applied to a much broader range of issues, with local authorities having the ability to design and implement their own prohibitions or requirements where certain conditions are met.
- 22.4 Of the 22 local authorities in Wales, Rhondda Cynon Taf ranks second highest for the rate of alcohol use. In relation to drug use, Rhondda Cynon Taf ranked 11th (slightly below the Wales average). Alcohol accounts for 62% of referrals to substance use treatment services in Cwm Taf, with other drugs making up the remaining 38% of referrals.
- 22.6 Cwm Taf has the highest rate of alcohol related deaths in Wales. According to Public Health Wales (2015), Cwm Taf had the highest incidence of alcohol related deaths in both males and females and the second highest rate of hospital admissions in Wales due to alcoholic liver disease.
- 22.7 Safer Town Centres is one of the priorities for Rhondda Cynon Taf Community Safety Partnership. Over recent years the local authority and key partners have run proactive operations designed to disrupt ASB, detect licensing offences, deter environmental criminal activity, enforce parking restrictions and address perceived problems within the Town Centres of Pontypridd and Aberdare. A crime perception survey is carried out annually in Aberdare and Pontypridd Town Centre to assess the impact we are having in our towns. The 2016/17 Town Centre Survey was carried out in Aberdare and Pontypridd and of 326 responses, 89 (27%) of those saw alcohol as the single biggest cause of crime and disorder within the town centres.
- 22.8 Due to the above findings an Intoxicating Substance Exclusion Zone was created within the remit of the PSPO which is applicable in defined areas of Pontypridd and Aberdare Town Centres (refer to the Maps on pages 19 and 20). This prohibits persons within the Exclusion Zone from ingesting, inhaling, injecting, smoking or otherwise using intoxicating substances in public places. The prohibition shall not have any effect in relation to an activity, premises or curtilage (e.g. a beer garden or permitted pavement seating area) authorised to be used for the supply of alcohol by licence or club premises certificate, so would not impede these legitimate business functions.
- 22.9 **The prohibition also includes a wavering option to allow for public drinking at organised events within these locations (e.g. The Big Bite, Christmas Markets) via**

applications made for temporary event notices through the Council's Licensing Team.

22.10 In relation to the Exclusion Zones within **Pontypridd and Aberdare Town Centres**, where a Police Constable or authorised officer reasonably believes a person has been or intends to take intoxicating substances in breach of the prohibition they will be committing an offence.

22.11 A Police Constable or authorised officer may issue a fixed penalty notice to anyone believed to have committed an offence in relation to a PSPO. The Council, in varying the PSPO, may specify the amount of fixed penalty fine payable in respect of relevant offences at no more than £100.

22.12 Map of Pontypridd Exclusion Zone is on page 29.

Pontypridd

RHONDDA CYNON TAF

RHOI TERFYN AR YFED AR Y STRYD
CALLING TIME ON STREET DRINKING

#StrydoeddDimAlcohol #AlcoholFreeStreets

22.13 Map of Aberdare Exclusion Zone

**Aberdâr
Aberdare**

**RHOI TERFYN AR
YFED AR Y STRYD
CALLING TIME ON
STREET DRINKING**

#StrydoeddDimAlcohol #AlcoholFreeStreets

23. COMMUNITY ALCOHOL PARTNERSHIP (CAP)

- 23.1 Rhondda Cynon Taf currently has two CAP initiatives, one in Porth and one in Pontypridd. Both have been very well received and continue to assist young people within the areas.
- 23.2 CAP encourages local partnership working to tackle underage alcohol misuse and associated anti social behaviour. CAP is unique in that it recognises that retail is part of the solution and has been shown to be more effective than enforcement alone.
- 23.3 CAP brings together a range of local stakeholders with a shared interest in preventing underage drinking and encouraging responsible drinking among young adults. CAP partners vary but will typically include police, trading standards, relevant local authority departments such as public health, licensing, community engagement and youth services, schools, local charities, housing associations, resident associations and alcohol retailers/licensees.
- 23.4 The CAP has set the following objectives and developed an action plan to address each of the objectives:-
- Reduce alcohol related anti-social behaviour and associated issues that affect the public, local businesses and transport links.
 - Reduce supply of alcohol to under 18's from parents/family and via proxy purchasing.
 - Reduce alcohol sales to young people under 18.
 - Improve the health and knowledge of young people with regards to alcohol consumption, making them aware of the consequences and risks associated with drinking alcohol
 - Improve general understanding of alcohol strengths and the number of units safe to consume in accordance with the governments safe drinking message.
 - Develop a responsible retailing ethos and effective partnership approach in the CAP area.

23.5 Education

Education is the single most important element of any CAP's action plan. Education will take many forms and is targeted at several key audiences:

23.6 Children and teenagers

Schools are encouraged to follow an alcohol education programme of their choice, preferably one that has been evaluated with proven results, such as the Alcohol Education Trust "Talk about Alcohol" or those that feature on the Mentor ADEPIS website of recommended programmes. In addition we positively encourage CAP schools to use interactive, innovative ways of teaching about alcohol including peer mentoring, Theatre in Education, school action days involving a range of local agencies, Dragon's Den- type competitions to encourage pupils to present team-based creative solutions to reducing alcohol harm and visiting speakers with special expertise or knowledge.

23.7 Parents

Parental education is of particular importance given that parents are the single most common supply route of alcohol for under 18s. Increasingly we find that schools in CAP areas are recognising the importance of engaging with parents and many this year included relevant information and materials in e-newsletters such as Parentmail.

23.8 Enforcement

CAPs focus on both the supply and the demand side of underage drinking and treat retailers & licensees as part of the solution and not part of the problem. The enforcement activity is informed by all stakeholders, who share information and co-ordinate their response. Appropriate and proportionate enforcement is encouraged in CAP schemes but usually only as a backstop after all efforts to educate have been exhausted. Compliancy testing (not test purchasing) but mystery shopping using over 18s is positively encouraged in CAPs to establish compliance with Challenge 25. If weaknesses are found, remedial action (in the form of training and signage) is offered. If all efforts at supporting a licensed premise fail then enforcement remains an option and at that point a test purchase is usually considered necessary.

23.8 Business Engagement

CAP champions the use of Challenge 25 and PASS and also supports independent retailers/licensees with training including on conflict resolution, identifying fake ID and how to make a challenge. A CAP scheme will ensure that all messages and literature are coordinated across the CAP area, targeting specific groups where appropriate.

23.9 Diversionsary Activity

CAP encourages scheme partners to conduct an early assessment of the provision of leisure and diversionsary activities for young people in the area. Partners are urged to consult young people about the appropriateness of the activity on offer and to look at ways to increase accessibility (by signposting on social or other media and also by offering discounted or free sessions) and using whatever funding is available locally, often with some match funding from CAP. As well as enhancing young people's confidence, mental and physical health and well-being, diversionsary activity is also an excellent opportunity to deliver alcohol education in an informal setting. The process of consulting with young people gives them a sense of ownership and sends an important message that their voice matters.

24. PUBWATCH

24.1 The Pubwatch initiative is aimed to provide a safer drinking environment in all licensed premises where "people should be able to enjoy a good night out safely and responsibly without fear of being the victim of alcohol-related crime and disorder."

24.2 The licensing authority strongly recommends licensed premises participate in the local Pubwatch schemes. Pubwatch enables licensees to take collective action, while working in partnership with enforcement bodies to promote good practice.

- 24.3 RCTCBC and South Wales Police participate in pubwatch meetings throughout the whole of the Borough. For further information contact the licensing authority.

25. MOBILE, REMOTE, INTERNET AND OTHER DELIVERY SALES

- 25.1 The Licensing Authority shall have due regard to sales of alcohol which are made remotely, by mobile methods, internet or by other delivery sales. The Authority acknowledges that while delivery services for the sale of alcohol is a valid business, it also recognises that this activity can cause rise to young people accessing alcohol and questions in terms of whether it adequately protects children and young people from alcohol-related harm.
- 25.2 Responsible licence holders and applicants would suggest robust operating schedules to show promotion of the licensing objectives. It is recommended that new applicants and those with existing premises who are looking to expand into this area seek advice from the Licensing Authority or the police as it might be appropriate for provisions in the operating schedule for age verification and restriction of delivery times and quantities.
- 25.3 Any responsible applicant would include age verification procedures at both the point of sale and delivery stages. Retailers should ensure that delivery staff have appropriate training around requesting and identifying proof of age, and should implement these procedures as standard.

26. PETROL FILLING STATIONS

- 26.1 Section 176 of the Licensing Act prohibits alcohol sales from premises that are used primarily as a garage (or are part of premises used primarily as a garage) and are used for one or more of the following: retail sale of petrol/ diesel; sale/maintenance of motor vehicles.]
- 26.2 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.
- 26.3 The Licensing Authority must therefore be satisfied whether or not any premises is used primarily as a garage before the grant of a licence.
- 26.4 Applicants must demonstrate at the time of application that their premises are not primarily used as a garage and must submit evidence such as sales and/or footfall for a minimum period of 2 years prior to the application.
- 26.5 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.

- 26.6 Whilst a premises licence exists at such a business within RCT, the licensing authority may randomly ask the business operator to provide evidence of primary use.

27. LATE NIGHT REFRESHMENT

- 27.1 Late night food outlets can be a major contributor to crime and disorder and anti social behaviour. Applicants who wish to provide hot food or drink after 2300hrs and up to 0500hrs, are advised to demonstrate that their proposed operation will not exacerbate issues of crime and disorder in that locality.
- 27.2 The authority looks towards responsible licence holders to share a partnership approach.
- 27.3 Applicants for a late night refreshment licence are advised to take cognisance of the Secretary of State's Guidance and to include appropriate and proportionate measures within their operating schedule to assist in actively promoting the licensing objectives.
- 27.4 Public nuisance can often occur from takeaways being sited in residential areas. This could be in relation to the use of delivery vehicles and the congregating of customers outside the premises.
- 27.5 Applicants are expected to make an assessment of their proposed locality and implement measures to avoid disturbing local residents. The authority recommends implementation of a dispersal policy to avoid congregation.
- 27.6 Responsible licence holders would show efforts being made to begin closing the premises prior to the closing time to dissuade the public from gathering and trying to enter the premises thus causing potential issues for management.
- 27.7 Delivery drivers should respect the neighbours and not cause any undue nuisance, such as slamming of doors, music emanating from cars and responsible parking.

28. LICENSING HOURS

- 28.1 The Licensing Authority, through the exercise of its licensing functions shall not seek to restrict the trading hours of any particular premises unless it is considered appropriate to promote one or more of the licensing objectives. Each application will be considered individually on its own merits.
- 28.2 Where there are relevant representations against an application and the Licensing & Regulatory Sub-Committee believes that granting the licensing hours proposed would undermine the licensing objectives then it may reject the application or grant it with appropriate conditions and/or different hours from those requested.
- 28.3 In the interests of reducing crime, disorder and anti-social behaviour, the Licensing Authority 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.

28.4 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 on licensable activity on residents and their property
- History of activity associated with premises, with particular relevance to complaints

29. TEMPORARY EVENTS NOTICE (TENS)

29.1 The Temporary Events process is a permissive regime, in so far as this is a Notice and not an application.

29.2 The Licensing Act allows for small scale events (no more than 499 people at a time and lasting for no longer than 168 hours) to proceed without the need for a premises licence.

There are two forms of Notices which can be served on the authority:-

- Standard Temporary Event Notice (TEN). The TEN must be served on the Licensing Authority and a copy served on the Police and Environmental Health, as Responsible Authorities no later than ten clear working days before the event is to begin. To avoid confusion, the ten working days does not include weekends, public holidays, the day of receipt of the TEN and the day of the event itself.
- Late Temporary Event Notice (LATE TEN) The late TEN must be served on the Licensing Authority and a copy served on the Police and Environmental Health, as Responsible Authorities no later than 5 working days before the first day of the event and no earlier than 9 working days before the first day of the event

29.3 A temporary event notice may be given for any individual premises up to 15 times in a calendar year. 'Premises' can mean any place, it does not have to be a building with a formal address.

29.4 Each temporary event notice must last no longer than 7 days, or 168 hours, and there must be 24 hours between each individual temporary event notice at a premises. For the purposes of a TEN 'a day' is considered to be 00:00 to 23:59.

29.5 The maximum total duration of events which can be authorised by TENS at an individual premises is 21 days in a calendar year.

- 29.6 Multiple TENs may be given at the same time, if for example an individual is planning multiple events throughout the year and is planning ahead. Each individual event must be on a separate notice and accompanied by the correct fee.
- 29.7 Personal licence holders may give up to 50 TENs in a calendar year, up to 10 of which may be late TENs. Non personal licence holders may give up to 5 TENs in a calendar year, 2 of which may be late TENs. Associates, relatives and business partners of an individual giving a TEN are considered to be the same person in relation to these restrictions. Therefore, for example, two business partners who held personal licenses could not apply for 100 TENs between them, they would be limited to 50.
- 29.8 Only the Police and Environmental Health may object to the staging of a temporary event. If they believe that any of the four licensing objectives will be undermined by the event they will issue an 'Objection Notice'.
- 29.9 Where an Objection Notice is received in relation to a standard TEN, a licensing Panel will be held to determine the notice within seven working days of the Objection Notice being issued. The Licensing Authority will notify all relevant parties of the time and venue for the hearing. A hearing will not always be necessary if an agreed modification can be made beforehand.
- 29.10 Where an Objection Notice is received in relation to a Late TEN, the event will automatically be refused authorisation. There is no right of appeal in this instance.
- 29.11 The Licensing Authority recommends three months' notice be given of the intention to hold such temporary events in the interests of public safety and in order to allow it to help organisers to plan their events. Any longer period than this may mean that organisers do not have all the details available at the time the notice is submitted, and allowing any lesser time may mean that planning for the event could be rushed.
- 29.12 For events that will be carried out on council land it is highly recommended that the organisers first obtain relevant written permission to use the land.
- 29.13 For events held on RCTCBC owned land, permission to use the land will be required from the landowner i.e. 'highways' or 'parks' divisions even if the organiser is in possession of a TEN.
- 29.14 The Licensing Authority has established an Events Safety Advisory Group consisting of the Emergency Services and other statutory agencies such as the highways authority, to advise and to co-ordinate planning for public events held within the County Borough, whether or not a Premises Licence or a Temporary Event Notice is needed.
- 29.15 Organisers of temporary events are advised to contact the Council's Licensing Officers for advice at the earliest opportunity when planning events. Where necessary, the advice of the Events Safety Advisory Group can be obtained, or discussions can be held with the Police in order to avoid any unnecessary objections being made.

- 29.16 When relevant representations are received from the Police or Environmental Health, the Act requires that a hearing of the Licensing Act Sub Committee will be held in order to determine the notice, unless all parties are in agreement that this is not necessary. The Council proactively encourages and supports all parties to attempt to negotiate and mediate during the consultation period in order to remove the need for a hearing. The police or Environmental Health may contact the party providing the notice in order to negotiate a mutually satisfactory agreement which allows the proposed licensable activities to proceed. Any proposed modification must be agreed by the police, Environmental Health and the individual providing the notice.
- 29.17 Where a TEN is submitted which exceeds either the permitted number of TENs at an individual premises, or the number an individual person may apply for, the notice will not be valid and the Council will issue a counter notice to the notice giver no later than 24 hours before the beginning of the event.
- 29.18 TENs may be withdrawn if an event is no longer going ahead. This must be done no later than 24 hours before the start of the event. If the notice is not withdrawn within this time period, the notice will count towards the premises' and the individual's permitted numbers of notices in that calendar year. The fee for submitting the notice will not be refunded.

30. PERSONAL LICENCES

- 30.1 A personal licence has effect indefinitely unless it is surrendered, the holder of the licence ceases to have the right to work in the UK, the licence is revoked, forfeited or suspended by order of a court.
- 30.2 The Licensing Authority will seek to grant applications for personal licences so long as they meet the application criteria outlined in the Licensing Act. However, if an applicant has been convicted of a relevant offence or has been subject to an immigration penalty that may undermine the prevention of crime and disorder licensing objective, South Wales Police or Home Office Immigration may make representations against the grant of the application. A list of relevant offences can be found at <https://www.legislation.gov.uk/ukpga/2003/17/schedule/4> .
- 30.3 No application will be processed and considered until all information required is received and full payment is made.
- 30.4 Where relevant representations are received, the Licensing Authority will hold a hearing in accordance with the regulations and timescales outlined in the Act. The Licensing Committee will then make a determination on the application taking into account the relevant representations received.
- 30.5 When a Personal Licence holder moves address, they must notify the authority that issued their licence. Failure to do so is an offence under the Licensing Act 2003.

- 30.6 When a Personal Licence holder is convicted of a relevant offence or has paid an immigration penalty, they must notify the authority who issued their personal licence so that their licence can be endorsed to that effect. The notification must be made as soon as reasonably practicable. Failure to do so is an offence under the Licensing Act 2003.
- 30.7 Where a Personal Licence holder is convicted of a relevant offence or has paid an immigration penalty then the licensing authority will look to take action under Section 132A of the Licensing Act, which may lead to suspension of the personal licence for a period of up to six months or revoke it.

31. ANNUAL FEES

- 31.1 Premises licenses are subject to an annual fee which is due each year on the anniversary of the date of original grant of the premises licence. Annual fees are determined by the non-domestic rateable value of the premises.
- 31.2 The council however will issue a reminder letter if payment of the annual fee is not made on time, a further reminder letter will be issued, and should non payment remain at this stage, the premises licence will be suspended 48 hours from the date of the letter.
- 31.3 The responsibility for ensuring payment of annual fees is made on time lies entirely with the premises licence holder.
- 31.4 Premises with suspended licences will be monitored by the Council. Any premises found to be carrying on licensable activities with a suspended licence may be subject to further enforcement.
- 31.5 Premises licences will remain suspended until full payment of the annual fee is received. Where payment is made by cheque or BACS, the licence will remain suspended until the payment has cleared. Once payment is received the licence holder will be informed the licence is no longer suspended.
- 31.6 Annual fees paid by cheque will not be considered paid until such time as the cheque has cleared.
- 31.7 Payment of the annual fee is the responsibility of the current premises licence holder. Any unpaid annual fees that may have accrued previously will be the responsibility of the current licence holder and not any previous licence holder(s).
- 31.8 Should a transfer of licence be granted, the licence will still remain suspended until full payment is received. It is the responsibility of the 'incoming' applicant to ensure they know all details relating to the licence.

- 31.9 Annual fees are non-refundable. Outgoing premises licence holders will not be eligible for a refund of any part of an annual fee paid by them. Similarly, if a premises licence is surrendered or lapses, no part of the annual fee will be refundable.

32. GAMBLING ACT 2005

- 32.1 The provision of gaming machines and certain forms of low-stakes gambling (i.e. poker and bingo) are permitted in alcohol-licensed premises and qualifying clubs under the Gambling Act 2005. The type of gambling allowed, stakes and prizes are specified in regulations and are set at levels which are designed to keep this form of gaming a low-risk, sociable activity. Generally, such gaming should be ancillary to the primary use of the premises. The Authority may investigate a premises where it believes that gaming is becoming the dominant activity or is having a detrimental effect on the licensing objectives.

The Council has adopted a Gambling Act Policy which stands separate from this Licensing Policy.

<https://www.rctcbc.gov.uk/EN/Business/LicencesandPermits/Streettradinglicences/RelatedDocuments/StatementofPolicy20192022UPDATED.pdf>

33. APPLICATIONS

- 33.1 No application for premises licence, club premises certificate, transfer of licence, vary a licence will be processed until such a time as all required fields on the application form are completed, all required documentation is received and a full payment fee is by RCTCBC. If payments are by cheque or BACS the application will not be processed until the money is received within RCTCBC.
- 33.2 For all grants or full variations applications must be accompanied by a plan of the premises, highlighting the proposed licensable area. Failure to provide correct documentation or fee will render the application invalid. The licensing authority will only accept a full application bundle, when this is received the authority will forward to all responsible authorities as detailed within the Licensing Act.
- 33.3 It is the responsibility of the applicant to ensure that any application is applied for correctly in accordance with Licensing regulations.
- 33.4 The licensing authority may conduct a 'letter drop' to local residents when applications are received, but will primarily rely on the blue notice and advert within the local newspaper to raise awareness.
- 33.5 Applicants will be encouraged to make themselves aware of any relevant local crime prevention strategies, planning policies or local crime prevention, alcohol reduction strategies; and to have taken them into account, where appropriate, when formulating their operating schedule.

- 33.6 Whilst many applications will be resolved without the need for a committee hearing, any matters or representations that are not resolved within each consultation period will result in a hearing before the Licensing Authority Sub-Committee to determine the outcome.
- 33.7 The licensing authority strongly recommends that applicants seek advice from the responsible authorities prior to submitting any application, especially for a grant of a licence or full variation and request to attend a pre-application meeting.
- 33.8 Details of how to apply can be found the RCTCBC licensing web page.
- 33.9 The Council promotes responsible applicants to engage with it in an open and cooperative way and to disclose anything which the Council would reasonably expect to know.

34. REPRESENTATIONS

- 34.1 A relevant representation is one that is made in writing and:
- Is about the likely effect of grant of the licence on the promotion of the licensing objectives;
 - Has been made by a Responsible Authority or other person as defined by the 2003 Act, within the relevant time period as prescribed by regulation;
 - Has not been withdrawn; and
 - In the case of representations made by a person who is not a Responsible Authority that they are not in the opinion of the Licensing Authority considered as frivolous or vexatious (or repetitious in respect of a review).
- 34.2 The Licensing Authority will determine whether a representation is frivolous or vexatious and will apply the below ordinary interpretation;
- A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification.
 - Frivolous representations would be essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.
- 34.3 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 in fact this would not be possible for new premises.
- 34.4 For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation.
- 34.5 The Licensing Authority will attempt mediation between the relevant parties wherever it may be permitted or appropriate, so as to avoid unnecessary hearings. It may also extend the normal time limits for hearings where it is considered in the public

interest to do so (for example where all parties are on the point of reaching agreement)

- 34.6 The Licensing Authority cannot accept anonymous representation. Full details of all representations must be made available to the applicant, however the Licensing Authority may consider withholding personal details in exceptional circumstances which justify such action.
- 34.7 In general, if a person wishing to make representation prefers to remain anonymous to the applicant, they may ask their local councillor to make representation on their behalf. In these circumstances, the Councillor will be asked for the details of the person in order to satisfy the Council that they are entitled to comment on the application, however they will not be passed on to the applicant.
- 34.8 The Council will treat petitions received as one representation from the named person organising it, but acknowledging its support by the other signatories. The licensing authority will only correspond with the author of a petition and will not relay information to each name on the document.
- 34.9 The licensing authority recommends that any person who wishes to submit representations does so in written form, and include full details of the reasons for the representations and also include contact details.

35. COMPLAINTS

- 35.1 The council will accept and consider each complaint on its own merits.
- 35.2 The council recommends that complainants provide full details of the issues and how they impact on the licensing objectives, as well as providing contact details such as name, address and contact number. An officer may wish to contact the complainant during the course of an enquiry.
- 35.3 The licensing authority recommends that complainants with concerns relating to noise nuisance provide as much detail as possible such as specific times, where the noise emanated from, where the noise was heard and became a problem, and if possible to record the noise.

36. ENFORCEMENT

- 36.1 The licencing authority will carry out enforcement in line with the RCTCBC corporate enforcement policy, with consideration to the Regulators Code 2013.
- 36.2 Licensing officers will routinely conduct inspections of licensed premises to ensure compliance with the licence conditions and all the licensing objectives are being

promoted. Some inspections may be carried out in conjunction with other partners such as Home Office Immigration Enforcement.

- 36.3 The Licensing Act places a responsibility on all responsible authorities, licence holders and prospective licence holders to actively promote the four licencing objectives.
- 36.4 To ensure the best outcome is arrived at, the licensing authority will actively work closely with all other responsible authorities and will share information which is necessary and proportionate to promote the objectives.
- 36.5 The licensing authority will work with colleagues in Trading Standards to conduct test purchases on premises, with a view to ceasing the sale of alcohol to those underage. Any person or premises identified to sell alcohol to children may face further enforcement.
- 36.6 Where complaints have been received which undermine the licensing objectives licensing officers will look at each on their own merits.
- 36.7 Early intervention and pro-active engagement between premises licence holders and the licensing authority plays a key role in upholding the standards expected. Upon any complaint or evidence of non conformity with conditions of a licence, the licensing authority will strive to work with the licence holder to combat the issues. Officers may formulate an action plan. Should the licence holder not assist in the process to promote the licensing objectives, then the licencing authority along with relevant responsible authorities may consider taking enforcement action.
- 36.8 The action that the Council decides to take will be influenced by the particular circumstances of the case, and this is likely to include the attitude of the business or person. Such action may include a review of the licence which will bring the licence holder before a sub-committee who will decide on the appropriate action to take, whether it be to impose more stringent conditions, suspend the licence or revoke the licence.
- 36.9 If offences are found to have taken place on licensed premises, the seriousness of the offence will be taken into consideration as well as any historical issues of non compliance or criminality that have taken place on the premises.
- 36.10 When considering what enforcement action to take, the authority will always consider the most appropriate and proportionate step to take as detailed within the corporate enforcement policy. The prime aim being to promote the licensing objectives.
- 36.11 The authority is not required to wait for offences to occur before deciding it needs to take appropriate action. Case law – notably *East Lindsey District Council v Abu Hanif* – states that the promotion of the licensing objectives requires a prospective consideration of what is warranted in the public interest having regard to the twin considerations of prevention and deterrence. Similarly, the Secretary of State’s Guidance to the Licensing Act makes clear that there is no requirement for the

Authority to wait for the outcome of any criminal proceedings before it initiates appropriate enforcement action.

37. LICENCE REVIEWS

- 37.1 The Licensing Act 2003 enables the Council to deal with problematic premises by way of reviewing the licence. This is a powerful tool to deal with such measures. Responsible Authorities or other persons such as residents can apply to the Licensing Authority for a Review of the Licence or Certificate should a matter arise at the premises in connection with any of the four licensing objectives. Such events may include, continued noise problems, underage sales of alcohol, frequent problems or disorder, allegations of crime taking place at the premises.
- 37.2 Following receipt of a Review application, a 28 day consultation period will begin. The application will be determined by the Licensing Sub Committee, whose available options are:-
- Take no further action.
 - Issue a warning to the licence holder
 - Modify the conditions of the Premises Licence
 - Exclude a licensable activity from the scope of the Licence
 - Remove the Designated Premises Supervisor
 - Suspend the Licence for up to 3 months
 - Revoke the Licence
- 37.3 In cases of serious crime and disorder at premises, the Police may apply for a summary review. On receipt of such an application, the Authority has 48 hours to determine whether any interim steps are required. Alternatively, the police also have powers to serve a closure notice on a premises in circumstances such as serious incidents of crime, disorder, and nuisance.
- 37.4 In the case of persistent underage sales Trading Standards also have closure powers.

38. DELEGATION OF FUNCTIONS

- 38.1 The powers of the Licensing Authority under the Act may be carried out by the authority's Licensing Committee, by a Sub-Committee or by one or more officers acting under delegated authority. The Licensing Committee will consist of between 10 and 15 elected members of the Council and will establish sub committees consisting of 3 members of the committee. The Council's delegation of functions follow the Home Office Guidance issued under Section 182 of the Licensing Act and also the council scheme of delegation.
- 38.2 In situations where representations have been made and an agreement has been reached between all relevant parties to amend the application (i.e. to add conditions) the Licensing Authority reserves the right to not hold a hearing and issue the licence as per the agreement (in such situations the application will be considered 'uncontested'). This will only be done when the proposed amendments promote the

licensing objectives and consideration will be given to the potential for any party to be disadvantaged.

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Application for personal licence		If objection made	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for minor variation of premises licence/club premises certificate			All cases
Application to vary designated premises supervisor		If a police objection made	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection made	All other cases
Applications for interim authorities		If a police objection made	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 an objection to a temporary event notice		All cases (except addition of conditions)	Addition of conditions consistent with existing Licence
Decision whether to consult other responsible authorities on minor variation application			All cases
Suspension of premises licence/club premises certificate for non-payment of annual fee			All cases
Review of Statement of Licensing Policy	All cases (Full Council)		
Implementation of a Late Night Levy	All cases (Full Council)		
Creation of an Early Morning Restriction Order	All cases (Full Council)		

A list of delegation functions is available on page 45:

39. PREMISES LICENCE

- 39.1 A premises licence authorises the use of any premises (which is defined in the Licensing Act as a vehicle, vessel or moveable structure or any place or part of any premises) for licensable activities. Vehicle means:-
- a vehicle intended or adapted for use on roads
 - a vessel includes a ship, boat, raft or other apparatus constructed or adapted for floating on water
 - a moveable structure is any structure capable of being moved
 - any place includes areas such as parks, playing fields or streets
 - a premises is a building or other permanent structure
- 39.2 A premises licence is required if any of the licensable activities are carried out on or from one of the above types of premises. The licensable activities are:
- Sale by retail of alcohol
 - Provision of regulated entertainment
 - Provision of late night refreshment
- 39.3 A premises licence has effect until:
- the licence is revoked as a result of a licence review
 - it is suspended as the result of a licence review
 - the licence is surrendered by the licence holder
 - the licence holder dies
 - the licence holder lacks mental capacity
 - the licence holder becomes insolvent
 - the licence holder is a company which is dissolved
 - the licence holder ceases to have the right to work in the UK
 - the end of any specified limited period for which it was granted
- 39.4 The Council will suspend a premises licence where the relevant annual fee has not been paid. A premises licence does not have effect whilst it is suspended.

40. SURRENDER OF A LICENCE

- 40.1 Where a premises licence holder wishes to surrender their premises licence, they must give written notice to the Council which must be accompanied by the premises licence. If the premises licence is not available, the notice to surrender must be accompanied by a statement of reasons for failure to provide the licence. From the date the Council receives a notice to surrender a premises licence, the licence will lapse and will not be effective.

41. REINSTATEMENT OF A PREMISES LICENCE

- 41.1 A premises licence may be reinstated where a premises licence has been surrendered, and in the following circumstances where no interim authority notice has effect:
- the licence holder dies
 - the licence holder lacks mental capacity
 - the licence holder becomes insolvent
 - the licence holder is a company which is dissolved
 - the licence holder ceases to have the right to work in the UK
- 41.2 A premises licence may be reinstated by any person who would be eligible to apply for a premises licence within 28 days of the premises licence being surrendered or one of the above points having effect. (The transfer of a premises licence process should be followed).

42 PROVISIONAL STATEMENT

- 42.1 An application for a provisional statement may be made where a premises is being, or is about to be, constructed, extended or altered for the purpose of being used for licensable activities, and the applicant is unable to complete the operating schedule of the premises licence application. This may be due to unknown factors regarding the operation of the premises in the early stages of the construction, extension or alteration.
- 42.2 A provisional statement does not authorise licensable activities if issued. It exists to provide some assurance to investors, who may otherwise be unwilling to commit funds to the development that a premises licence covering the requested licensable activities is likely to be granted once the building was complete.
- 42.3 Where an applicant is able to satisfy all the requirements of a premises licence application, but the premises is not yet built, the Council strongly encourages applications for a premises licence to be made, rather than a provisional statement.

43 INTERIM AUTHORITY NOTICE

- 43.1 Interim authority notices can be given following the lapse of a premises licence as a result of the death, incapacity or insolvency of the licence holder, or change of their immigration status and where no application to reinstate the licence through transfer has been made.
- 43.2 Any person who is a freeholder or leaseholder of the premises, or who has a connection to the former holder of the premises licence may, during the first 28 days from the day after the licence lapsed, give the Council an interim authority notice:
- where the former licence holder has died, their personal representative is most likely to be the executor of their estate

- where the former licence holder lacks capacity to hold the licence, their personal representative is most likely to be the person who has enduring or lasting power of attorney
- where the former licence holder has become insolvent, their personal representative is their insolvency practitioner

43.3 The person giving the notice must have the right to work in the UK. Only one interim authority notice may be given in respect of any premises licence.

44 CLUB PREMISES CERTIFICATE

44.1 A club premises certificate is intended to permit licensable activities in a premises used by a club (see below description). Where a premises is used for club purposes, and also has areas where general public admission is permitted, or areas are available for hire to the general public, the Council strongly encourages applications to be made for a single premises licence to cover the entire premises, rather than a club premises certificate to cover members areas and a premises licence to cover non-member areas. This avoids the cost of two annual licence fees for the premises and consolidates the licensable activities under one authorisation.

44.2 A club premises certificate authorises the use of any premises (which is defined in the Act as a vehicle, vessel or moveable structure or any place or part of any premises) occupied by, and habitually used for the purposes of, a qualifying club for licensable activities.

- Vehicle means a vehicle intended or adapted for use on roads
- A vessel includes a ship, boat, raft or other apparatus constructed or adapted for floating on water
- A moveable structure is any structure capable of being moved
- Any place includes areas such as parks, playing fields or streets
- A premises is a building or other permanent structure

44.3 In order to be a 'qualifying club' the following conditions must be met:

- There must be a period of at least two days between new members applying for, or being nominated for, membership and their admission to the members only facilities of the club;
- Where there is no application or nomination process to become a member, there must still be two days between a person becoming a member and being given admission to the facilities of the club;
- The club is established and conducted in good faith as a club;
- The club has at least 25 members;
- Alcohol is not supplied, or intended to be supplied, to members on the premises otherwise than by or on behalf of the club.

44.4 Where a qualifying club applies for a club premises certificate to authorise the supply of alcohol, the following further conditions must also be met:

- The purchase of alcohol for the club and the supply of alcohol by the club are managed by committee whose members are elected members of the club and are aged 18 and over;
- No individual person, directly or indirectly, may receive or derive any financial, or other, benefit from the supply of alcohol.

44.5 In order to determine that a club is established and conducted in good faith, the Council requires the following evidence to accompany an application for a club premises certificate:

- Details of the arrangements for purchasing alcohol – there must be no restrictions placed on the club’s freedom of purchase
- Details of the rules or arrangements under which money, property or any gain arising from the operation of the club is for the benefit of the club or charitable, benevolent or political purposes and does not benefit any other individual or organisation
- Detail of arrangements in place for giving member information about the finances of the club, and any accounts and/or other records kept to ensure the accuracy of that information
- Details of the nature of the premises occupied by the club

45 SURRENDER OF A CLUB PREMISES CERTIFICATE

45.1 Where a club premises certificate holder wishes to surrender the certificate, they must give written notice to the Council which must be accompanied by the club premises certificate. If the certificate is not available, the notice to surrender must be accompanied by a statement of reasons for failure to provide the certificate. From the date the Council receives a notice to surrender a club premises certificate, the certificate will lapse and will not be effective.

46 WITHDRAWAL OF A CLUB PREMISES CERTIFICATE

46.1 Where it appears to the Council that a club which holds a club premises certificate is no longer a qualifying club the Council will give a notice to the club notifying them that the club premises certificate no longer has effect. Where a notice of withdrawal is given because it appears to the Council that the club has fewer than 25 members, the notice will have effect after a period of three months from the date the notice is given. Where the club has increased its members in the three-month notice period to the required number, the notice will not take effect.

47 NEW AND FULL VARIATION PROCESS

47.1 The procedure for making a new application and changes to an existing Premises Licences or Club Premise Certificates are very similar. Both involve the same advertising procedure, a 28 day consultation period and the application is determined by the Licensing Sub-Committee if relevant representations are received. If no relevant representations are received then the application is automatically granted at the end of the consultation period.

In brief, applicants must:

- Submit a completed application on the prescribed application form to RCTCBC Licensing Authority with the required fee and a plan of the premises. The application form must include an Operating Schedule.
- Advertise the application in a prominent position at or on the premises on a pale blue coloured notice of at least A4 size with a minimum font size of 16, for not less than 28 consecutive days starting on the day following the day on which the application was submitted to the Licensing Authority.
- Advertise the application within 10 working days (starting on the day following the day on which the application was submitted to the Licensing Authority) in a local newspaper circulating in the RCT area.
- If the application includes the retail or supply of alcohol, the consent of the individual Personal Licence holder who wishes to be the Designated Premises Supervisor (DPS) is required with the application.

The application will be advertised on the RCTCBC website.

- 47.2 All applicants for the grant or variation of a Premises Licence or Club Premises Certificate are expected to demonstrate within their Operating Schedules how they intend to promote each of the four licensing objectives. The proposals included in the Operating Schedule will form the main body of conditions to be applied to the licence or certificate (if granted).

48 MINOR VARIATION PROCESS

- 48.1 Small changes to a Premises Licence or Club Premises Certificate that will not impact adversely on the licensing objectives can be dealt with via the 'Minor Variation' process which is a scaled down version of the full variation process detailed above, with a reduced fee.
- 48.2 Examples that this process be used for are (not exhaustive):
- Small changes to the structure or layout of a premises;
 - Additional authorisations required for late night refreshment or regulated entertainment (such as live music, performance of plays or film exhibitions);
 - Small changes to licensing hours (see below for changes that relate to alcohol);

- Revisions, removals and additions of conditions (this could include the removal or amendment of out of date, irrelevant or unenforceable conditions, or the addition of volunteered conditions).

48.3 Minor variation applications will not apply to:

- Substantial changes to the premises;
- Varying the Designed Premises Supervisor;
- Authorising the sale by retail of alcohol;
- Authorising the supply of alcohol at any time between 23:00 and 07:00 hours;
- Authorising an increase in the amount of time on any day during which alcohol may be sold by retail.

In brief, applicants must:

- Submit a completed application on the prescribed application form to RCTCBC Licensing Authority with the required fee. If you are applying for a variation to the layout of your premises, you must include a revised plan of the premises.
- Advertise the application in a prominent position at or on the premises on a white notice of at least A4 size with a minimum font size of 32 for the header and 16 for the content, for not less than 10 working days starting on the day following the day on which the application was submitted to the Licensing Authority.

48.4 On receipt of a minor variation application, the Licensing Authority will consider the application and consult the relevant responsible authorities as it considers appropriate. In deciding on the application the Licensing Authority will consider any relevant representations received within the statutory time limit (ten working days from the day after the application was received by the Licensing Authority). The Licensing Authority will either grant the application or refuse it where it considers that the proposed application could impact adversely on any of the four licensing objectives.

48.5 Applications that have been rejected under the minor variations process can then be the subject of a full variation application or a revised minor variation application. The refusal of a minor variation does not affect or pre-determine any subsequent variation application in respect of the same premises.

49 CONDITIONS

49.1 The Licensing Authority cannot impose conditions of its own volition. Conditions will only be attached in the following circumstances:

- Mandatory conditions under the Licensing Act 2003 or introduced by regulation under the Act which will have effect in all circumstances regardless of if they appear on the Licence
- If they are consistent with the applicant's operating schedule, or agreed/offered by the applicant during the application process
- When considered appropriate, reasonable and proportionate after relevant representations have been received and not withdrawn.

49.2 Conditions are crucial in setting the parameters within which premises can lawfully operate. Any contravention of a condition on a premises licence or club premises certificate is a criminal offence so it is essential that conditions are worded clearly, precisely and unambiguously. In addition, conditions must:

- be appropriate, reasonable and proportionate
- be enforceable
- not duplicate other statutory requirements
- be relevant to the particular type, location and character of the premises concerned
- not be standardised
- should be justifiable and capable of being met
- not replicate offences set out in the Act or in other legislation
- be written in a prescriptive format

49.3 Responsible applicants would seek technical advice from the appropriate responsible authorities when preparing their Operating Schedules as this will enable any problems to be resolved at an early stage and will reduce the likelihood of representations.

49.4 Often many of the conditions volunteered by applicants are poorly worded, unclear or ambiguous and therefore unenforceable. Such conditions will be suitably reworded by the Licensing Authority to enable clear, transparent and enforceable conditions.

LIST OF RESPONSIBLE AUTHORITIES FOR THE PURPOSE OF THE LICENSING ACT

- **Home Office (Immigration Enforcement)**
Alcohol Licensing Team, Lunar House, 40 Wellesley Road, Croydon, CR9 2BY
Alcohol@homeoffice.gsi.gov.uk
- **Cwm Taf University Health Board**
Corporate Services Dept, Headquarters, Ynysmeurig House, Navigation Park,
Abercynon, CF45 4SN
Telephone: 01443 744800
- **RCTCBC Trading Standards**
Ty Elai, Dinas Isaf East, Williamstown, Tonypany, CF40 1NY
Tradingstandards@rctcbc.gov.uk
- **Chief Officer for Police**
South Wales Police Licensing Department, Pontypridd Police Station, Berw Road,
Pontypridd, CF37 2TR
- **South Wales Fire and Rescue Service**
Chief Fire Officer, Forest View Business Park, Llantrisant, CF72 8LX
firesafety@southwales-fire.gov.uk
- **RCTCBC Public Health Food, Health & Safety Team**
Ty Elai, Dinas Isaf East, Williamstown, Tonypany, CF40 1NY
Food.HealthandSafety@rctcbc.gov.uk
- **Health & Safety Executive**
Government Buildings, Ty Glas, Llanishen, Cardiff, CF14 5SH
- **RCTCBC Licensing Authority**
Ty Elai, Dinas Isaf East, Williamstown, Tonypany, CF40 1NY
Licensing.section@rctcbc.gov.uk

- **The Local Planning Authority**
Sardis House, Sardif Road, Pontypridd, CF37 1DU
LicensingConsultations@rctcbc.gov.uk
- **RCTCBC Public Health Pollution Team**
Ty Elai, Dinas Isaf East, Williamstown, Tonypany, CF40 1NY
EnvironmentalPollution@rctcbc.gov.uk
- **Cwm Taf Safeguarding Board**
Ty Catrin, Unit 1, Maritime Industrial Estate, Pontypridd, CF37 1NY
ChildrensSafeguardingHub@rctcbc.gov.uk

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