

Agenda



Licensing Committee

Date: Tuesday, 2 June 2015

Time: 9.30 am

Venue: Council Chambers - Civic Centre

To: C Suller (Chair), A Morris, S Mlewa, M Cornelious, C Evans, C Ferris, E Garland, J Guy, M Rahman, H Thomas and N Trigg

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Item	Wards Affected
1 <u>Apologies for Absence</u>	
2 <u>Declarations of Interest</u>	
3 <u>Licensing Committee Code of Practice (Pages 3 - 28)</u>	
4 <u>Licensing Policy Act 2003: Revised Statement of Licensing Policy 2015 (Pages 29 - 76)</u>	All Wards

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LICENSING COMMITTEE

CODE OF PRACTICE

May 2012

(Updated 30 June 2014)

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1 Introduction

1 Code of Practice

- a) This code of practice is intended to guide the procedures by which councillors (Members) and officers deal with licensing matters, and to give guidance in relation to standards of probity and conduct.
- b) Members must follow the Codes and Protocols in the Constitution of Newport City Council which cover such matters as declarations of interests, gifts and hospitality and the Protocol for Member/Officer relations. When dealing with licensing matters they must also act in accordance with this Licensing Code of Practice.
- c) A breach of these codes whilst not usually amounting to a breach of criminal law, may adversely affect the standing of the Council. It could result in a decision being judicially reviewed or in a complaint of maladministration, being made to the Local Government Ombudsman. A breach of the Members' Code of Conduct can result in a complaint against a Member personally.
- d) If Members or Officers are in doubt about the application of the codes they should seek advice from the Council's Monitoring Officer.

2 Licensing Committee, Panels and Sub-committees

The Licensing Committee operates in three ways. The Scheme of Delegation provides detailed information but the following summarises the position

a) Licensing Committee

There are 11 Members on the Licensing Committee, appointed in political groups in proportion to the total number of seats they hold on the Council. The maximum number allowed for in the Council's constitution is 12. Members of the Committee are appointed at the Council's Annual General Meeting. Three Members of the Committee constitute a Quorum.

The full committee will meet to consider:

- Any policy matters relating to the functions of the Committee, often for recommendation to the Council or the Executive.
- The setting of taxi fees

b) Licensing Panels

The Council concluded that to allow a quicker, consistent approach to consideration of taxi driver and street licensing applications, they would be considered by way of a Panel of Members of the Committee.

Two panels of six members are established for this purpose. Each Panel is established in proportion to the full committee and the quorum is three. Should it become apparent that a panel hearing will not be quorate another member of the Licensing Committee would be allowed to attend? The Chairperson will be elected on the day by the members present.

The Panel will determine the fitness of Hackney Carriage and Private Hire Vehicles/Drivers on the occasion when the Head of Service can for any reason not determine if a vehicle or driver is "fit and proper" or for any reason the case may fall outside the taxi licensing policy.

The Panel will also consider street licensing applications in line with the scheme of delegation.

A consultative group, consisting of four members of the Licensing Committee meets regularly with representatives of the Newport taxi trade on matters associated with hackney carriage and private hire licensing.

c) Licensing Sub-committee

The Licensing Sub-committee comprises all members of the committee, other than those who have an interest or who is the ward member for the ward in which premises under consideration is located. The quorum is three.

Only when representations are made to the Licensing Authority is the Sub-committee asked to make a determination. The Sub-committee determines applications for

- Reviews of Premises Licenses and Club Premises Certificates
- Premises Licenses,
- Personal Licenses,
- Designated Premises Supervisors, Club Premises
- Temporary Events Notices

Where objections are raised in respect of applications under the Lotteries and Amusements Act 1976 and House to House / Street Collections the Licensing Sub-committee would consider the application

2 General Roles, Responsibilities and Conduct

Members and officers have different, but complimentary roles in the licensing process. Members of the Licensing Committee whilst undertaking licensing functions have different roles to those of other councillors.

Councillors serving on the committee, panel or sub - committee will determine applications in line with the Scheme of Delegation. Other decisions will be taken by the Head of Service.

The role of the Elected Member as part of the Licensing Committee will involve balancing the multiple needs and interests of the local community whilst promoting the four Licensing Objectives set out in the Licensing Act 2003, namely:

- (i) The prevention of crime and disorder
- (ii) Public Safety
- (iii) Prevention of public nuisance, and
- (iv) The protection of children from harm

In doing so, the Elected Member must maintain his/her impartiality and, as public perception of probity is critical, his/her appearance of impartiality too, during the decision making process.

In taking decisions, members of the Committee, Panel or Sub-committee need to

- Exercise personal responsibility in deciding whether to declare any personal interest as defined in the Council's Code of Conduct in relation to any application that is before the Committee, Panel or Sub-committee for determination, and withdraw, if so required by the Code. If in doubt, Members shall consult and seek guidance from the Monitoring Officer in advance of the meeting.
- Act fairly and openly.

- Carefully weigh up all relevant issues before making a decision
- Make decisions purely on relevant licensing considerations in the public interest and not favour, or appear to favour, any person, company, group or locality.
- Have reasons and justification for their position and resolutions

Members will need to be aware of the requirements of the Code of Conduct and Rules of Natural Justice and the Human Rights Act

3 Conduct and Procedure of Licensing Committee Meetings

Conduct

The chairperson of the Licensing Committee is responsible for the conduct of the meeting in accordance with the Rules of Procedure (Part 4 of the Constitution) and for the effective delivery of business in a professional, courteous and transparent manner.

The Committee is subject to the Rules of Procedure set out in the Council's Constitution, to Code of Conduct Requirements and to the Council's Standing Orders

Members of the public are allowed to attend the meeting all items other than those identified as exempt or confidential, based on the Access to Information regulations

Procedure

The deliberations of the Committee will be confined to matters included on the published agenda and any urgent items that have been accepted by the chairperson in accordance with the Local Government Act 1972. The order of business will generally be in accordance with the agenda but the items of business may be amended by agreement with the Committee. Any amendment in the order of business should be recorded in the minutes or decision schedule.

The chairperson will ensure that meetings of the Licensing Committee are conducted in accordance with the Council's Rules of Procedure.

If urgent matters are considered, the reason for urgency must be explained and recorded in the minutes or in the record of decisions.

Webcasting/Broadcasting of Minutes

The Council has agreed that certain meetings of the Licensing Committee may be the subject of live web transmission (`webcasting`) or recorded for subsequent transmission. Fixed cameras are located within the Council Chamber for this purpose.

The Council will ensure that in doing so it is compliant with its obligations under the Data Protection Act 1998 and the Human Rights Act 1998.

The Notice on the agenda and the Chair at the meeting will make it clear that whilst generally the public seating areas are not filmed; by entering the room and using the public seating area, members of the public are consenting to being filmed and to the possible use of those images and sound recordings for webcasting and/or training purposes. The process for prospective public speakers will be explained to them

4 Conduct and Procedure of Licensing Panels

Membership and Appointment of Chairperson

Two panels of six members are established for this purpose. Each Panel is established in proportion to the full committee and the quorum is three. The Chair will be elected on the day by a simple majority vote.

Attendances and withdrawals

Any elected members who arrive after the consideration of any application has commenced should withdraw and take no part in the consideration of that specific application

Any member who leaves the meeting at any point during consideration of any application should withdraw and take no part in the consideration of that specific application

Procedure

Applications will be considered in the following structure:

- a) First there will be a presentation about the application / report by a Licensing Officer alongside officer recommendations.
- b) The Chair will invite the Applicant(s)/person(s) called to attend or their representative to speak about their application/the matter under consideration if they so wish
- c) The Chair will then provide an opportunity for members of the Panel to comment or ask questions of the Applicant/person(s) called to attend Licensing Officer or Legal Officer or of any other officer in attendance.
- d) Questions must be relevant to the application being considered by the Panel
- e) When the Chair considers all members and the applicant(s)/person(s) called to attend have had an opportunity to contribute he or she will ask the applicant to leave whilst the Panel retires to deliberate.
- f) When the Panel retires, the Legal Officer(s) will remain in order to provide legal advice as and when required and to ensure that the decision schedule reflects the decision taken and the reasons for the decision. The democratic administrator will assist the Panel by recording a written note of the debate and of the vote taken.
- g) Other officers or the applicant(s)/person(s) called to attend may be called to provide points of explanation if so required and the full meeting would reconvene for such purposes.
- h) When the Panel, in retirement, has completed its deliberations, the Chair will ask for a motion to be moved, seconded and a vote taken
- i) The matter under consideration will be determined by a simple majority vote by a show of hands. All members of the Panel, including the Chair, should cast a vote either in favour or against the motion before the Panel. As all members of the Panel are performing a quasi - judicial role, then it would not generally be appropriate for members to abstain.
- j) If an equal number of votes for and against are recorded, the Chair will have a second or casting vote. The Chair can only use a second or casting vote if he or she has participated in the original vote. In the event of there being no clear majority and if the Chair is not in a position to use a

casting vote then the matter must be reconsidered until a majority vote is taken. If no majority vote occurs then the matter has to be re-listed for consideration before an entirely fresh panel.

k) Following the vote, the matter is resolved. There must be no further discussion on the matter.

l) The applicant(s) person(s) called to attend and all other parties attending will be invited back and the meeting reconvened. The applicant(s)/persons called to attend will be informed of the decision and the reasons for the decision which has been taken. The applicant(s)/person(s) called to attend will be informed that the reasons for the decision will be forwarded to him or her in writing and will also be informed of the right of appeal.

m) The Senior Democratic Services Officer will provide a record of the decision and the reasons for the decision

n) The Licensing Officer shall write to the applicant(s)/person(s) called to attend informing him, her or them of the decision and of the reason for the decision. The letter will also refer to the right of appeal.

5 Conduct and Procedure of Licensing Sub-committee

1 Membership and appointment of Chair

1.1 The Licensing Sub-committee comprises all members of the committee, other than those who have an interest or who is the ward member for the ward in which premises under consideration is located. The quorum is three. The Chair will be elected on the day by a simple majority vote.

1.2 For example, if they live in the vicinity of the licensed premises, or have a friendship or a close personal association with either the applicant or any objector this would disqualify the Member from considering the matter.

1.3 Members of the Licensing Sub-Committees should inform the Senior Democratic Services Officer immediately if they consider that they are disqualified from considering any application, if members of the Licensing Sub-Committee become aware of any personal interest in any application before them they should declare the interest at the beginning of the meeting and withdraw immediately.

2 Ward Councillors

2.1 Ward Councillors are no longer expressly permitted to make representation in their capacity as Ward Councillors, though they are entitled to make representations as individuals falling within the category of "any other person", if they are likely to be affected by an application.(for example if they live in close proximity to the licensed premises). However, Councillors must comply at all times with the Members Code of Conduct ("the Code"). Ward Councillors should avoid discussing the application with any of the Licensing sub-committee beforehand to avoid any suspicion of undue influence or breach of the general obligation in the Code not to improperly use their position as a Councillor to secure any advantage.

2.2 If a Ward Councillor has a personal interest in an application (for example, because he/she lives in close proximity to the premises), then this is also likely to be a "prejudicial" interest under the Code. However, provided that the Member declares the interest and withdraws from the hearing after making representations, then he/she is entitled under paragraph 14(2) of the Code to appear at the hearing in the same way as any other member of the public who is any other person having made a relevant representation within the meaning of the Act ("any other person"). This also applies whether or not the Councillor is a Member of the

Licensing Committee. However, because of this “personal and prejudicial” interest the Ward Councillor cannot have any other involvement with officers or members regarding the application.

- 2.3 Ward Councillors who are not members of Licensing Committee may also act as the appointed representatives for any other person at the hearing, if requested to do so, but they should avoid discussing the application with any of the Licensing Sub-Committee beforehand. However, if representing any other person, that other person must have objected on their own behalf before a Ward Member can be requested to act as their representative at the hearing.
- 2.4 Ward Councillors who are members of Licensing Committee should not appear as the appointed representatives for any other person at the hearing because of the requirements of natural justice and the need to avoid giving any impression of undue influence or breach of the general obligation in the Code not to improperly use their position as a Councillor to secure any advantage.

3 Lobbying

- 3.1 Other Members must not lobby any Member of the Licensing Sub-committee, directly or indirectly, about any application before them.
- 3.2 Members of the public or any of the parties must not lobby any members of the Licensing Sub-Committee about any application before them. If any of the members of the Licensing Sub-committee are approached by any person about a licensing matter, they should explain that they cannot discuss the matter and refer the person to the Licensing Officer. Any written representations received by individual members of the Licensing Sub-Committee must be passed to the Licensing Officer and reported at the hearing.

4 Chair of the Licensing Sub-Committee

The Chair-of the Licensing Sub-Committee is to be elected by Members on the day by simple majority vote.

5 Quorum

- 5.1 Although the Act allows for the hearing to continue with two members present, the Council’s Constitution and the Statement of Licensing Policy provides that three Councillors shall constitute a quorum for any meeting and it is good administrative practice for three members to be present

If the meeting becomes inquorate at any time, the matter will need to be adjourned or referred to full Licensing Committee.

- 5.3 Membership may change during the course of a Sub-Committee meeting if an individual member is only disqualified from considering some but not all of the applications on the agenda. However, all ~~three~~ members considering an application must be present throughout the individual hearing. If, for any reason, a member needs to withdraw during the hearing, the proceedings should be temporarily adjourned until the member returns. The meeting will only commence if quorate. If a member arrives late and after the hearing commences, he or she will be disqualified from hearing the specific case under consideration but can hear other cases set out in the agenda.

6 Statutory Guidance

- 6.1 The Licensing Act 2003 (Hearings) Regulations 2005 SI 44/2005 and the The Licensing Act 2003 (Hearings) (Amendment) Regulations 2004 SI 78/2005 (“the Regulations”) made under Section 183 of the Act set out the statutory framework for the Licensing Sub-Committee hearings.
- 6.2 These Regulations make provision for the holding of hearings required to be held by the Council as Licensing Authority, under the Licensing Act 2003. In particular, the Regulations provide for the timing of the hearings and the notification requirements regarding the date, time and date of the hearings and information to be given to the parties. In addition, provision is made for a party to a hearing to provide information to the Licensing Committee about attendance at a hearing, representations, the seeking of permission for another person to attend to assist and whether a party believes that a hearing is necessary.
- 6.3 The Regulations provide for a range of procedural issues to govern the way in which preparations are made for a hearing, the procedures to be followed, the rights of parties at the hearing, the keeping of records and the manner of giving notices. The regulations also make provision for the timing of the Licensing committee’s determination following a hearing.
- 6.4 Insofar as the Regulations do not make specific provision for procedures for and at hearings, the Licensing Authority can determine its own procedures.

7 Notice of Hearings

- 7.1 The provisions of the Local Government Act 1972 requiring at least 2 three clear working days’ notice of Council and Committee meetings do not apply to hearings conducted under the Licensing Act 2003.
- 7.2 Instead Regulation 6 of the Regulations prescribes the period of notice to be given for a Licensing Committee hearing, depending upon the type of application being considered.
- 7.2.1 At least 2 clear working days’ notice must be given if the hearing is to consider
- the cancellation of an interim authority notice following a police objection
 - counter notice following a police objection to a temporary event notice
- 7.2.2 at least 5 clear working days’ notice must be given if the hearing is to consider
- review of premises licence following closure order
 - determination of application for conversion of existing licence
 - determination of application for conversion of existing club certificate
 - determination of application by holder of justices’ licence for the grant of a personal licence
- 7.2.3 In all other cases, at least 10 clear working day’s notice of the hearing must be given

8 Timescale for arranging hearings

- 8.1 Regulations 4 and 5 and Schedule 1 set out the time periods within which the Council is required to arrange hearings. Where a hearing cannot be conclude in one day and has to be held on more than one day, the Regulations require that the hearing must be arranged to take place on consecutive working days.
- 8.2 The time frame for arranging hearings again depends on the nature of the application and varies from 20 working days from the last date when representation may be made or notice may be received from the Police to 5 working days in the case of cancellation of an interim authority notice following a police objection.

9 Form of Notice

- 9.1 Regulation 34 requires that notice of the hearing shall be in writing but otherwise it is a matter for the Council to determine how the notice should be given. The Regulations specifically provide that notice can be given electronically (eg by E-Mail or facsimile transmission) provided that the recipient agrees to this method of notice beforehand and a hard copy of the notice is also despatched at the same time. The notice is then deemed to have been properly served at the time of the electronic transmission. Any notice served by first class post would generally be deemed to have been served within 2 working days in the case of first class post.
- 9.2 It is recommended that all notices and information should be sent to the parties by first class post. In the case of emergency applications that have to be dealt with at short notice or where the parties specifically request, copies will also be sent by E-Mail or fax, where these details are known

10 Information to be provided

- 10.1 Regulation 7 provides that the following information must be sent out with the notice of hearing
- The rights of attendance, assistance and representation
 - The consequences if a party does not attend or is not represented at the hearing (which will usually be that the hearing will proceed in the party's absence)
 - The procedure to be followed at the hearing
 - Any particular points on which the Licensing Committee considers that it wants clarification from any party at the hearing
- 10.2 Regulation 7(2) also provides that, in relation to the hearings listed in column 1 of Schedule 3 of the Regulations, certain specified documents must be sent with the notice of hearing to the persons identified. For most types of application, this means that copies of the relevant representations or notices given must be sent to the applicants or licence holders.
- 10.3 The Regulations require that the notice of the hearing and supporting information must be sent to the parties to the hearing ie the applicant and any persons making relevant representations. There is no requirement for public notice to be given of the hearing or for the supporting information to be made available to the press and public or any other members of the Council. However, the Council has a discretion as to whether or not to publicise the hearing more widely.
- 10.4 Having regard to the principles of open government, the Constitutional requirements that decisions are taken in a transparent and accountable manner and the requirements of Regulation 14(1) that hearings are generally conducted in public, it is recommended that the Licensing Sub-committees follow the same publicity arrangements as with other Committee meetings.

11 Requirements for Applicants and any other persons

- 11.1 Upon receipt of the notice of the meeting, the Applicant and any other person must inform the Council in writing
- Whether they intend to attend or be represented at the hearing
 - Whether they consider a hearing to be unnecessary
 - Requests for any other people to attend the hearing eg witnesses (including their names and a brief description of the evidence that they can give and its relevance to the application)

- 11.2 In the case of emergency applications, such as the cancellation of an interim authority notice following representations by the police or a counter notice following a police objection to a temporary events notice, this information must be provided not later than 1 working day before the hearing. In the case of the review of premises licences following closure orders, an application for conversion of existing licences or club certificates and the grant of personal licences, the information must be provided at least 2 working days before the hearing. In all other cases the information must be provided at least 5 working days before the hearing.
- 11.3 It is recommended that a separate letter be sent to the Applicant and any other person at the same time as the agenda for the meeting, reminding them of the need for this information and asking them for a response as soon as possible before the meeting. If the Licensing Sub-committee is informed in good time before the meeting that the parties do not wish to attend, then it may be possible to reschedule other business or applications for that meeting.
- 11.4 Regulation 9 allows the Council to dispense with the need for a hearing if the Applicant and all the other persons agree. If all the parties respond to the request for information stating that they consider a hearing to be unnecessary, the hearing can be vacated and notice given to the parties accordingly. A determination must then be made within 10 working days of the notice
- 11.5 Regulation 10 provides that any party may withdraw their representations by giving written notice at least 24 hours before the hearing or orally at the hearing itself. There are no powers to avoid wasted costs in favour of either party in the event of an abortive hearing due to late withdrawal of representations. However, the parties should be encouraged to give as much notice as possible if they intend to withdraw their representations to avoid the unnecessary time and expense of arranging a hearing.
- 11.6 Where all objections are withdrawn and/or all the parties agree that a hearing may be dispensed with, the applications may be determined by officers under delegated powers.

12. Extensions of Time and adjournments (Regulations 11-13)

The Licensing Sub-Committee have a general discretion to extend the time limits contained in the Regulations or adjourn hearings if this is considered to be necessary in the public interest. Proper notice would have to be given of any extension of time or adjournment. However, time cannot be extended or hearings adjourned if this would result in a failure to comply with the timescales set out in the Act.

13 The Hearing

13.1 Exclusions

Regulation 14 provides that all hearings must be held in public. However, the Licensing Sub-Committee may exclude the press and public (including the parties and their representatives) from all or part of the hearing if they consider that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

13.2 The Access to Information provisions of Schedule 12A of the Local Government Act 1972 do not apply to hearings before the Licensing Sub-Committee. The test for exclusion of the press and public is not whether there is “exempt information” (as defined in Schedule 12A) which is likely to be disclosed, but whether it is in the “public interest” that the hearing (or part of the hearing) should be in private.

13.3 It is recommended that, as a general rule, all representations from the parties should be heard in public unless there are exceptional circumstances. The overriding public interest dictates that hearings should be conducted in a fair, open and transparent manner and justice should be seen to be done. The Council’s constitution is also based on democratic

open government, accountability and public access to meetings. The parties should be given the opportunity at the beginning of the hearing to make an application for a private hearing, but they would have to establish a clear reason why this should override the public interest in an open hearing. The fact that personal information or information relating to financial, business or commercial interests would be disclosed would not, of itself, justify exclusion. An application for exclusion of the press and public could be made, for example, where sensitive information relating to individual children could be disclosed in relation to a policy issue involving the protection of children from harm, or where there are criminal justice implications involving representations made by the police. The final decision as to whether the press and public should be excluded for all or part of the hearing on public policy grounds is a matter for the Licensing Sub-Committee.

- 13.4 However, it is recommended that, as a general rule, the press, public and the parties are all excluded from the meeting while the Licensing-Sub-committee deliberate and come to their decision on the grounds that this private debate is considered to be in the "public interest". Everyone should then be asked to withdraw from the room, except for the Licensing Officer, the Democratic Services Officer and the Head of Law and Standards or his nominated representative. These three officers shall be entitled to remain, but only for the purpose of offering advice as to procedure or any particular point of law and to record decisions. They must not participate in the decision-making by the Licensing Sub-Committee. Where it is more convenient, the Licensing Sub-Committee may withdraw to a private room rather than require everyone else to withdraw from the meeting room.
- 13.5 If there are any further points of clarification required, then all of the parties and the public should be allowed back into the meeting while these points of clarification are addressed.
- 13.6 Regulation 25 permits the Licensing Sub-Committee to exclude any person from the hearing if they are behaving in a disruptive manner, either permanently or temporarily (permitting them to return only if they comply with such conditions as may be specified). If one of the parties is excluded on these grounds and not permitted to return, they are entitled to submit to the Licensing Sub-Committee in writing any information which they would have been entitled to give orally had they not been excluded from the meeting.

13.7 Representations

Any person or responsible authority may make written representations about an application for a premises licence or certificate within a specified period, which is generally 28 working days of the receipt of the application. Representations or requests for review will only be relevant if they relate to the four licensing objectives. The applicant will be provided with copies of all relevant representations received at the same time as the notice of hearing. The written representations will also be referred to as background papers to the Report of the Licensing Officer, which will be circulated to Members of the Licensing Sub-Committee and made available to the press and public as soon as possible and, in any event, at least 2 clear working days before the hearing.

- 13.8 Therefore, advice should be given that, if any person responds to any notice or advertisement, their letter of objection or support will be made available to the public, including personal data (such as names and addresses) in accordance with the Data Protection Act 1988. If any person objects to their name and address, or any other personal information, being made public, then their representations will need to be redacted or anonymised before being circulated (but this may affect the weight that the Licensing Sub-Committee attaches to their representations).
- 13.9 Where relevant representations have been made and an application is to be determined at a hearing, the applicant and those parties who have made representations have a right to attend the hearing (subject to rights of exclusion) and may be assisted or represented at the hearing by any person (whether or not that person is legally qualified) (Regulation 15)

13.10 Regulation 16 provides that a party shall be entitled at the hearing to

- Give further information in response to a point upon which the Licensing authority has given notice that it wants clarification
- Question any other party, if permission is given by the Licensing Sub-Committee
- Address the Licensing Sub-Committee

13.11 Regulation 17 provides that Members of the Licensing Sub-Committee may question any party or other person appearing at the hearing.

13.12 In considering any application, representations or notice made by a party, the Licensing Sub-Committee may take into account documentary or other information produced by a party in support of their application, representations or notice, either before the hearing or, with the consent of the parties, at the hearing. The Licensing Sub-Committee has discretion as to whether to admit this documentary evidence but should, generally allow this to be presented if it is relevant and material to the application, the representations or notice submitted and the licensing objectives. However, this should not be seen as an opportunity to introduce new representations outside the statutory timescale. The parties should be advised to provide any additional documentary evidence as soon as possible before the hearing and, wherever possible, this should be circulated in advance to the Members of the Licensing Sub-Committee and the other parties. The Sub-Committee will then decide at the hearing whether or not this additional documentary evidence should be admitted and considered. If admitted, the additional information will then be made available to the press and public at the meeting. If the additional documentary evidence has not been produced before the hearing, it can only be admitted with the consent of all the parties. If any other party objects to the evidence being produced at the hearing, the Licensing Sub-Committee has no discretion to admit it or take it into account.

14 Failure of parties to attend the hearing

If a party has informed the Council that he/she does not intend to attend or be represented at the hearing, then the hearing may proceed in their absence. If a party, who has not given prior notice of his/her intention not to attend the hearing, is absent from the hearing the Licensing Sub-Committee may either adjourn the hearing or hold the hearing in the party's absence. Where the hearing proceeds in the absence of a party, the Licensing Sub-Committee must still consider the written representations or notice submitted by that party and follow the same principles of decision-making.

15 Procedure at the hearing

15.1 Subject to the provisions of the Regulations, the Licensing Sub-Committee has discretion as to the procedure to be followed at the hearing and can regulate their own proceedings. Although the proceedings should be kept as informal as possible, a logical and ordered approach should be maintained in order to ensure a fair and impartial hearing. A suggested form of procedure is attached. However, the Chair should make it clear that the Licensing Sub-committee are not totally inflexible and would be prepared to vary the order of proceedings if this would facilitate the proper consideration of an application or notice.

15.2 Regulation 7(c) provides that parties should be informed of the procedure to be adopted at the hearing when they are sent notice of the arrangements for the meeting. Therefore, it is suggested that a copy of the written procedure is sent to the parties with the notice of the hearing.

15.3 Regulation 22 requires the Licensing Sub-Committee to explain the procedure to the parties at the beginning of the hearing and consider any request under Regulation 8(2) for permission for another person to appear at the hearing (such permission not to be

unreasonably withheld). Prior notice should have been given if parties wish to call witnesses or other persons to address the hearing. Provided that their evidence or representations are relevant and material, permission should generally be allowed.

- 15.4 Regulation 23 provides that the hearing should take the form of a “discussion led by the authority” and cross-examination should not be permitted unless the licensing committee considers that this is required to enable them to consider the matter properly. However, although parties and their representatives should not be allowed to make the hearing too adversarial, it is suggested that both parties should be allowed an equal opportunity to put questions to the other party and their representatives/witnesses (under Regulation 16). A period of 5 minutes each should be allowed for questions, with the Chair having discretion to disallow any questions which are considered by the Licensing Sub-Committee to be irrelevant, hostile or repetitive. Wherever possible, large groups of objectors should be encouraged to appoint a single spokesperson to present their case, to save time and avoid unnecessary duplication.
- 15.5 Regulation 24 provides that the Licensing Sub-Committee must allow the parties an equal maximum period of time in which to exercise their rights to put questions and address the hearing. It is suggested that, as a general rule, a maximum time of 20 minutes should be allowed for both parties, with 10 minutes for addressing the Sub-Committee, 5 minutes for questioning and 5 minutes for summing up at the end. However, the Licensing Sub-Committee can extend time for both parties if this is necessary for the proper consideration of the matter.

16 Site Visits

The Sub-Committee may, at its discretion, undertake a site visit of any premises that are the subject of any application. The visit may take place either before the hearing, by arrangement with the parties or the Sub-Committee may adjourn the hearing at any time to visit the premises. If a site visit is undertaken, it should be a fact-finding exercise only and no representations should be heard from any party. Any questions should be addressed to licensing officer(s), wherever possible, but if it is necessary to ask a question of any party, this should be done in the presence of all the other parties.

17 Determination of applications

- 17.1 Normally, the licensing Sub-Committee must make its determination at the conclusion of the hearing. In other cases the Sub-committee shall make its determination within 5 working days. Where a hearing has been dispensed with, the decision must be made within 10 working days of the notice to dispense with the hearing.
- 17.2 The Council’s Statement of Licensing policy provides that every decision of the Licensing Sub-Committee shall be accompanied with reasons for that decision. A summary of the decision shall be posted on the Council’s website as soon as possible after the decision has been made, where it will form part of the statutory licensing register.
- 17.3 Paragraph 24 provides that comprehensive reasons should be given and, on making findings of fact in its reasons, the Licensing Sub-Committee should ensure that they address the standard of proof and the burden of proof that they have adopted. The Licensing Sub-Committee should also address the extent to which the decision has been made with regard to its Statement of Licensing Policy and the Statutory Guidance issued under Section 182 of the Act.
- 17.4 Regulation 28 requires the Council to notify the parties in writing of the determination of the Licensing Sub-Committee and their rights of appeal. The Council is also required to send notification of the determination to the Chief Officer of Police, where the police have not been

a party to the hearing. This notification must be sent within the period specified in the Act or, if no period is prescribed, forthwith on making the determination.

18 Right of appeal

Any aggrieved party will have the right of appeal to the Magistrates' Court within 21 days of being notified of the decision.

19 Record of proceedings

Regulation 30 provides that the Council must keep a record of the hearing in a permanent and intelligible form for a period of 6 years from the date of the determination or, where any appeal is brought against the determination of the Licensing Sub-Committee, from the disposal of any appeal. A verbatim note or transcript of the proceedings is not required, but the Minute recording the decision must be sufficiently detailed so as to provide an accurate record of both the proceedings and the decision taken, together with the reasons given and any conditions imposed. These will be maintained electronically for a period of six years

20 Irregularities

Regulations 31-33 provide that any irregularities or clerical errors shall not invalidate any decision or render a determination void and enables the Council to correct any error or cure any irregularity as soon as possible.

Organisation of Cases for the Hearing

- 1 The hearings will normally take place at the Civic Centre, Newport at times to be agreed with the Sub-Committee.
- 2 The agenda for the meetings of the Licensing-Sub-committee shall be agreed by the Licensing Officer and the Senior Democratic Services officer after any necessary consultation with the relevant Chair of the Licensing Sub-Committee. The officers shall determine how many applications can be heard at each meeting and the order in which the applications should be considered, taking into account the number of parties who will be attending.
- 3 Hearings should be scheduled in accordance with the timescales prescribed by the Regulations. In general a hearing must be held within 20 working days after the time has expired for making representations.
- 4 Once the draft agenda has been agreed, the Senior Democratic Services Officer should send out notice of the agenda to the Members, press and public in the usual way. Members should immediately inform the Senior Democratic Services Officer if they consider they are disqualified from hearing or they have an interest in any specific case.
- 5 At the same time, the Licensing Officer shall send notice of the hearing to the parties, together with the following
 - A copy of the procedure to be followed at the hearing
 - Confirmation of the parties' rights to be assisted or represented at the hearing (whether or not that person is legally qualified)
 - Confirmation that the parties will be allowed to address the Licensing Sub-Committee and put questions to the other parties for a maximum of 20 minutes
 - Confirmation that, if a party does not attend the hearing, the hearing would generally proceed in his/her absence
 - A note of any particular point on which the Licensing Sub-committee requires further clarification.
 - Copies of all relevant representations received
- 6 The parties should also be requested to notify the Council as soon as possible (and in any event within the timescale prescribed by the Regulations) whether they intend to appear and/or be represented at the hearing or whether they consider a hearing to be unnecessary.
- 7 If they intend to proceed with a hearing, they should be requested to give advance notice of any application to adduce any further documentary evidence (which should preferably be provided as soon as possible before the hearing) or request for any other person to appear at the hearing. The request must contain details of the name of the witness and a brief description of that person's evidence.
- 8 The notice of hearing and supporting documents should be sent by first class post and, except in the case of emergency applications or where the Regulations specify a shorter period, at least 10 clear working day's notice should be given. The Licensing Officer may also send electronic copies by E-Mail or fax by agreement with the applicants or other party.
- 9 The Chair of the Licensing Sub-committee may meet with the Democratic Services Officer, the Solicitor to the Licensing Sub-Committee and the Licensing Officer(s) presenting the

report in advance of the hearing to identify any issues where further clarification should be requested from the parties. These issues will be notified to the parties by the Licensing Officer to enable them to address these issues in their submissions at the hearing. During this preliminary meeting and any pre-agenda meeting, no decisions shall be made and no discussions shall be held regarding the substantive merits of the application or representations.

- 10 The hearings shall be attended by a Solicitor, a Democratic Services Officer and the Licensing Officer. The officers shall attend for the sole purpose of giving advice on law and procedure and are not parties to the decision.
- 11 The role of the Solicitor is to provide legal advice in relation to the applications and submissions. .
- 12 The role of the Democratic Services Officer is to record the proceedings and the decisions of the Sub-Committee and ensure efficient administration.
- 13 The Licensing Officer shall prepare a written Report for consideration by the Licensing Sub-Committee, which should include
 - A brief summary of the application
 - A brief summary of the representations
 - The relevant licensing objectives
 - Relevant aspects of the Council's Statement of Licensing Policy and statutory Guidance
 - Other background information (such as copies of letters)
- 14 The Licensing Officer's Report should be sent out as soon as possible and, in any event, no later than 10 clear working days before the hearing, together with copies of relevant documentary evidence submitted by the parties. Wherever possible, the Licensing Officer's Report should be sent out at the same time as the notice of hearing and supporting documents, but this will not be reasonably practicable where there are a significant number of applications to be determined. If additional documentary evidence is provided later by the parties, it should be copied and sent to the other parties before the hearing, if reasonably practicable.
- 15 After hearing all the representations and prior to retiring to make its decision, the Licensing Sub-Committee may, if it wishes, seek the guidance of the Licensing Officer and/or Solicitor on possible conditions that could be attached to any licence.
- 16 The Democratic Services Officer shall keep a record of the decisions taken and the Licensing Officer shall send written confirmation of the decision to the relevant parties, together with the reasons, any conditions and their rights of appeal .

Principles of Decision-Making

- 1 This note is intended to provide members of the Licensing Sub-committee with a guide to the principles of decision-making. The licensing hearings are of a quasi-judicial nature and the procedures are, therefore, markedly different to the usual arrangements for Committee meetings.
- 2 It should be noted that the proceedings are governed by adjudication procedures and the rules of natural justice will, therefore, apply. All the parties should be given a full and fair hearing, which should be conducted in an open, transparent and accountable manner
- 3 Members must, at all times, comply with the Council's Member Code of Conduct

- 4 All licensing applications must be considered on the basis of whether they promote the four licensing objectives set out in the Act and incorporated in the Statement of Licensing Policy, namely;
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 5 In reaching their decisions under the Act, the Licensing Sub-Committee must have regard to all relevant considerations including (but not limited to)
 - The relevant statutory provisions
 - Relevant Statutory Guidance issued under Section 182 of the Act
 - The Council's Statement of Licensing Policy
 - The licensing objectives
 - The material facts based on the relevant evidence presented and representations received
 - The individual merits of each case
 - The public interest
- 6 The Licensing Sub-Committee must disregard any irrelevant considerations, including (but not limited to) information or evidence which is not relevant to the application or to the promotion of the licensing objectives. Members must also disregard any party political considerations or decisions taken in political group meetings.
- 7 Members of the Licensing Sub-Committee must act fairly, objectively and impartially throughout. They must not show any bias or predetermination and must keep an open mind on all applications until they have heard all the relevant representations and evidence. Members must not prejudge any application, express any view on the merits of any application, organise any support or opposition to any application, in advance of the hearing. Any Member with a "closed mind" on any application would be disqualified from sitting on the Licensing Sub-Committee which considers that application.

In the event of any licensing applications submitted by or on behalf of the Council or an officer of the Council, the same rules and procedures shall apply. No account shall be taken of the fact that the application is submitted by the Council or an officer and no favour or consideration shall be shown in relation to the application. Any member involved in the decision to apply for the licence shall be disqualified from sitting on the Licensing Sub-Committee which considers the application.

Procedure to be Followed at The Hearing

1 Preliminaries and Opening remarks

At the commencement of the meeting, the Chair for the meeting shall be elected by simple majority of members present.

The Chair of the Sub-Committee opens the meeting and welcomes those attending.

The Chair introduces the members and the officers present.

2 Apologies/declarations of interest

The Chair deals with any apologies for absence and declarations of interest. Any substitution of members will be dealt with at this stage.

3 Introductions

Chair invites the applicant, any other person and their representatives to introduce themselves and indicate who will be speaking

Explains the procedures to be followed and the time allocated to each party and asks if there are any questions (The order of proceedings may be varied at the discretion of the Sub-Committee where the parties have any particular preference or where this is necessary for proper consideration). The proceedings will generally be conducted in private unless it is in the public interest to hear cases in private. Any applications to exclude the press and public should be dealt with at this stage.

4 Applications.

Chair will inform the parties whether their applications to have certain people attend the hearing under Regulation 8(2) (eg witnesses) have been granted or refused.

Chair will summarise the papers before the Licensing Sub-Committee and will confirm that everyone has copies. Chair will ascertain whether any representations have been or are now to be withdrawn. Licensing Sub-Committee will consider any requests for additional documentary evidence or other information to be introduced by either party (Note that advance notification must have been given, otherwise the additional information or evidence can only be adduced at the hearing with the consent of all the parties and the agreement of the Sub-Committee).

Chair is to identify any specific points about which the Licensing Sub-Committee have requested clarification.

5. Report from Licensing Officer

The Licensing Officer presents the Report outlining

- The nature of the application
- Any relevant background information
- Relevant issues in relation to the promotion of the four licensing objectives
- Relevant representations received
- Any relevant policy issues, including the Statement of Licensing Policy and any statutory Guidance

The Licensing Officer presenting the report will not make any recommendation regarding the determination of the application, but will simply outline the relevant considerations which the Licensing Sub-Committee will need to take into account when arriving at their decision. (It should be noted if the Licensing Authority wishes to make representation regarding application as a relevant authority under the Licensing Act 2003 a further Licensing Officer will be required to attend the committee and Act as a relevant authority)

The Members will be able to ask questions of the Licensing Officer(s) presenting the report to clarify any issues arising out of the Report.

7 The Applicant's case

- (a) The Applicant/representative to address the Sub-Committee and to call any witnesses where permission has been granted (maximum period of 10 minutes). Parties may give their evidence by making a statement or by being questioned by their representative.
- (b) The objectors/representatives shall be allowed to put questions to the applicant/representative and any witnesses (maximum 5 minutes)

- (c) The members of the Licensing Sub-committee to put questions to the applicant/representative and any witnesses

8 The Objector(s) case

- (a) The Objectors/representatives to address the Sub-Committee and to call any witnesses, where permission has been granted (maximum period of 10 minutes)

(The responsible authorities eg Police, Fire Authority, followed by any other person in the order in which they submitted their written representations. Where a large group have objected, they should be encouraged to appoint a single spokesperson in order to save time and avoid repetition)

- (b) The applicant/representative shall be allowed to put questions to the objectors/representatives and any witnesses, (maximum 5 minutes)
- (c) The members of the Licensing Sub-committee to put questions to the objectors/representatives and any witnesses

9 Closing Statements

- (a) Objectors or their representative(s) to sum up (maximum of 5 minutes) (if more than one, in the order in which they addressed the Sub-Committee)
- (b) Applicant or representative to sum up (maximum of 5 minutes) (At this stage the applicant/representative should indicate whether, in the light of the representations made, they wish to amend their application or offer any conditions to overcome the objections and/or promote the licensing objectives).

10 Decision

If there are no further matters to be resolved, the Chair will ask all the parties if they are satisfied that they have had a fair hearing and will then close the proceedings

Sub-committee to consider whether it is in the public interest that they deliberate in private or whether this part of the hearing should continue to take place in public.

Pass resolution to exclude the press and public (including the parties and their representatives) pursuant to Regulation 14 (2) during this part of the hearing, while the Sub-Committee discusses its decision. Everyone should then be asked to withdraw from the room, except the Licensing Officer(s) presenting the report, the Democratic Services Officer and the Head of Law and Standards or his nominated representative(s). These officers shall be entitled to remain but only for the purpose of offering advice as to procedure or any particular point of law. The Sub-Committee may withdraw into a private room to do this

The Members of the Sub-Committee will deliberate and come to their decision. The reasons for the decision, the material findings of fact and any conditions will be agreed and recorded in writing by the Chair. In the event of any disagreement, any matter under consideration shall be determined by a simple majority of votes cast.

The hearing will then resume in public. The Chair will announce the decision and give the reasons for that decision, any material findings of fact, any licence conditions that are to be imposed and the licensing objectives that they relate to (unless, where permitted by the regulations, the decision is to be communicated at a later time).

11 **Repeat process for each hearing.**

Conduct and Procedure for Hearings of the Sub-committee under the Gambling Act 2005

1 General

- 1.1 The following proceedings apply to the licensing sub-committees established by the Licensing Committee of Newport City Council acting as the licensing authority under the Gambling Act 2005.

2 Composition of the Licensing Sub-Committee

- 2.1 The Licensing Sub-committee comprises all members of the committee, other than those who have an interest or who is the ward member for the ward in which premises under consideration is located. The quorum is three.

3 Notice of Hearings

- 3.1 Upon the date of a hearing of a sub-committee being arranged, notice shall be given to the parties to the hearing in accordance with the requirements of The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees)(Premises Licences and Provisional Statements)(England and Wales) Regulations 2007 (the Regulations). For the purposes of this procedure, a party is defined as being an applicant for a licence or permit, a person who has given a temporary use notice, a licensee or permit holder and a person who has made (and not withdrawn) representations about the application, review notice or permit. A person who has made representations may include a responsible authority and a person who lives sufficiently close to the premises to be likely to be affected by the authorised activities or who has business interests that might be affected by the authorised activities or anyone who represents such a person.
- 3.2 The notice of the hearing shall specify the date and time when and the place at which the hearing is to take place. Such notices shall be sent so that, in the ordinary course of events, it is received no later than 10 days before the first day on which the hearing is to be held.
- 3.3 The notice of the hearing shall be accompanied by a copy of this procedure which sets out:
- the right of attendance at a hearing by a party and the right to submit representations etc.
 - the consequences if a party does not attend or is not represented at a hearing
 - the procedure to be followed at the hearing
 - the time limits relevant to the hearing
- 3.4 The notice of the hearing will also be accompanied by copies of the documents required by the Regulations and any particular points upon which the sub-committee considers that it will want clarification from a party at the hearing.
- 3.5 Where a hearing is to be held on more than one day, the hearing will be arranged so that it takes place on consecutive working days.

4 Right of Attendance, Assistance and Representation

- 4.1 Subject to paragraphs 9.1 and 10.11 below, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified. For the avoidance of doubt, a party may be assisted or represented by their ward Councillor provided that such a Councillor is not a member of the Licensing Committee.

5 Action Following Receipt of Notice of Hearing

- 5.1 Upon receipt of the notice of hearing and by no later than five working days before the day or the first day on which the hearing is to be held, each party shall give to the Licensing Authority a notice in writing stating:
- a) whether he intends to attend and to address the hearing
 - b) whether he wishes to be assisted or represented by another person
 - c) whether he wishes to call a witness to give evidence at the hearing, accompanied by the name of the witness and a brief description of the matters in relation to which the witness will give evidence, and
 - d) whether he considers the hearing to be necessary and whether he is willing to consent to the application being determined without a hearing being held
- 5.2 Notice may be given to the licensing authority by electronic means or in writing to the Democratic Services Section at The Civic Centre, Newport, South Wales, NP20 4UR.
- 5.3 A sub-committee may dispense with the holding of a hearing if all of the parties have given notice that they consider a hearing to be unnecessary. Where the parties have agreed that a hearing is unnecessary in such circumstances, the licensing authority shall give notice to the parties that the hearing has been dispensed with.
- 5.4 Where a hearing has been dispensed with, the matter which was to have been the subject of the hearing shall be determined at a meeting of the sub-committee.
- 5.5 A sub-committee may postpone a hearing to an alternative date and if it does so, notice of the date, time and place of the hearing shall be given to the parties as soon as practicable.

6 Non-Attendance at the Hearing

- 6.1 If a party informs the licensing authority that he does not wish to attend or be represented at the hearing, fails to so inform the sub-committees, fails to attend or be represented at the hearing, or leaves the hearing in circumstances enabling the sub-committee to conclude that it is not his intention to return, the sub-committee may:
- a) proceed with the hearing in accordance with the notice given or,
 - b) adjourn the hearing to a specified date if it considers it to be in the public interest to do so
- 6.2 Where a hearing proceeds in the absence of a party, the application or representations made by that party shall be considered at the hearing by the sub-committee.

7 Withdrawal of Representations

- 7.1 A party who wishes to withdraw any representations made may do so:
- a) by giving notice to the licensing authority no later than 24 hours before the day or first day on which the hearing is to be held that he wishes to withdraw his representations, or
 - b) orally at the hearing

8 Extension of Time and Adjournments

- 8.1 Subject to the provisions of the Regulations, the Sub-Committee may:
- a) adjourn the hearing to a specified date (e.g. when a party fails to attend or be represented at a hearing and the sub-committee considers an adjournment to be necessary in the public interest);
 - b) arrange for a hearing to be held on specified additional dates (e.g. when further

- 8.2 Where the sub-committee adjourns the hearing to a specified date it shall, as soon as reasonably practicable, notify the parties of the date, time and place to which the hearing has been adjourned.
- 8.3 Similarly, when the sub-Committee arranges for the hearing to be held on a specified additional date it shall, as soon as is reasonably practicable, notify the parties of the additional date on which and time and place at which the hearing is to be held.
- 8.4 The sub-committee may extend any of the time limits specified in this procedure where it considers it necessary to do so in the public interest and shall give notice of the extension of time and the reason for it to the parties to the hearing.

9 The Hearing - Hearings will usually be held in public

- 9.1 The sub-committee may however exclude the public from all or part of a hearing where it considers it necessary to do so being mindful that any unfairness to a party is likely to result from a hearing in public or there is a need to protect as far as possible the commercial or other legitimate interests of a party. The sub-committee will normally resolve to exclude the public from that part of the hearing during which the sub-committee determines the matter which is the subject of the hearing.
- 9.2 Subject to the above, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.
- 9.3 At the commencement of the hearing, the Chair shall introduce the members of the sub-committee and any officers in attendance to support the sub-committee and shall ask the parties and any persons accompanying them to state their names and addresses or who they represent. Any member who knows the Applicant or any of the objectors will declare such and will not take part in the hearing. This is in addition to the declaration of any personal or prejudicial interest. The chair shall explain to the parties present that the hearing is subject to this procedure, copies of which will have been distributed to the parties with the notice of the hearing, and shall enquire of the persons present whether there are any questions regarding the procedure or as to its contents. The hearing will take the form of a discussion and, no cross examination shall take place without the Chair's consent.

It is the responsibility of any member to declare any relationship with an applicant or objector; and any personal or prejudicial interest. Local Ward members will be disqualified from consideration of any cases within their ward.

10 Procedure in all cases other than an application for a review of a premises licence or licence or the removal of gaming exemptions from premises or the cancellation of permits

- 10.1 The Licensing Officer will outline the application.
- 10.2 The chair will invite the applicant or his representative to address the sub-committee on his application, to respond to any point(s) upon which notice has been given that clarification is required by the licensing authority and to call any witness of whom notice has been given. The applicant will be allowed a maximum of twenty minutes in which to address the sub-committee and call witness(es) on his behalf.
- 10.3 The applicant or his representative or any witness called on his behalf may then be asked any questions upon their presentation by any member of the sub-committee or by any of the other parties present at the hearing or their representatives.
- 10.4 The Chair will then invite in sequence each of the parties at the hearing or their representative(s) to address the sub-committee and call any witness(es) of whom notice has been given to appear. Each party will be allowed a maximum of twenty minutes in which to

address the sub-committee and call witness(es) on its behalf. The sequence in which each of the parties will be invited to address the sub-committee will be at the discretion of the Chair but will normally be in the order of the Chief Officer of Police, the Fire and Rescue Authority, the local Planning Authority, the local Environmental Health Authority, the authority responsible for the protection of children from harm, Her Majesty's Commissioner of Customs and Excise and any other party that has submitted representations in respect of the application, notice, permit or other matter appearing before the sub-committee.

- 10.5 The party or his representative or any of his witnesses may be asked any questions upon their presentation by any member of the sub-committee or by the applicant or his representative or any of the other parties present at the hearing or their representatives.
- 10.6 The party or his representatives will then be given final opportunity to ask any further questions of witnesses in order to clarify any points raised earlier during questioning.
- 10.7 Where relevant written representations have been received and the party submitting those representations has given notice of his intention not to attend the hearing, fails to give notice, fails to attend or be represented or leaves the hearing, the parties present will be invited by the chair to indicate whether they wish to comment on the representations submitted. The sub-committee may take into account documentary or other evidence submitted by a party either in support of their application, notice or representations either before the hearing or, with the consent of all of the other parties present, at the hearing.
- 10.8 The chair may enquire of the Applicant as to whether or not, in the light of the information heard, he wishes to amend his application as, when they retire, the members of the sub-committee will only consider the information which has been placed before them.
- 10.9 If the application is to be amended then those who made representations will be given the opportunity to comment upon the amended application.
- 10.10 Where appropriate, the chair shall remind the parties that their representations should be relevant to the licensing objectives of preventing gambling from being a source of crime and disorder, being associated with crime or disorder or being used to support crime; ensuring that gambling is conducted in a fair and open way; and protecting children and other vulnerable persons from being harmed or exploited by gambling. The sub-committee shall disregard any information given by a party or witness which is not relevant to their application, notice or representations or to the licensing objectives. If, in his opinion, the chair feels that the representations being made are not relevant, he may, after first reminding the party of the need for relevance, advise the party that he will no longer be heard. Where in the opinion of the chair, a party is being repetitious, vexatious or slanderous in his remarks, the chair may first warn the party and may then advise the party that he will no longer be heard. The ruling of the Chair shall be final in such circumstances.
- 10.11 The chair may require any person who in his opinion is behaving in a disruptive manner at a hearing to leave the hearing and may refuse to permit that person to return or to return only upon his agreeing to comply with such conditions as the chair may require. However any person excluded may submit any such information that they proposed to give orally, in writing, provided that they do so before the end of the hearing. Such written information will be taken into account by the sub-committee.
- 10.12 After each party has addressed the sub-committee and after comments have been invited on written representations, the applicant or his representative will be invited by the chair to sum up his application for a time not exceeding two minutes but without introducing any new evidence to the proceedings.
- 11.0 Procedure in cases relating to an application for a review of a premises licence on removal of gaming exceptions from premises on the cancellation of permits

- 11.1 In the case of such hearings, the above procedure shall be followed with the exception that the applicant for a review of a premises licence or the licensing authority in the case of the removal of gaming exemptions or the cancellation of a permit will be invited to address the sub-committee first and to call any witness of whom notice has been given.
- 11.2 After any questions have been dealt with, the holder of the licence or permit will be invited to address the sub-committee and to call any witness of whom he has given notice
- 11.3 There shall be no right of reply for the applicant for a review of the licence or the licensing authority
12. Determination of Applications
- 12.1 At the conclusion of the hearing, the sub-committee will determine the application, remove the exemption or cancel the permit within 5 working days starting with the day after the last day of the hearing but, in any event, will endeavour to do so as soon as is practicable after the hearing ends.
- 12.2 Where a hearing has been dispensed with in accordance with paragraph 5.3 above, the application, removal of an exemption or cancellation of a permit will be determined by the sub-committee within 10 working days of notice having been given to the parties that the hearing has been dispensed with.
- 12.3 The licensing authority will notify the applicant and parties of its decision forthwith upon the making of the decision.
- 12.4 A record shall be taken of the hearing by the licensing authority which shall be retained for six years from the date of the determination of the hearing or the disposal of any appeal or judicial review.

Note: Human Rights

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a convention right. The sub-committee will have regard to the Human Rights Act when exercising its licensing functions, with particular reference to the following provisions:-

Article 6 - In the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

Article 8 - Everyone has the right to respect for his/her home and private and family life.

Article 1 of the First Protocol - Everyone is entitled to the peaceful enjoyment of his/her possessions

6 Licensing Committee Member Training

If you are a member of a Licensing Committee you must during the period of your membership of the Licensing Committee participate in a programme of training on the licensing system. The programme will consist of compulsory and discretionary modules.

If you are a member of the Licensing Committee and you do not attend all of the compulsory modules at least once every other municipal year and at least half of all of the training sessions (from whichever module) organised during any municipal year then this may result in you being asked to stand down as a member of Licensing Committee

You should be aware that:

- Training is particularly important for members who are new to Licensing Committee and for members who have not availed themselves of training opportunities in the past, and
- Where you have genuine difficulty in attending any particular training session, officers will try where practicable to accommodate a request for an individual or repeat session

Details of Licensing Training modules will be forwarded to Members of the Committee when appropriate.



Report

Licensing Committee

Part 1

Date: 2/6/2015

Item No: 1

Subject Licensing Act 2003: Draft Statement of Licensing Policy

Purpose The purpose of this report is to seek a recommendation from the Licensing Committee that Council adopts the draft Statement of Licensing Policy (SLP).

Author Principal Licensing Officer

Ward All

Summary The 2003 Act required the Council to prepare and publish a Statement of Licensing Policy before carrying out any function in respect of individual licence applications made under the 2003 Act. Additionally, the Act requires the Council to revise and republish the Policy at 5 yearly intervals. The current SLP is effective for the period 2011 - 2016 and the Council is therefore required to revise and republish the Statement of Licensing Policy no later than 7 January 2016. Statutory and non-statutory consultation must also take place prior to the Policy being finally determined by the Council, this consultation took place from the 9 February 2015 until 8 May 2015.

The current policy has proved to be entirely satisfactory since its adoption though it felt appropriate to fully revise the policy to make it a more "user friendly" for the Licensing Authority, Responsible Authorities, Business and other person defined in the Act. The proposed policy also is revised to take in consideration the changes in Licensing Act 2003 legislation and guidance since 2010/11. The Licensing Committee may approve the proposed revised policy with a recommendation to full Council to adopt the policy.

Proposal That the Committee approves the revised proposed Statement of Licensing Policy under the Licensing Act 2003 and makes a recommendation to Council to adopt it.

Action by Head of Law and Regulation

Timetable If the Committee recommends to Council to adopt the Policy, The Policy is required to be presented to Council and approved no later than the 7 January 2016.

Signed

Background

1. Section 5 of the 2003 Act requires a licensing authority to prepare and publish a statement of its licensing policy every five years. Such a policy must be published before the authority carries out any function in respect of individual applications made under the terms of the 2003 Act. During the five year period, the policy must be kept under review and the licensing authority may make such revisions to it as it considers appropriate, for instance in the light of feedback from the local community on whether the statutory objectives are being met.
2. The Guidance issued under the Licensing Act states that before determining its policy for any five year period, the licensing authority must consult the persons listed in section 5(3) of the 2003 Act. These are:
 - the chief officer of police for the area;
 - the fire authority for the area;
 - persons/bodies representative of local holders of premises licences;
 - persons/bodies representative of local holders of club premises certificates;
 - persons/bodies representative of local holders of personal licences; and
 - Persons/bodies representative of businesses and residents in its area.
3. The policy must be endorsed and approved by full Council prior to its coming into force on 7 January 2016.
4. The Current policy has been in operation for just over 4 years and it has proved extremely satisfactory and has guided applicants, officers, and more importantly, the Licensing Committee, in the consideration and determination of applications. Though the policy has changed over the last 10 years the core of the policy still reflects the Council original policy brought into force in 2004.
5. As such it felt appropriate to fully revise the policy to make the policy more user friendly for applicants and those persons wishing to make representations regarding applications. Also to ensure the Policy complies with updated Guidance and regulations from the Home Office. The Policy has been developed in conjunction with all five Gwent Authority's over the last six months though each individual council policy has being adopted to meet the requirements of each individual area, a copy of the draft policy is found in Appendix A.
6. The Draft Policy was presented to the Licensing Committee on the 3rd February 2015. The Licensing Committee debated the policy and agreed that the policy should to go out to formal consultation.
7. **Consultation**

The formal consultation ran from the 9th February 2015 until 8th May 2015. It was advertised on the Council website, alongside being "tweeted". A letter/ email were also sent to the following Trade associations: Association of Licenced Multiple Retailers, British Beer and Pub Association, British Institute of Inn Keeping, Licensed Victuallers' Association, and National Pub Watch.

The letter was also sent to a number of breweries and companies who hold multiple licences within Newport, neighbouring local authorities and all Newport Licensing Act responsible bodies. The policy changes were also presented to the Local City Pub Watch members and to the Newport Problem Premises Group (whose membership includes all Licensing Act Responsible Bodies). Nevertheless, the Authority received no comments regarding the proposed policy.
8. **Financial Summary**

The revision of the Statement of Licensing Policy is a statutory function. The costs in carrying out the revision, including the consultation process, will be covered by the Licensing Act 2003 fees. There will be no income generated by the revision of the policy

9. Risks

The Council in carrying out its function as Licensing Authority has a statutory duty to revise its Statement of Licensing Policy every 5 years. The next revision must be published and effective no later than 07 January 2016. Prior to adoption of the policy by Council, the Licensing Committee is required to recommend to Council the adoption of the policy, if the Committee do not recommend adoption the policy may not be able to be adopted by the 7th January 2016.

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Policy will not be adopted by 7 January 2016	H	L	The policy has been out for consultation with a view to it being presented to Full Council for adoption.	Public Protection Manager

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

10. Ensuring that this work is completed as required by statute will support the following Council Policies and Strategies:

Newport City Council's Corporate Plan "Standing Up for Newport" 2012-2017 (Relevant priorities: "A Safer City").

Newport City Council Improvement Plan 15/16 (Relevant Objective: "Making City Centre Safer")

Newport's Single Integrated Plan April 2013 (Relevant themes: "To be a prosperous and thriving city"; "To have a better quality of life"; "To have vibrant and safe communities").

Options Available

11. Having regard to the Council's statutory obligation to revise the Statement of Licensing Policy, the Licensing Committee may decide:
- (a) That the draft Statement of Licensing Policy (Appendix A) is approved and the Licensing Committee makes a recommendation to Council that it should be adopted.
 - (b) To propose significant amendments to the draft Statement of Licensing Policy (Appendix A) and then undertake a further 3 months' consultation.

Preferred Option and Why

12. The preferred option is 11(a): the draft revised policy builds on the previous Statement of Licensing Policy, but reflects the changes in legislation and guidance, whilst making the Policy easier to follow. The Policy is required to be approved by Council and this decision will allow it to be approved within the legislative timescale of 7 January 2016.

Comments of Chief Financial Officer

The requirement for Local Authorities to revise the Act and republish the Policy at five yearly intervals has been noted. The revision of the Statement of Licensing Policy is a statutory function and the costs associated, including the consultation process, will be covered by the Licensing Act 2003 fees. There will be no new income generated by the revision of the policy.

Comments of Monitoring Officer

The Council has a statutory duty under Section 5 of the Licensing Act 2003 to review and republish its Statement of Licensing Policy every 5 years. Therefore, the current policy needs to be formally reviewed and republished by January 2016. The draft revision of the Policy reflects changes in legislation and statutory guidance since the last statement was published, in particular the changes made by the Police and Social Responsibility Act, and are also consistent with the current guidance issued by the Secretary of State under Section 182 of the 2003 Act. However, apart from these legislative updates and making the policy more “user friendly”, the Licensing Statement remains broadly the same. Licensing Committee has previously agreed that the draft Statement should be the subject of prior consultation and the Council has consulted various responsible authorities, as required by the legislation, and also the public generally. No adverse comments or objections have been received. Therefore, it is now open to the Licensing Committee to recommend the approval of the revised Statement by Council. Because the revised Statement of Licensing Policy is part of the Council’s policy framework under the Constitution, it will need to be formally approved and adopted by full Council prior to January 2016.

Staffing Implications: Comments of Head of People and Business Change

The report relates to the draft Statement of Licensing Policy and there are therefore no staffing implications. The draft Statement has been developed following consultation and in line with the 2003 Act and takes account of current policy and strategy.

Appendix

Appendix A Draft Statement of Licensing Policy

Background Papers

Licensing Act 2003

Section 182 Guidance

LGA Best Practice Framework for the Review of Licensing Policy Statements October 2012



Deddf Trwyddedu 2003
Datganiad o Bolisi
Tryddedu

Licensing Act 2003
Statement of Licensing Policy



Datganiad Polisi 2015
Policy Statement 2015

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1. Introduction

- 1.1 The Licensing Act 2003 requires the Council, in fulfilling its role as the Licensing Authority, to publish a “Licensing Policy” that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. This is that statement of policy prepared in accordance with the provisions of the 2003 Act and the latest version of Home Office Guidance issued under section 182 of the Act.
- 1.2 Newport City Council (“the Council”) is the Licensing Authority under the Licensing Act 2003 and is responsible for granting premises licences, club premises certificates, and personal licences in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment. Throughout the document, the Council will be referred to as the Licensing Authority, where appropriate to prevent confusion between this role and the other functions carried out by the Council.
- 1.3 This policy sets out how applications for licences, which are required by the Licensing Act 2003, will be considered by the Licensing Authority.
- 1.4 In developing this licensing policy, the guidance of Home Office and Local Government Associations has been taken into account wherever possible. Where appropriate, the policies of other Gwent local authorities have also been taken into account, in order to achieve uniformity wherever possible and to help ensure the integration of the various policies over a wider geographical area. Other corporate policies adopted by the Council have also been taken into account, and these will be referred to throughout this document as appropriate.
- 1.5 Each application will be considered on its individual merits, and in the light of this Policy.
- 1.6 The Licensing Authority acknowledges that it may need to depart from this Policy and from the guidance issued under the Act in individual and exceptional circumstances, where the case merits such a decision, in the interests of the promotion of the licensing objectives. Any such decision will be taken in consultation with the appropriate legal advisors for the Licensing Authority, and the reasons for any such departure will be fully recorded.
- 1.7 The licensing policy will not seek to regulate matters which are provided for in any other legislation and will seek to complement such regimes e.g. planning, health and safety, employment rights, fire safety, etc.
- 1.8 The Licensing Authority wishes to encourage licensees to provide a wide range of entertainment activities in Newport throughout their opening hours and to promote live music, dance, theatre, etc. for the wider cultural benefit of the community.
- 1.9 This Licensing Authority will update and publish a new Licensing Policy whenever necessary but in any case within five years of the date of this Policy, and will fully consult with partners, trade associations and residents groups as appropriate at that time. Any representations received will be considered at that time. However where updates are required due to changes in national legislation, statutory guidance or contact details the council reserves the right to amend this policy without consultation where it is necessary to ensure the policy reflects national legislation or statutory guidance.
- 1.10 This policy revision takes into account the changes made to the Licensing Act 2003 by:
 - The Police Reform and Social Responsibility Act 2010

- The Live Music Act 2011
- Statutory instruments laid under the above legislation
- Revised Guidance issued under S182 of the Licensing Act 2003

2. Profile of the City

- 2.1 Newport is a multi-cultural city with its own unique atmosphere, where traditional industries sit alongside new electronics and financial service sectors. Standing at the gateway between England and Wales, Newport covers a geographical area of just over 73.5 square miles, with a population of 145,700 persons and is a vibrant, forward-thinking city steeped in a rich industrial heritage, dating from the nineteenth century when its important strategic location was first recognised. After losing some of its core industries, the city is successfully proving that it can re-establish and adapt itself as a centre of modern industry and commerce.
- 2.2 The face of Newport is changing dramatically with a number of exciting new developments underway. Completed projects and investments have already delivered huge transformation for the city including a world class university campus, state of the art business premises, a new railway station, revamped market, new bus station, iconic architecture and a new waterfront district providing riverside homes and leisure opportunities. These schemes, as well as new investments and recent announcements mean investments totalling £250 million are giving a fresh momentum to the city's regeneration. Construction of Friars Walk, Newport's new retail and leisure scheme is underway and will be completed in later half of 2015. This coupled with the city ability to successfully hold international events like the NATO conference and Ryder Cup highlights that the city is open to business.
- 2.3 There are approximately 500 premises licensed to sell alcohol either on or off the premises, and a further 100 premises providing late night refreshments and/or takeaways which are licensed under the Licensing Act 2003. The City Centre is very compact in nature and has very high density of licensed premises in and around High Street, Market Street and Cambrian Road, many of which operate well into the early hours of the morning.
- 2.4 The Council recognises a vibrant, Safe, Clean and well managed night economy can go a long way to boosting the local economy through attracting visitors and stimulating a hive of culture and creative activity in the local community. Evidence suggests that city's centre with lively streets and people moving around in them make people feel safe. However, this relies on a controlled and managed approach to evening and night economy. Uncontrolled growth focused on a heavy drinking culture can lead to negative consequences related to crime, disorder and anti-social behaviour.

3. Licensing Committee

- 3.1 The Council has appointed a Licensing Committee in accordance with its constitution.
- 3.2 A Licensing Committee shall establish Sub-Committees consisting of three Members of the Committee, to consider applications where representations have been received from any person and/or Responsible Authorities.
- 3.3 In the interests of good governance, where a Councillor who is a Member of a Licensing Committee or a Licensing Sub-Committee has had a direct or indirect pecuniary or personal interest in any matter before them they will be disqualified from any involvement in the decision-making process affecting the premises licence. A Councillor will not sit on a Sub-Committee to consider an application within their 'Ward'.

- 3.4 If the Licensing Sub-Committee comprises fewer than three members, then it will have to refer matters to the Licensing Committee to action.
- 3.5 If the Licensing Committee comprises fewer than the quorum of three members, then it will have to refer matters to the 'Licensing Authority' [the Council] to action.
- 3.6 Every determination of a licensing decision by the Licensing Committee or a Licensing Sub-Committee shall be accompanied with the rationale for the decision. A summary of the decision shall be posted on the Council's website as soon as practicable after the decision has been made, where it will form part of the statutory licensing register.
- 3.7 The Council's Licensing Officers will deal with all licence applications where either no relevant representation has been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.
- 3.8 The Council will ensure that Members and relevant officers are appropriately trained to carry out their duties under the Act.
- 3.9 Matters in respect of the Licensing Act 2003 are to be dealt with as specified in the Council's scheme of delegation under its constitution.

4. Fundamental Principles

- 4.1 Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the 2003 Act, and conditions may be attached to licences, certificates and permissions that will cover matters which are within the control of individual licensees.
- 4.2 When considering these conditions, the Licensing Authority will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- 4.3 In this respect, the Licensing Authority recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues that can occur away from the licensed premises, including:
- Planning controls;
 - On-going measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council departments;
 - Designation of parts of the City of Newport as places where alcohol may not be consumed publicly (currently there are three such control areas, including the City Centre);
 - Frequent liaison with Gwent Police on law enforcement issues regarding disorder and antisocial behaviour, including the issue of fixed penalty notices, prosecution of those selling alcohol to people who are drunk, confiscation of alcohol from adults and children in designated areas and instantly closing down licensed premises or temporary events on the grounds of disorder, or likelihood of disorder or excessive noise from the premises;
 - The power of the police, other responsible authorities or interested people to seek a review of the licence or certificate.

5. Zoning and Licensing Hours

- 5.1 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. However, the Licensing Authority does have the power to make an Early Morning Restriction Order to limit opening times in a particular area (see paragraph 36) or impose a Night Time Levy on those regulated businesses trading after midnight (see paragraph 43).

- 5.2 In the absence of any specific reasons linked to the licensing objectives, the Licensing Authority will not seek to restrict licensed retail outlets' ability to sell alcohol for consumption off the premises throughout their general trading hours. A possible example of an occasion when a limitation could be considered would be following Police representations that a shop was known to be a focal point for crime and disorder. However, restrictions have been put on the growth of city centre establishments by virtue of the Licensing Authority having adopted a "Cumulative Impact Policy"- see paragraph 34.
- 5.3 The Licensing Authority recognises that providing consumers with greater choice and flexibility is an important consideration and that in some circumstances flexible licensing hours for the sale of alcohol can help to ensure that the concentrations of customers leaving premises simultaneously are avoided, which in turn can reduce the possibility of friction at late night fast food outlets, taxi ranks and other sources of transport which can lead to crime, disorder and disturbance.
- 5.4 The Licensing Authority also acknowledges that licensing hours should not inhibit the development of thriving and safe evening and night-time local economies which are important for investment and employment locally and attractive to domestic and international tourists.
- 5.6 The Licensing Authority will however, where its discretion is engaged, always carefully balance the considerations in paragraphs 5.3 and 5.4 above against its duty to promote the licensing objectives and protect the rights of residents and businesses.
- 5.7 The Licensing Authority also notes the Government's guidance that there is no general presumption in favour of lengthening licensing hours and that the four licensing objectives should be the paramount considerations at all times. Where there are relevant representations against an application and the Licensing 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.
- 5.8 Irrespective of the hours of operation granted for a premises under any licence under the Act, premises operators should ensure that they comply with any limitation on hours imposed under any other relevant legislation in force - for example Planning laws, Sunday Trading Act 1994 or Christmas Day (Trading) Act 2004.
- 5.9 Whilst the licensing authority accepts that flexible licensing hours may reduce crime, disorder and anti-social behaviour by allowing for a more gradual dispersal of customers, experience shows that in the City/ town centre areas, the majority of new entrants request opening hours to match competitors.
- 5.10 Applicants are encouraged to include in their operating schedule not only the standard hours during which they wish to carry on licensable activities, but also special occasions, such as bank holidays, when they may wish to trade for an additional hour or two. Catering for these types of occasion will reduce the need to make variation applications.
- 5.11 There is no automatic special provision for New Year's Eve, therefore if applicants wish to take advantage of longer trading hours over this period this should be included in the operating schedule.

6. Commercial Demand

- 6.1 The commercial demand for additional premises licences (as distinct from cumulative impact, see paragraph 34, will not be a matter for the Licensing Authority. Such matters are a specific consideration for the local planning authority, taking into account the demands of the licensed trade and market demands.

7. Alcohol Harm

- 7.1 In June 2007 “Safe, Sensible, Social – The Next Steps in the National Alcohol Strategy” was published. This strategy covered England but was prepared in discussion with the Welsh Assembly Government and reflects the common themes within Welsh policies aimed at tackling the harm caused by alcohol misuse.
- 7.2 The Welsh Assembly Government in 2008 published a new substance misuse strategy, entitled “Working Together to Reduce Harm”. It is a 10 year strategy which aims to set out a clear national agenda for tackling and reducing the harms associated with substance misuse in Wales.
- 7.3 In 2010, the Government outlined plans to overhaul the current licensing regime, in order to give more power to local authorities and police, to help them deal with alcohol-related crime and disorder, while also encouraging responsible businesses. A consultation document entitled “Rebalancing the Licensing Act - a consultation on empowering individuals, families and local communities to shape and determine local licensing” was published and resulted in additional legislation to assist regulators to control the sale and supply of alcohol and the public to make representations about licensed premises.
- 7.4 Mandatory conditions have been imposed on all premises licences and club premises certificates as they are commenced. These are designed to reduce the instances of unacceptable drinking promotions and other activities that have been classed as irresponsible. The Licensing Authority will closely monitor premises with the resources they have available to ensure these conditions are followed by licence holders.

7.5 Irresponsible Drinks Promotions

An irresponsible drinks promotion is one that encourages excessive consumption of alcohol. The Licensing Authority is pleased that there is now a mandatory condition included in all premises licences and club certificates to prohibit or restrict such promotions e.g. drinking games which encourage excess, provision of free or discounted alcohol as prizes etc.

8. Drugs

- 8.1 The Licensing Authority recognises that drug misuse may be an issue for some licensed premises, however it is committed to the reduction and eradication where possible of illegal drugs from licensed premises as part of its role in promoting the crime and disorder licensing objective. The Licensing Authority expects all licence holders to actively support this aim in the way that they plan, manage and operate premises.
- 8.2 If relevant representations are received to an application for grant or variation of a licence, special conditions may be imposed to support the prevention of the illegal supply or use of controlled drugs. Advice on conditions will be sought from the police or any other relevant organisation involved in the policing of controlled drugs or the support and/or treatment of drug users.

- 8.3 In premises where drug misuse is problematic and where any responsible authority or other person applies for a review of the licence, the licensing authority will consider this as being very serious and will give appropriate consideration to the full range of options available, including suspension and revocation of the licence in accordance with the statutory guidance issued by the Secretary of State. The Licensing Authority recognises that each case is individual and will be decided on its own facts and specific merit.
- 8.4 Where officer become aware of the sale or use of new psychoactive substances (so-called “legal highs”) at alcohol licensed premises, the Licensing Authority will consider the issue in line with current legislation and government policy.

9. Licensing Objectives

- 9.1 The Licensing Authority has a duty under the Act to carry out its functions with a view to promoting the licensing objectives. The licensing objectives (of which each one is of equal importance) are:
- The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance;
 - The protection of children from harm.
- 9.2 It is recognised that the licensing function is not the primary method of securing the delivery of these objectives. The Licensing Authority will therefore continue to work in partnership with its neighbouring authorities, the police, local businesses, licensees and local people towards the promotion of the Licensing Act objectives.

10. Prevention of Crime and Disorder

- 10.1 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a potential source of crime and disorder problems.
- 10.2 The Licensing Authority will expect operating schedules (see section 28) to satisfactorily address these issues, from the design of the premises, through to the day-to-day operation of the business and guidance is given in Appendix A.
- 10.3 Applicants are recommended to seek advice from the Licensing Authority’s licensing officers and the police, as well as taking into account, as appropriate, local planning and transport policies, tourism, cultural and crime prevention strategies, when preparing their plans and operating schedules.
- 10.4 In addition to the requirements to promote this licensing objective, the Council also has a duty, under section 17 of the Crime and Disorder Act 1998, to have due regard to the likely effect of the exercise of its functions on, and the need to do all it reasonably can to prevent, crime and disorder in Newport.

11. Prevention of public nuisance

- 11.1 Licensed premises can also have a significant potential to impact adversely on persons in the vicinity and further afield through public nuisances that arise from their operation.
- 11.2 Subject to case law, the Licensing Authority interprets ‘public nuisance’ in its widest sense and takes it to include such issues as noise, light, odour, litter and anti-social behaviour. Where these matters impact on those living, working or otherwise engaged in

normal activity in the vicinity of licensed premises.

- 11.3 Applicants will be encouraged to demonstrate in their Operating Schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance.
- 11.4 The Licensing Authority recommends that licensees apply a high standard of control to minimise the potential for any public nuisance that may arise from their operation of the premises, particularly where:
- they are situated in a residential or noise sensitive area; or
 - extended opening hours are proposed.
- 11.5 The Licensing Authority recognises that beyond the immediate vicinity of the premises, the control that a licence-holder can exert over its patrons diminishes and individuals who engage in anti-social behaviour are accountable in their own right. However, the Licensing Authority also recognises that licence holders have a responsibility to ensure that patrons do not consume excessive alcohol that could contribute to patrons engaging in anti-social behaviour.
- 11.6 When addressing the issue of prevention of public nuisance in their operating schedule, the applicant should show they have considered the potential impact that their operation may cause and seek to address any adverse consequences. Guidance is available in Appendix A.

12. Public Safety

- 12.1 The Licensing Authority will expect operating schedules to satisfactorily address issues concerning public safety and applicants are advised to seek advice from various organisations, such as the health and safety enforcement officers, South Wales Fire and Rescue Service, before preparing their plans and schedules, particularly where regulated entertainment is to be provided.
- 12.2 The Licensing Authority will encourage applicants to conduct a risk assessment of the premises and/or activity. The authority recommends that specialists, e.g. a qualified safety officer, should be consulted to assist with the assessment.
- 12.3 The Licensing Authority supports Gwent Police in promoting the use of polycarbonate drinking vessels to reduce the injuries caused by glass drinking vessels.
- 12.4 In order to prevent confusion with a condition already imposed on a licence that specifies that toughened glass drinking vessels must be used in certain circumstances, this condition will be taken to include the use of approved polycarbonate drinking vessels. This will remove the need for licence holders to apply for a variation to conditions on those licences.

13. Protection of Children from Harm

- 13.1 Nothing in this statement of policy shall limit or require access of children to premises unless there is an overriding requirement of necessity to prevent harm to children. Areas that will give rise to particular concern are highlighted elsewhere in this policy.
- 13.2 With the exception of the restrictions specified in Section 145 Licensing Act (Unaccompanied children prohibited from certain premises) this policy does not prohibit children from having free access to any licensed premises. However, the Licensing Authority recognises that limitations may have to be considered where it appears necessary to protect children from harm.

- 13.3 The Licensing Authority will not impose any condition that 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 premises or club.
- 13.4 The 2003 Act details a number of offences designed to protect children in licensed premises and the Licensing Authority will work closely with the police and Newport City Council Trading Standards and the Local Health board to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children.

14. The Right to Make Representations

- 14.1 The Licensing Authority will expect applicants to address the licensing objectives in their operating schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community, in order that those with a right to make representations or objections are able to fully assess the factors that may affect them.
- 14.2 Relevant representations may be made by a responsible authority (see paragraph 15), other persons or organisations representing them, but they should state whether they are making a representation on their own behalf or on behalf of another person.
- 14.3 Amendments to the Act have inserted the term 'other person' to replace 'interested party' as someone who can make representations. It also removed the "vicinity" test for residents and the specific term of councillor. This opens up the range of persons who may make representation and includes for example the following:-
- Residents living near the premises
 - Persons with an interest in the premises or locality
 - Local councillors
 - Businesses with an interest in the premises or locality.
 - Organisations with an interest in the locality, premises or licensable activities.

The Licensing Authority will have to decide if the representation is relevant and/or reasonable, and in making that assessment, will assess the person or organisation making the representation and their relationship to the premises and or vicinity.

- 14.4 Relevant representations will be taken as those that relate to the fundamental principles of the Licensing Act. Any organisation or individual wishing to object to any application will therefore need to state how their representation relates to one or more of:
- The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance;
 - The protection of children from harm.
- 14.5 Unreasonable, frivolous and vexatious representations will be disregarded. Representations that have been made and considered elsewhere, for example as an objection to a planning application, may also be disregarded where consideration of such representations would be duplication.

15. Responsible Authorities

- 15.1 The Licensing Act 2003, as amended, specifies who is a Responsible Authority able to make representations on applications or apply for the review of a premises licence or

club premises certificate, and they are:

Responsible Authority	For Newport, this is
The Chief Officer of Police-	Gwent Police
The Fire Authority	South Wales Fire and Rescue
The enforcing authority for Health and Safety at Work	Newport City Council Environmental Health- Health and Safety
The local planning authority	Newport City Council Planning Services
The local authority responsible for minimising or preventing the risk of pollution of the environment or of harm to human health	Newport City Council Environmental Health Environmental Protection
The local weights and measures authority	Newport City Council Trading Standards
The Director of Social Services and the body representing matters relating to the protection of children from harm, currently the Local Safeguarding Children Board	Newport City Council Social Services
In relation to a vessel, a navigation authority, the Environment Agency, or the British Waterways Board	Natural Resources Wales
The Local Health Board	Aneurin Bevan Health Board
The Licensing Authority	Newport City Council Licensing

See Appendix C for full contact details

16. Representations from “Other Persons”

- 16.1 Changes to the Licensing Act 2003 by virtue of the Police Reform and Social Responsibility Act 2011 have now removed the test of “vicinity” from the 2003 Act and as a consequence, the categories of “interested party” no longer exist.
- 16.2 Therefore, any person is able to make representations in relation to certain types of applications as an “Other Person”. However, all representations must relate to at least one of the licensing objectives and may not be frivolous or vexatious.

17. Integrating strategies

- 17.1 There are a range of strategic influences and statutory controls which affect the licensing system in terms of policy formulation, administration and enforcement activities, when carrying out its functions the Local Authority has duties, responsibilities and considerations under other legislation and strategies.
- 17.2 Within Newport the Council has a number of statutory controls including a One Newport’s Single Integrated Plan (SIP). The vision for this plan is “working together to create a proud and prosperous City with opportunities”
The SIP has priority themes, determined by a robust evidence base in the form of a Unified Needs Assessment. These are:
1. Skills and Work
 2. Economic Opportunity
 3. Health and Wellbeing

- 4. Safe and Cohesive Communities
- 5. City Centre
- 6. Alcohol and Substance Misuse

1. Newport City Council Corporate Plan “Standing Up For Newport” 2012-17

Specific priorities around a safer, healthier and working city

2. Newport City Council Improvement Plan 2014-15

Specific priority- “Making the City Centre Safer at Night”

- 17.3 The licensing of alcohol and regulated entertainment in Newport impacts on all of these. Other Local Authority and Government policies, strategies, responsibilities, and guidance documents may also refer to the licensing function, and the Licensing Authority may liaise with the relevant authorities or other Council Services with regard to these. Whilst some of these may not be directly related to the promotion of the four licensing objectives, they may indirectly impact upon them. For example, the Licensing Authority will liaise with the local Police Neighbourhood Teams to ensure that the Local Authority can develop effective strategies that take full account of local crime and disorder issues.

18. Relationship with Planning Process

- 18.1 Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the Local Planning Authority.
- 18.2 It is strongly recommended that prospective licence applicants contact the Council Planning Services in advance of making a licence application in order to check, or seek advice on, any planning consents or any conditions relevant to the use of the premises. It clearly makes operational sense to ensure that planning and licensing are compatible.
- 18.3 The Licensing Authority wishes to emphasise that the granting by the Licensing (Sub) Committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control consent where appropriate.
- 18.4 The Local Authority will aim to properly separate planning, building control and licensing regimes in order to avoid conflict and confusion. The Licensing and Planning regimes involve consideration of different (albeit related) matters.
- 18.5 The Licensing Authority will avoid treating licensing applications as a re-run of planning applications, and will not normally:
- cut-across decisions taken by the Local Authority Planning Committee or following appeals decisions taken by that Committee; or
 - impose licensing conditions where the same or similar conditions have been imposed on a planning consent.
- 18.6 The Licensing Authority is not bound by decisions made by the Planning Committee and vice versa.
- 18.7 Where, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes that is different to the licensing hours, the licensee must observe the earlier closing time in order to avoid any breach of their planning permission - for which they may be liable to prosecution under planning law (and vice

versa where the licensing hours finish earlier than the planning permission).

Where it considers it appropriate to do so, and in order to seek proper integration of the licensing function, the Licensing Authority may directly or indirectly provide periodic reports to the Planning Authority on the general situation regarding licensed premises in the area, which may include reference to the impact of alcohol related crime and disorder.

19. Avoiding Duplication

19.1 The premises operators are normally responsible for compliance with many other statutory requirements which may apply, for example the Regulatory Reform (Fire Safety) Order 2005.

The Licensing Authority will as far as possible seek to avoid duplication with other regulatory regimes when dealing with the licensing function. If other existing laws already place certain statutory responsibilities on an employer or operator of premises, it cannot be appropriate or proportionate to impose the same or similar duties on the premises licence holder or club. However, the Licensing Authority may use its discretion on occasion, to attach appropriate and proportionate conditions to a licence to promote the licensing objectives.

20. Personal Alcohol Licence

20.1 The Licensing Authority recognises it has very little discretion in the granting of a personal licence. In general, provided an applicant is over 18 years of age, has an approved qualification and does not have relevant criminal convictions, the application must be granted.

20.2 If an applicant has a relevant conviction the Police can oppose the application. When an objection is lodged a hearing must be held. Applicants with unspent criminal convictions for relevant offences as set out in the Regulations made under the Act are encouraged to first discuss their application with the Council's Licensing Officer and/or the Police.

20.3 At a hearing in respect of an objection to the granting of a personal licence, or the revocation of an existing licence, the Licensing Authority will consider carefully whether the grant of, or continuation of, the licence will be in the interests of the crime prevention objective. It will consider the seriousness and relevance of any conviction(s), the period that has elapsed since the offence(s) was/were committed and any mitigating circumstances. The Licensing Authority will only grant the application, if it is satisfied that doing so will promote this objective.

20.4 Prevention of crime is both an objective of the Licensing Act 2003 and a responsibility of the Licensing Authority under the Crime and Disorder Act 1998. A person holding a personal licence should be a person who is not only properly qualified, but someone who will assist in the prevention of crime. Granting a licence to a person with a relevant criminal record could undermine, rather than promote, the crime prevention objective.

21 Premises Licence

21.1 A premises licence is granted in respect of any premises, other than a private members' club or similar type premises, authorised for one or more licensable activities, such as the supply of alcohol, late night refreshment or regulated entertainment.

21.2 There are some exemptions for the requirement of a licence and they include the exhibition of films for educational or promotional reasons, films shown as part of an exhibition, unamplified live music to audiences of less than 200 people between the hours of 8.00 am and 11.00 pm. Applicants are advised to contact the licensing

authority for further guidance.

- 21.3 Where alcohol is supplied, a Designated Premises Supervisor, who must be the holder of a personal licence, must be nominated to authorise the sale of alcohol at the premises.
- 21.4 Premises licences are issued to individuals over the age of 18 years who carry on, or propose to carry on, a business which involves the use of the premises for the activities mentioned above. In addition, charities, health service bodies, educational institutions and persons of other prescribed descriptions may apply for a premises licence.
- 21.5 A licence may be issued subject to conditions, which must be complied with at all times whilst the premises are being used for licensable activities during the times specified in the licence. Failure to comply with the terms and conditions of a licence, or if licensable activities are carried out without a premises licence, may result in a fine of up to £20,000 or a term of imprisonment of up to 6 months, or both.
- 21.6 Fees for licences are based on the rateable value of a premises and although licences are usually issued for an indefinite period, an annual fee is payable. Failure to pay the annual fee will render the premises licence suspended and it will be illegal to carry on any regulated activity.

22 Club Premises Certificate

- 22.1 A qualifying club, industrial and provident society, friendly society and miners' welfare institute that satisfies the criteria specified in part 4 of the Licensing Act 2003 may provide licensable activities for its members and guests of a member that are authorised by a club premises certificate (CPC).
- 22.2 A CPC only authorises the use of a premises for the benefit of its members and their guests and cannot be used to provide licensable activities to non-members. If the premises are to be used to provide licensable activities for non-members, an additional authorisation will be required. This may be a premises licence or a temporary event notice (TEN).
- 22.3 A premises operating under the authorisation of a CPC enjoy special privileges. If a club premises operate under the authorisation of a premises licence or a TEN, the privileges do not apply. The privileges include: restricted rights of entry and no need to have a qualified person authorising sales of alcohol. Other considerations include different taxation rules and advice should be sought from HMRC.

23. Temporary Event Notices

- 23.1 Temporary Event Notices (TENs) can be used to allow licensable activities to be carried out on a one-off or occasional basis. They are the most appropriate type of authorisation for small-scale, one-off events, such as community, school and charity fundraising events, at which it is intended to:
- sell or supply alcohol;
 - provide regulated entertainment; or
 - sell hot food/drink between 11 pm and 5 am.
- 23.2 Statutory consultees (at present the Police and Council Environmental Health), will be notified of all TENs in order that they may give proper advice. Applicants should be aware that these consultees and a number of other enforcement bodies, may be under a duty to ensure that the event in question meets certain statutory standards. In extreme cases, this could lead to an event being restricted or even prevented from taking place,

and it is therefore very important that applicants contact these consultees as soon as possible in order to discuss their plans and establish what standards they will need to meet.

- 23.3 The Licensing Authority recommends that anyone wishing to submit a Temporary Event Notice, particularly where this involves the provision of regulated entertainment, gives as much notice to the Authority as possible, to ensure that proper advice can be given and any anticipated issues resolved in a planned and timely manner. A period of at least 10 weeks is recommended for this process, and a longer consultation period should be considered for larger events.
- 23.4 The Licensing Authority may notify the Newport Event Safety Advisory Group of any Temporary Event Notices involving the provision of regulated entertainment. The applicant may also notify the Event Safety Advisory Group (SAG) directly. This Group ensures that various bodies that may be responsible for enforcement in respect of an event are aware of the proposals, in order that appropriate advice can be offered to the organisers to ensure that events are conducted safely. If necessary the organisers may be invited to attend a meeting with the Group or a sub-group, to discuss the proposals and for agreement to be reached regarding the way that the event will be organised etc. It is recommended that all applicants submitting a Temporary Event Notice complete an online 'event enquiry questionnaire' to determine if a SAG notification form should be completed. This can be found at www.newport.gov.uk/SAG, as can a link to the notification form. Contact details for the SAG coordinator can be found in Appendix C.
- This will be of particular assistance to charities, community and voluntary groups, and other event organisers who may not have access to legal advice or technical knowledge.

24. Sale and supply of alcohol

- 24.1 Licensed premises authorised under the Act for the sale and/or supply of alcohol must consider their responsibilities with regard to who they supply with alcoholic drinks, in particular:
- The sale to persons under the age of 18 years
 - The sale to persons who are delivering to persons under the age of 18 years
 - The sale to persons who are drunk
- 24.2 The Licensing Authority recommends that any licensed premises that are authorised to sell or supply alcohol have a policy that sets out how the sale or supply is controlled and must include staff training requirements. Records should be kept of all training provided and any incidents e.g. a refusal to sell and the reasons.

25. Regulated Entertainment

- 25.1 The types of regulated entertainment that are required to be licenced under the 2003 Act are listed below:
- a) film exhibitions
 - b) performance of a play
 - c) indoor sporting events
 - d) a boxing or wrestling entertainment
 - e) a contest, exhibition or display which combines boxing or wrestling with one or more martial arts ("combined fighting sports")
 - f) live music performances
 - g) playing of recorded music
 - h) dance performances

- i) Entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.

26. Live music, dancing and theatre

- 26.1 Generally, live music, dancing and theatre type entertainment requires a licence. However, certain exemptions apply to some of these entertainments at specific times of day.

27. Exceptions to the need to be licensed

- 27.1 There are exceptions within the Act and these include those changes made by the Live Music Act 2012, The Legislative Reform (Entertainment Licensing) order 2014 and Licensing Act 2003 (Description of Entertainment) (Amendment) Order 2013 etc. In respect of regulated entertainment and applicants are advised to contact their legal advisor or the Licensing Team before submitting an application for a licence.

28. Administration and Application Procedure

- 28.1 The Council's Licensing Team administers and enforces all aspects of the Licensing Act 2003, including applications, representations and requests for assistance and advice. The Council's website has detailed information on all of the services it offers for licensees, applicants, complainants and all other enquiries. Application information and forms can be downloaded from our website. The Team can be contacted by any of the following means:-

Licensing,
Newport City Council
PO BOX 883,
Civic Centre,
Godfrey Road,
Newport,
NP20 4UR

E-mail: environment.licensing@newport.gov.uk

Tel: 01633 656656

Web: www.newport.gov.uk/licensing

- 28.2 All application requirements and procedures are specified in the Licensing Act 2003 and regulations made under the Act. Applications and notices are administered by the Council's Licensing team.
- 28.3 Applicants can apply and pay electronically in accordance with the European Services Directive.

Completing an Application

29. The Operating schedule

- 29.1 All new and variation applications should incorporate an 'operating schedule' which outlines how the premises will be operated. This should include details of how the applicant will promote the four licensing objectives and reduce any potential negative impact from the operation of their business on the local community, depending on the type of premises, location and profile of customers. The proposals contained in the operating schedule will form the main body of the conditions to be applied to the licence, together with any applicable mandatory conditions, any conditions agreed with

responsible authorities during the application process and any conditions imposed by a licensing sub-committee where representations have been made.

- 29.2 In completing an operating schedule, applicants are expected to have regard to this statement of licensing policy and to demonstrate suitable knowledge of their local area when describing the steps that they propose to take in order to promote the Licensing Objectives.
- 29.3 The Licensing Authority will provide general advice on the drafting of operating schedules and applicants are strongly recommended to discuss their operating schedules with the Licensing Authority and other Responsible Authorities prior to submitting them.
- 29.4 The complexity and detail required in the operating schedule will depend upon the nature and use of the premises concerned. For premises such as a public house where regulated entertainment is not provided, only a relatively simple document may be required. However for an operating schedule accompanying an application for a major entertainment venue or event, it will be expected that issues such as public safety and the prevention of crime and disorder will be addressed in detail.
- 29.5 The operating schedule must be set out on the prescribed form and include a statement of the following:-
- Full details of the licensable activities to be carried on at and the intended use of the premises;
 - The times during which the licensable activities will take place;
 - Any other times when the premises are to be open to the public;
 - Where the licence is only required for a limited period, that period;
 - Where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the designated premises supervisor;
 - Whether alcohol will be supplied for consumption on or off the premises or both;
 - The steps which the applicant proposes to promote the Licensing Objectives.
- 29.6 For some premises, it is possible that no measures will be appropriate to promote one or more of the Licensing Objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be:
- Precise and unambiguous
 - Be clear in what they intend to achieve, and
 - Be appropriate, proportionate and justifiable.

30. Conditions

- 30.1 The Licensing Act 2003, as amended, imposes a number of mandatory conditions on licences. The Licensing Authority has the power to impose additional conditions if considered appropriate for the promotion of the licensing objectives.
- 30.2 Conditions attached to licences or certificates will be tailored to the individual style and characteristics of the particular premises, activities and/or events provided at the premises. This policy does not provide for any standard, general or blanket conditions, and will not impose disproportionate and burdensome requirements.
- 30.3 Applicants may offer voluntarily conditions in the operating schedule as part of their application. The Licensing Authority may remove or reword any of these conditions if they are considered to be unclear, ambiguous or unenforceable, with the agreement of the applicant. This will ensure that all parties fully understand their responsibilities to promote the licensing objectives.

- 30.4 The Licensing Authority recognises that it can only impose conditions where relevant representations have been received and it is considered appropriate for the promotion of the licensing objectives. Where a Responsible Authority provides evidence that warrants the imposition of specific conditions, the Licensing Authority may suggest wording to ensure that such conditions are clear, relevant and enforceable.
- 30.5 When attaching conditions, the Licensing Authority will also be aware of the need to avoid measures that might deter live music, dancing or theatre by imposing costs of a substantial nature, that are not in proportion to the risks.

31 Applications where representations are received

- 31.1 When an application is made for the grant, variation or review of a premises licence or club premises certificate, representations about the application may be made by responsible authorities or other persons. However, the Licensing Authority will usually give greater weight to representations that are made by those who can demonstrate that they would be directly affected by the carrying on of licensable activities at the premises concerned.
- 31.2 Representations must be made to the Licensing Authority within the statutory period of 28 days beginning on the day after the relevant application is received by the Licensing Authority. Representations must be made in writing.
- 31.3 Representations can be made either be in support of an application or to express objections to an application being granted. However the Licensing Authority can only accept “relevant representations.” A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the four Licensing Objectives
- 31.4 An example of a representation which would not be relevant would be one from a local business about the commercial damage that competition from new licensed premises would have on their business. On the other hand, a representation from a business that nuisance caused by new premises would deter customers from entering the local area, and that the steps proposed by the applicant to prevent that nuisance were inadequate, would be a relevant representation. In short, representations should relate to the impact of the proposed licensable activities on the Licensing Objectives.
- 31.5 For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation.
- 31.6 Whilst the Licensing Authority expects representations to be evidence-based, there is no requirement for a Responsible Authority or other person to produce a “recorded at the time” history of problems at premises to support their representations, and it is recognised that in fact this would not be possible for new premises.
- 31.7 Responsible authorities are a group of public bodies that must be fully notified of applications and they are entitled to make representations to the Licensing Authority in relation to the application for the grant, variation or review of a premises licence or club premises certificate. A full list of contact details for the responsible authorities is provided on the Licensing Authority’s website and in Appendix C.
- 31.8 Whilst all responsible authorities may make representations regarding applications for licences and club premises certificates and full variation applications, it is the responsibility of each Responsible Authority to determine when they have appropriate grounds to do so.

- 31.9 The Licensing Authority recognises that every Responsible Authority can make representations relating to any of the four Licensing Objectives. However, the Licensing Authority would normally expect representations about the promotion of individual Licensing Objectives to come from the most relevant Responsible Authority with expertise in that particular area. For example, the Licensing Authority would expect representations about the prevention of crime and disorder to come primarily from the police and representations about the prevention of public nuisance to come primarily from environmental health.
- 31.10 The Licensing Authority recognises that the police should be its main source or advice on matters relating to the promotion of the crime and disorder licensing objective, but also may be able to make relevant representations with regards to the other Licensing Objectives if they have evidence to support such representations.
- 31.11 The Licensing Authority will accept all reasonable and proportionate representations and expect them to be evidence-based and able to withstand scrutiny at a hearing.
- 31.12 The Licensing Authority recognises that, although public health is not a licensing objective, health bodies are a relevant authority and may hold information which other responsible authorities do not, but which would assist the Licensing Authority in exercising its functions. For example, drunkenness can lead to accidents and injuries from violence, resulting in attendances at emergency departments and the use of ambulance services. Some of these incidents will be reported to the police, but many will not. Such information might be relevant to the public safety objective and in some cases, the crime and disorder objective.
- 31.13 As a result of the Police Reform and Social Responsibility Act 2011, the Licensing Authority is also now a Responsible Authority in its own right and can therefore make representations if it deems it appropriate to do so. However, the Licensing Authority will not normally act as a Responsible Authority on behalf of other parties (for example, local residents, local councillors or community groups) although there are occasions where the authority may decide to do so. Such parties can make relevant representations to the Licensing Authority in their own right, and the Licensing Authority expects them to make representations themselves where they are reasonably able to do so.
- 31.14 The Licensing Authority also expects that other Responsible Authorities should intervene where the basis for the intervention falls within the remit of that other Responsible Authority. Each Responsible Authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other Responsible Authority.
- 31.15 In cases where a Licensing Authority is also acting as Responsible Authority in relation to the same process, the Licensing Authority will seek to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. This will be achieved by allocating the different responsibilities to different licensing officers or other officers within the local authority.
- 31.16 Relevant representations about applications can also be made by any other person, regardless of their geographical position in relation to the relevant premises. However the Licensing Authority will usually give greater weight to representations that are made by people who can demonstrate that they would be directly affected by the carrying on of licensable activities at the premises concerned.
- 31.17 The Licensing Authority will also reject as invalid, any representations from other persons that are deemed to be frivolous or vexatious. A representation might 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.

Frivolous representations are essentially categorised by a lack of seriousness, and which, at most, are minor and where no remedial steps would be warranted or proportionate.

- 31.18 Decisions as to the validity of representations will normally be made by officers of the Licensing Authority. In borderline cases, the benefit of the doubt about any aspect of a representation will be given to the person making that representation. Any subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.
- 31.19 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the Council's Corporate Complaints procedure. A person may also challenge such a decision by way of judicial review.
- 31.20 Where a notice of a hearing is given to an applicant, the Licensing Authority is required to provide the applicant with copies of the relevant representations that have been made.
- 31.21 The Licensing Authority will normally provide copies of the relevant representations to the applicant in full and without redaction. However in exceptional circumstances, where a person satisfies the Licensing Authority that they have genuine reasons to fear intimidation or violence if their personal details, such as name and address, are divulged to the applicant, the copies of the representations may be redacted accordingly.
- 31.22 In such circumstances the Licensing Authority will still provide some details to the applicant (such as street name or general location within a street), so that the applicant can fully prepare their response to any particular representation.
- 31.23 Alternatively persons may wish to contact the relevant Responsible Authority or their local Councillor with details of how they consider that the Licensing Objectives are being undermined so that the Responsible Authority or Councillor can make representations on their behalf if appropriate and justified.
- 31.24 Further guidance on making representations is provided on the Licensing Authority's website.

32. Exercise and Delegation of Functions

- 32.1 The Licensing Act 2003 requires local authorities to act as the Licensing Authority and to set up a Licensing Committee to be responsible for all matters relating to the Licensing Act 2003. The Licensing Committee further delegates to Licensing Sub Committee, or by one or more officers acting under delegated authority.
- 32.2 It is considered that many of the functions will be largely administrative in nature with no perceived areas of contention. In the interests of efficiency and cost effectiveness these will, for the most part, be carried out by officers.

32.3 Schedule of delegation of licensing functions and decisions

Matter to be dealt with	Licensing Committee	Licensing Sub Committee	Officers
Application for personal licence		If a police objection	If no objection made
Application for a personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made and not withdrawn	If no relevant representation made or representation withdrawn
Application for provisional statement		If a relevant representation made and not withdrawn	If no relevant representation made or representation withdrawn
Application to vary premises licence/club premises certificate		If a relevant representation made and not withdrawn	If no relevant representation made or representation withdrawn
Application to vary designated premises supervisor		If a police objection	All other cases
Application for a minor variation			All cases
Application to vary a licence on a community premises to include alternative licence condition		If police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc.			All cases
Determination of a police or environmental health objection to a temporary event notice		In all cases if not withdrawn.	
Suspension of licences following non-payment of annual fees			All Cases

33. Reviews of licences

33.1 The Licensing Authority can only review a licence where it is alleged by a “responsible authority”, or other person that the licensing objectives are being breached. Responsible authorities will aim to give licence holders early warning of any concerns identified at the premises. Only Responsible Authorities or other local persons (e.g. local residents, local organisations and councillors) can apply for the review of a licence. At any subsequent hearing, the Sub-Committee will consider evidence and make a determination. It views particularly seriously applications for the review of any premises licence which involves the:

- use of licensed premises for the sale and distribution of controlled drugs and the laundering of the proceeds of drugs crimes;
- use of licensed premises for the sale and distribution of illegal firearms;
- evasion of copyright in respect of pirated films and music;
- underage purchase and consumption of alcohol;
- use of licensed premises for prostitution or the sale of unlawful pornography;
- use of licensed premises for unlawful gaming;
- use of licensed premises as a base for organised criminal activity;
- use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks;
- use of licensed premises for the sale of smuggled tobacco or goods;
- use of licensed premises for the storage or sale of stolen goods;
- the police being frequently called to attend to incidents of disorder;
- prolonged and/or repeated instances of public nuisance;
- serious risk to public safety have been identified and the management is unable or unwilling to correct;
- serious risk to children.

33.2 The Licensing Sub-Committee will consider all evidence provided at the hearing and apply appropriate weight to that evidence when making its decision. It will consider all sanctions at its disposal by virtue of the Act and guidance, including taking no action, if appropriate. In cases where a licensing objective is seriously undermined, the revocation of the licence, even in the first instance, will be considered where appropriate to ensure the licensing objectives are promoted.

34. Cumulative Impact Policy

34.1 “Cumulative Impact” is defined in the statutory guidance as, the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.

34.2 The cumulative impact of the number, type and density of premises in particular areas, such as the city centre, may lead to those areas becoming saturated with premises of a certain type making them a focal point for large groups of people leading to severe or chronic problems of public nuisance and anti-social behaviour. In such circumstances, the licensing authority may consider the adoption of a **cumulative impact policy** of refusing new premises authorisations within a defined area or areas, provided it is satisfied that it is appropriate and necessary having considered the evidence to support such a decision.

34.3 The effect of adopting a cumulative impact policy is to create a rebuttable presumption if relevant representations are received, that applications for new premises authorisations

or club premises certificates or material variations will normally be refused, unless the applicant can demonstrate that the operation of the premises involved will not add to the cumulative impact already being experienced.

34.4 Applicants will need to address the cumulative impact policy issues in their Operating Schedules in order to rebut such a presumption. Although it must be noted that this presumption does not relieve responsible authorities or interested parties of the need to make a relevant representation before the local authority may lawfully consider giving effect to its cumulative impact policy.

34.5 The Licensing Authority recognises that many different types of premises sell alcohol, serve food and provide entertainment. It recognises that some applications in cumulative impact areas will be unlikely to add significantly to the problems arising from saturation or indeed may diversify that area. Accordingly, where it can lawfully make decisions on applications in a cumulative impact area, it will have full regard to the effect different premises may have on that area. The Licensing Authority must grant any application in a cumulative impact policy area subject only to conditions that are consistent with the operating schedule submitted by the applicant if it receives no relevant representation.

34.6 The absence of a special saturation/cumulative impact policy does not prevent any responsible authority or interested party making evidence-based relevant representations on a new application, on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

34.7 The adoption of such policies should not be understood to be an absolute bar to new authorisations being issued or granting significant variations to existing licenses. Applicants are entitled to seek any of the permissions available to them in the Act and the Licensing Authority does not, in any cumulative impact policy, intend to prevent applicants from exercising their statutory rights. Each application will be considered on its own merits, within the constraints of the legislation and having due regard to the relevant guidance and policy.

However, applicant statements such as, for example:

- the premises will not add people to the area;
- longer hours will create slower dispersal;
- history of good management;
- premises are well run;
- the application is small in nature
- alcohol is not sold;
- clientele “are a cut above the usual”;

will not be considered sufficiently exceptional to rebut the presumption. The issue is crime and disorder/public nuisance in the area as a whole, rather than that associated with individual premises.

34.8 Applications will be considered favourably if they are judged to encourage a greater variety of types of entertainment than currently exists in the area. In particular, the Licensing Authority welcomes applications which can be viewed as more family friendly and which offer a wider range of entertainment than that which is currently available because it is considered that these will undermine the licensing objectives.

34.9 Existing licensees who wish to materially alter and/or extend the premises to which the authorisation relates, are required to seek a new authorisation. This is because the Act prohibits the use of a variation application to substantially alter the premises to which the authorisation relates. Where the only change is to the physical extent or material layout of the premises themselves (i.e. in the absence of additional features such as change in

style of operation, capacity etc.), it is highly unlikely this would trigger the Cumulative Impact Policy. However, this policy cannot restrict the right of any Responsible Authority or interested person to make relevant representations in that regard and if such are forthcoming, they will be given due consideration. Where other changes are envisaged then the Cumulative Impact Policy presumption may arise. Applicants in such circumstances are entitled to seek a provisional statement and are encouraged to engage with the Licensing Authority.

The Licensing Authority will periodically review any cumulative impact policies to assess whether they are needed any longer or need expanding.

35. Newport City Centre Cumulative Impact Policy

- 35.1 Having had regard to the guidance referred to above, consulted upon the issue, taken into account the views of respondents and considered the evidence, the Licensing Authority, as part of its Statement of Licensing Policy, has adopted a Cumulative Impact Policy in respect of City Centre area of Newport.

The area of the cumulative impact area can be found in Appendix B.

Reason for the Policy

- 35.2 Gwent Police have provided evidence to support their request that the parts of Newport City Centre should continue to be designated as a cumulative impact area. In particular this area has a significant concentration of alcohol-led late night venues, has a high number of assaults and other related crime and disorder, including public nuisance and risk to public safety. The policy will therefore continue to apply to further applications for the grant of new licences or significant variations of existing licences in respect of premises that primarily sell alcohol for consumption on the premises, other late night uses, restaurants and take-away outlets.

The main focus of the policy is likely to be on alcohol-led establishments and premises that keep customers in the area at times when the promotion of the licensing objectives is most challenging (for example late night refreshment from “fast food” outlets).

36. Early Morning Restriction Orders

- 36.1 Whilst the Licensing Act 2003 introduced a single integrated scheme for licensing premises used for the supply of alcohol, regulated entertainment and late night refreshment, one of its primary purposes has been to tackle problems associated with misuse of alcohol.

- 36.2 It has now been recognised by Government, through statutory guidance, that longer hours were not necessarily an answer to all problems. As a result, licensing authorities have been given greater discretion in their approach to the management of licensed premises in their areas. An amendment to the Act now allows licensing authorities to introduce an Early Morning Restriction Order (EMRO), which can be used to restrict the sale of alcohol at a specified time between the hours of midnight and 6:00am It applies to Premises Licences, Club Premises Certificates and Temporary Event Notices.

- 36.3 EMROs are intended to deal with alcohol-related crime & disorder, anti-social behaviour, and serious public nuisance, which is not directly attributable to licensed premises. Local Authorities are encouraged to look at the relationship between any existing cumulative impact area they have in place and a proposed EMRO area.

- 36.4 An EMRO can apply to a specific area or even single street. It can apply to specific days

of the week, can specify different times for different days of the week, and can apply to limited periods of the year or for an unlimited period. But it cannot apply on New Year's Eve/New Year's Day. They do not affect authorised hours for regulated entertainment or late night refreshment.

- 36.5 The adoption of an EMRO is subject to a process involving the collection and analysis of relevant evidence and a consultation exercise with the public and holders of licences and/or club premises certificates. The decision to adopt an EMRO has to be taken by a meeting of the Council and is not without controversy.
- 34.6 An EMRO must be periodically reviewed to ensure it remains appropriate to promote the licensing objectives and can be varied or revoked via the same process as adoption.
- 36.7 The Council has not at present introduced an EMRO. If it were to consider introducing the provision, full consultation would take place.

37. Hearings

- 37.1 Applications for licences and certificates will be determined following consultation with relevant responsible authorities. Where no representations are received, they will be issued administratively by the Council Licensing Team. However, contentious applications must be referred to the Council's Licensing Sub-Committee for determination, unless it is agreed by all parties that a hearing is not necessary.
- 37.2 The period of notice of a hearing that must be given to all relevant parties, and the information which may be disclosed, varies depending on the type of application, subject to regulations. A Licensing Sub-Committee of three Elected Members will determine a contentious application and will either grant a licence, grant a licence with amendments or refuse an application. Any party can appeal against the Licensing Authority's decision to a Magistrates' Court.
- 37.3 At any time during the period of a licence, any responsible authority or other person can ask for the review of a licence or certificate. All review applications will be determined by the Licensing Sub-Committee.
- 37.4 The Licensing Authority will give reasons for its decisions. On making findings of fact, the Licensing Authority will ensure that the finding addresses the requisite standard and burden of proof. The Licensing Authority will also address the extent to which decisions has been made with regard to its statement of licensing policy and the statutory guidance. Applicants and objectors etc. will be with informed as to their rights of appeal.

38. Appeals

- 38.1 Entitlements to appeal for parties aggrieved by decisions of the Licensing Authority are set out in Schedule 5 of the Act. Other than in the case of personal licences, an appeal has to be made to the local Magistrates' Court. In the case of personal licences, the appeal must be made to the Magistrates' Court for the area in which the licensing authority which has considered the application (or any part of it) is situated.
- 38.2 An appeal has to be instigated by giving notice of the appeal by the appellant to the:

The Clerk to the Justices,
Newport Magistrates' Court,
Usk Way,
Newport
NP20 2GE

Within a period of 21 days beginning with the day on which the appellant was notified by

the Council of the decision appealed against.

- 38.3 On determining an appeal, the Court may:
- dismiss the appeal
 - substitute any other decision which could have been made by the Council or
 - remit the case to the Licensing Authority to dispose of it in accordance with the direction of the Court.

The Court may make such order as to costs as it thinks fit.

39. Implementing the Decision of the Magistrates' Court

- 39.1 As soon as the decision of the Magistrates' Courts has been issued, the Licensing Authority will not delay its implementation and necessary action will be taken forthwith unless ordered by a higher court to suspend such action (for example, as a result of an on-going Judicial Review). The Act provides for no further appeal against the Magistrates' Courts' decision.

40. Enforcement

- 40.1 The Licensing Authority is establishing joint enforcement protocols with the police and other enforcing authorities. These protocols will provide for the targeting of agreed problem and high risk premises, but with a lighter touch being applied to low risk premises, which are shown to be well-run.
- 40.2 The Licensing Authority intends that enforcement visits will be made to licensed premises as appropriate, to ensure that any conditions imposed as part of the licence are being complied with. These visits may be either proactive planned inspections based on the risk presented by the premises, history of non-compliance etc., or reactive visits as a result of complaints.
- 40.3 In general, action will only be taken in accordance with agreed enforcement principles and in line with the Council's Public Protection Group Enforcement Policy (available on the Council's web site). The key principles of necessity, consistency, transparency and proportionality will be maintained.

41. Fees Generally

- 41.1 All fees are currently set by statute and the Licensing Authority is obliged to charge the fees as detailed in the Fees Regulations.
- 41.2 The Police Reform and Social Responsibility Act 2010 has provision to give local authorities the power to set their fees locally, however as of 2014, the relevant sections have not yet commenced. If the Local Authority is given this power, we will propose fees to recover the costs of the service and then consult before asking the Licensing Committee to approve any changes.

42. Licence suspension for non-payment of annual fee

- 42.1 The Licensing Authority will suspend any licence or certificate where the required annual fee is not paid by the 'due date', which is the anniversary of the date that the licence was

first granted.

- 42.2 Upon notification/discovery that an annual fee is not paid, the Licensing Authority will give notice to the licence/certificate holder, in writing, that the licence/certificate will be suspended 7 days from the date of the notice. It will also state that the suspension will not become effective if the fee is paid prior to the suspension date. If an administration error is claimed, the suspension date may be 21 days from the due date; or the date of suspension on the 7 day notice, whichever is later. A copy of the notice will also be served on the designated premises supervisor/premises manager if they are not the premises licence holder.
- 42.3 If the fee is not paid by the date specified on the notice, the licence/certificate will be deemed suspended. The licence/certificate holder and Designated Premises Supervisor/Manager will be immediately notified of the suspension becoming effective, and informed that the premises may no longer offer any licensable activities until such time as the fee is paid and the suspension lifted. When the full payment is made, the Licensing Authority will immediately lift the suspension and confirm this in writing.
- 42.4 Where a licence/certificate is suspended and licensable activities take place, the Licensing Authority will consider prosecuting the provider for offences under Section 136 of the Licensing Act 2003.

43. Late Night Levy

- 43.1 A Late Night Levy (LNL) is a power, introduced by the Police Reform and Social Responsibility Act which allows Licensing Authorities to raise a contribution towards the costs of policing the night time economy by charging a levy to holders of Premises Licences and Club Premises Certificates authorised to sell alcohol.
- 43.2 A LNL would require that a levy be paid by those businesses who are authorised to sell alcohol between the period specified in the LNL (the 'late night supply period'), regardless of whether they are actually open during that period. This can be no earlier than 0000hrs and no later than 0600hrs, and must be the same period every day.
- 43.3 At least 70% of the LNL must be paid to the Police and Crime Commissioner. There are no restrictions on the use of the police allocation. However, the Local Authority allocation must be used to tackle alcohol-related crime and disorder and to support management of the night time economy in line with the reduction of crime and disorder, promotion of public safety, prevention of public nuisance or street cleansing.
- 43.4 The implementation of a LNL would be subject to public consultation and, if it is to be introduced, must be adopted at a meeting of Full Council.
- 43.5 The Licensing Authority may deduct the costs of preparing, publicising and administering the levy before paying the police proportion, and an estimate of these costs must be published on the Council website. It should also consider the potential financial risk of not collecting the full expected revenue, as the police allocation must be paid regardless of whether the levy has been collected in full. Licence holders affected by the levy may make a free variation application to avoid being affected by the levy.
- 43.6 The levy would apply indefinitely, however it must be reviewed at frequent intervals and may be ceased at the end of a levy year;
- 43.7 The Licensing Authority has not adopted this provision and before doing so would consult fully.

44. Further Information

Further information about the Licensing Act 2003 and the Licensing Authority's licensing policy can be obtained from:

The Licensing Team
Newport City Council
PO BOX 883,
Civic Centre,
Godfrey Road,
Newport.
NP20 4UR

Tel: 01633 656656
E-mail : environment.licensing@newport.gov.uk
Website: www.newport.gov.uk/licensing

Licensing Act 2003

Code of Good Practice for Licensed Premises

Introduction

The Licensing Act 2003 (the Act) focuses on the promotion of four statutory licensing objectives which must be addressed when licensing functions are undertaken. The four licensing objectives are:

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

Aim of the code

The aim of this code is to provide applicants and licensees with guidance on good practice for the promotion of the four licensing objectives which are paramount considerations at all times. The code is consistent with the Home Office guidance issued under Section 182 of the Act and with the Council's Statement of Licensing Policy. It outlines what the Licensing Authority and its responsible authority partners expect in practical terms from applicants when completing their operating schedules and from licensees when operating their premises under the terms of a premises licence.

Applicants and licensees are expected to make a proactive commitment to preventing problems from occurring at licensed premises through the adoption of this code.

Risks associated with licensed premises

Risks associated with licensed premises can vary dependent on the premises type and characteristics, the design, layout and general environment, the location, the policies in place and the events being held there.

This code identifies many of the possible risks associated with the sale of alcohol and the provision of entertainment or late night refreshment and sets out good practice measures to mitigate those risks. It provides a key mechanism for the promotion of the licensing objectives, for well-run premises and a responsible approach to the provision of alcohol, entertainment and late night refreshment. (For larger outdoor / indoor events, guidance can be found in a number of government departments documents including HSE Event guide, Guide to Safety at Sports Grounds and Managing Crowds Safely. Further details can be found on www.hse.gov.uk/event-safety . The Authority also has a Safety Advisory Group whose aim is to promote, encourage and help organisers to stage safe and successful events.).

It is recognised that not every risk will be relevant to every premises and it is unlikely that any one premises will need to address all of the measures. Indeed, some premises may only need to introduce one or two measures or in many cases the premises already have in place a number of good practices to promote the Licensing Objectives.

This code cannot anticipate every possible risk, problem or circumstance that may arise from licensed premises, neither does it restrict an applicant or licence holder from promoting the licensing objectives through alternative means.

How will the code be used?

Applicants and licensees

A proactive and preventative approach is a key aspect of good management at licensed premises. The licensing authority therefore expects applicants to have regard to this code when completing their operating schedule. The Licensing authority expects licensees to have regard to this code when considering additional operational measures.

The licensing authority and responsible authorities

The Code is not a statutory document but it will be taken into consideration and be used by the Licensing Authority and responsible authorities as follows:

- when offering advice to applicants either at the design and planning stage including pre-application stage;
- when responding to licence applications where the licensing objectives have not been adequately addressed in the operating schedule;
- as a first point of dealing with licensed premises encountering problems, to raise standards to promote the licensing objectives in those premises and avoid further problems; and
- for the review of licences where there is evidence that licensees have not promoted the licensing objectives.

Dealing with problem premises

Problems or concerns with licensed premises will be identified and flagged up at an early stage and advice will be offered to licensees with a view to improving standards at their premises and to prevent or minimise subsequent problems.

Where problems have been identified, the licensing authority and responsible authorities will agree appropriate measures from the code with the licence holder to be implemented at the premises. We call this an "Action Plan". The aim of the code is to avoid the need for enforcement action, such as prosecution or review, but it will not replace enforcement action where it is necessary.

General – all four licensing objectives

This Code provides guidance on good practice for the general promotion of all four licensing objectives at licensed premises. It is intended to help those applying for new licences or variations to existing licences in completing their operating schedules. It is also designed to guide licensees on the general promotion of the licensing objectives after a licence has been granted.

Licensees and their staff have responsibility for the effective and safe management of their premises and the promotion of the four licensing objectives. Training is the key to giving licence holders, premises managers and staff the knowledge and skills to deal with and manage risks associated with licensed premises. Training should be provided to all staff and should be about both preventing and managing problems occurring at premises. Training should be regularly updated.

Risk	Good Practice measure
<p>Lack of knowledge or understanding of the Licensing Act 2003</p>	<p>Well-trained staff will contribute to well-run premises and a responsible approach to the sale of alcohol, provision of entertainment and late night refreshment.</p> <p>Formal qualifications for your staff, either to Personal Licence level or to another appropriate standard recognised by bodies such as the British Institute of Innkeepers (BII) would be preferential.</p> <p>All staff should be advised of licensing law in writing before they are allowed to serve alcohol.</p> <p>Training should also be provided on premises specific policies relevant to the operation of the business.</p> <p>Staff should be briefed on the Licensing conditions attached to a premises licence and fully understand the terms of the licence.</p> <p>A record should be kept of the date, name of person trained or advised and the subject covered in the training session be made available for inspection by the police or licensing authority.</p>

Prevention of crime and disorder

The main causes of crime and disorder in licensed premises arise from inadequate security provisions, poor design and layout, the type of event being promoted, overcrowding and customers being drunk or under the influence of drugs. This can result in theft, conflict, violence and anti-social behaviour. It is therefore recommended that applicants and licensees take a proactive approach to preventing and managing crime and disorder from their premises.

All applications for new licences and variations should address the steps proposed to prevent crime and disorder and this is best achieved through a premises risk assessment. Alcohol can be a significant contributory factor to levels of crime and disorder in an area. Good management and good practice along with adequate physical controls can make an important difference to the level of alcohol related crime at premises. Such measures should be reflected in the operating schedule.

For new premises or the refurbishment of existing premises, preventative measures should be factored in during the planning and design stage. Consideration should be given to the design and layout of the premises to minimise the potential for crime and disorder. Useful information can be found in documents such as 'Secured by Design'.

Licence holders should have clear documented policies and procedures in place which identify all crime and disorder risks associated with their premises and the measures implemented to prevent, manage and respond to those risks.

Risk	Good practice measure
<p>Security in and around the premises</p>	<p>Emergency exits should be alarmed when the premises are open to the public so that staffs are immediately notified of unauthorised opening or tampering.</p> <p>CCTV should be installed inside and outside the premises. The cameras should cover all internal areas accessible to the public and areas immediately outside the premises. The date and time settings on the system must be correct. The recordings should be in real time and</p>

	<p>on hard drive with the availability to copy disks for other agencies such as the police. Recordings should be kept for a minimum period of 28 days. Staff should be trained in the maintenance and operation of such systems with a record kept of the date, name of person trained. Records should be made available for inspection by the police or licensing authority. A trained member of staff should be on duty to operate the system whenever the premises are open.</p> <p>External lighting provides an obvious means of crime deterrence. Care should be taken so that lighting does not impact on neighbours.</p> <p>Door staff and/or stewards should be employed at the venue to supervise admissions and customers inside the venue.</p> <p>Any person performing the role of a door supervisor must be licensed with the Security Industry Authority (SIA) and SIA badges must be clearly displayed whilst working</p> <p>Door staff should be easily identifiable by wearing a uniform, high visibility jackets or arm bands.</p> <p>Door staff should sign into a register detailing their full SIA licence number, their name, contact details and the time and date their duty commenced and concluded.</p> <p>Stewards and other staff at the premises should also be easily identifiable. Stewards must not be used for supervision of the door.</p> <p>Daily staff briefing and debriefing will enable licensees to improve working practices in their premises.</p> <p>Briefings can be informal but any problems identified and remedial action taken should be recorded with records kept in the main office.</p> <p>A written policy will be in place to ensure products brought and sold by the premises are not counterfeit for example alcohol / tobacco. This policy will be available to all Responsible authorities under the Act.</p>
<p>Crime including conflict, violence or aggression in and around the premises</p>	<p>Proper management of the door will depend on the size and type of venue. The number of door supervisors should be determined by a risk assessment taking into account the size of venue and the type of crowd the entertainment is likely to attract, but at the very least on a ratio of 1 door supervisor per 100 customers.</p> <p>Consideration should be given to a sufficient provision of male and female door supervisors, but at least one female door supervisor should be used.</p> <p>Door admissions policy including any age restrictions, expected dress standards or the screening of hand bags should be widely publicised on any promotional material or website and clearly displayed at the entrance to the premises.</p> <p>Ejecting or refusing entry to persons from the premises if they do not meet your admissions standards or they are known to be violent or aggressive. In such cases, an entry should be made in an incident or log book.</p>

	<p>Policy to manage capacity should be adopted to prevent overcrowding and patrons possibly becoming aggressive through accidental jostling.</p> <p>Consideration should be given to deliberately running below capacity to afford a comfort factor to your patrons and avoid conflict, violence or aggression within the premises.</p> <p>Alternatives to glass drinking vessels should be considered to prevent glassware being used as an assault weapon, particularly during promoted events or sporting events.</p> <p>Where alternatives are not used, there should be a robust glass collection policy in place. This should include regular collection of glassware by staff and prevention of glassware being removed from the premises.</p> <p>Staff training in conflict management should be provided to give them the knowledge and confidence to deal with difficult situations and reduce crime and disorder at the premises. Training should also cover dealing with, logging and reporting incidents if they occur.</p> <p>Records should be kept of the date, name of person trained and the subject of the training session. Records should be made available for inspection by the police or licensing authority.</p> <p>Sharing of information with others in the industry. Regular meetings, the use of local radio networks or membership of a local pub/club watch scheme will enable information to be passed on about trouble makers and common problems in the area.</p>
<p>Drugs and weapons being brought into the premises</p>	<p>A duty of care policy regarding persons suffering adversely from the effects of drugs should be in place at the premises. The policy should include drug awareness training for all staff so that they can recognise the effects of controlled drugs and provide medical attention where necessary. All staff must be briefed on the policy. A record should be kept of the date, name of person trained and subject covered in the training session.</p> <p>A zero tolerance policy to the use of drugs and carrying of weapons in the premises should be adopted with a clear “no search no entry” message.</p> <p>Posters can be displayed throughout the premises to remind customers of zero tolerance policy, especially in the toilet areas of the premises.</p> <p>Refusing entry to anyone who appears to be showing signs of drug use and contacting the emergency services in appropriate circumstances. In such cases, an entry should be made in an incident log book. Effective search policies will minimise the opportunity for drugs and weapons to be brought into licensed premises and lead to drug and weapon seizure if attempts are made.</p> <p>Search policies should be formulated in consultation with Gwent Police. Currently the police have formulated such a policy.</p> <p>Searches should always be carried out in public areas and covered by</p>

	<p>CCTV. All staff must be trained on search policies with a record kept of the date name of person trained and subject covered in the training session. Records should be made available for inspection by the police or licensing authority.</p> <p>Calling the police if customers are suspected of being in possession of drugs or weapons. All staff must be made aware of this requirement.</p> <p>Seizing, retaining and documenting any drugs or weapons found with a clear audit trail and a process for surrendering them to the Police. (Currently Gwent Police has a written procedure)</p> <p>Supervising toilet areas can be effective in discouraging drug selling or use. Toilet attendant may be appropriate for promoted events or on busy nights such as Friday and Saturday.</p> <p>Security or staff should can check the toilet areas every 30 to 60 minutes or so and this should be recorded.</p> <p>Removal of flat surfaces in toilet areas can reduce the likelihood of drug misuse.</p> <p>Drug awareness training should be provided for all staff. A record should be kept of the date, name of person trained and subject covered in the training session. Records should be made available for inspection by the police or licensing authority.</p>
<p>Disorder from Customers queuing to enter the premises or when leaving the premises</p>	<p>Reduce the potential for excessive queue lines with a well-managed and efficient door policy. Long queuing times can cause people to become agitated or aggressive. Searches should therefore be conducted as quickly and effectively as possible.</p> <p>A customer dispersal policy can minimise the potential for disorder from customers leaving the premises. A policy should clearly set out measures to avoid a mass exit at the end of the evening such as a gradual change in music style and increasing lighting levels.</p> <p>Sufficient staff should be available at the end of the evening to manage a controlled shut down of the premises and maintain good order as customers leave.</p> <p>Staff training in preventing disorder should be provided to give them the knowledge and confidence to deal with difficult situations. Records should be kept of the date, name of person trained and subject covered in the training session. Records should be made available for inspection by the police or licensing authority.</p>
<p>Customers getting drunk and dealing with drunken customers</p>	<p>Drinks promotions should be socially responsible and not encourage excessive drinking. A documented policy on responsible drinks promotions should be in place at the premises and should adhere to industry codes such as those recommended by the British Beer and Pub Association (BBPA) and The Portman Group. This is in addition to adherence with the mandatory licensing condition regarding irresponsible promotions.</p> <p>Staff training on the effects of alcohol and how to spot early signs of customers becoming drunk should be provided to give them the knowledge and confidence to deal with drunken patrons.</p>

	<p>Staff should be aware of their responsibilities under the Licensing Act 2003 and be able to recognise appropriate 'cut off' points for serving drunken customers, so as to reduce the likelihood of fights or aggressive behaviour.</p> <p>Duty of care policy regarding persons suffering adversely from the effects of drink should be in place at the premises. The policy should clearly express that every effort will be made by staff to prevent patrons from deteriorating to an uncontrolled intoxicated extent. All staff must be briefed on the policy.</p> <p>Drink-aware posters can be displayed in the premises to remind customers of the unit content in alcoholic drinks and the safe alcohol consumption limits.</p>
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Public Safety

The carrying on of licensable activities in particular the provision of alcohol and some types of entertainment can increase risks to the safety of the public (including performers) attending licensed premises. It is therefore recommended that applicants and licensees take a proactive approach to protecting and managing public safety at their premises.

All applications for new licences and variations should address the steps proposed to promote public safety and this is best achieved through a premises risk assessment.

For new premises or the refurbishment of existing premises, preventative measures should be factored in during the planning and design stage. Consideration should be given to the design and layout of the premises to achieve the highest possible standard of safety.

Licence holders should have clear documented policies and procedures in place which identify all public safety risks associated with their premises and measures implemented to prevent, manage and respond to those risks.

Risk	Good practice measure
<p>General safety of Staff and customers.</p>	<p>A full risk assessment taking into account public safety should be carried out at the premises to identify potential hazards posed to staff or customers and setting out precautions to manage the hazards.</p> <p>Templates can be found on the Health and Safety Executive website and on the Communities and Local Government website. A risk assessment should be regularly reviewed at least every 12 months. All staff should be made aware of the risk assessment and precautionary measures therein. A copy of the risk assessment should be kept at the premises and made available</p> <p>Recognised qualification in first aid should be held by at least one member of staff on duty at all times the premises licence is in use.</p> <p>First aid room or quiet room should be made available to anyone requiring medical attention.</p> <p>Temperature levels and humidity in venues should be controlled for the comfort and safety of customers. An environment that is too hot or too cold can make customers irritable. In larger venue where people are dancing air condition can be used to ensure people overheat.</p>

	<p>A duty of care policy regarding persons suffering adversely from the effects of drugs should be in place at the premises. The policy should include drug awareness training for all staff so that they can recognise the effects of controlled drugs and provide medical attention where necessary. All staff must be briefed on the policy. A record should be kept of the date and name of person trained.</p>
Overcrowding	<p>A policy to manage the capacity should be adopted to prevent overcrowding and localised overcrowding.</p> <p>(b) The use of electronic clocking systems, clickers, ticket sales or head counts may be appropriate.</p> <p>(c) Consideration should be given to deliberately running below capacity to afford a comfort factor to your patrons.</p>
Accumulation and disposal of glasses/drinking vessels	<p>A glass collection policy should include provisions for regular collection of glassware by staff and the prevention of glassware from being taken into external areas. Glassware should not be allowed to accumulate or cause obstruction.</p> <p>Perimeter checks should be made outside the premises for any glasses or bottles. All staff must be made aware of the glass collection policy and their responsibility for the task.</p> <p>Spillages and broken glass should be cleaned up immediately to prevent floors from becoming slippery and unsafe.</p> <p>The use of plastic or polycarbonate glasses are recommended where there is provision of dancing.</p>
Drug use or drink Spiking	<p>A zero tolerance policy to the use of drugs in the premises should be adopted. Posters can be displayed throughout the premises to remind customers of the zero tolerance policy.</p> <p>Refusing entry to anyone who appears to be showing signs of drug use and contacting the emergency services in appropriate circumstances. In such cases, an entry should be made in an incident log book.</p> <p>Prevent the possibility of drink spiking by offering various anti drink spiking products to customers.</p> <p>If a customer suspects that their drink has been spiked, it should be reported to the police immediately. A process for this should be clearly set out in your duty of care policy.</p> <p>'Chill out' area should be provided. This should be cooler and quieter than rest of venue.</p> <p>First Aid Room may also be made available.</p>
Safety of customers when leaving the premises	<p>A 'chill out' or wind down period at the end of an evening can allow a slow dispersal from the premises allowing door staff to gain a handle on problem individuals, preventing arguing over taxis or congregation at takeaways and clashes with groups from other venues.</p> <p>Provision of food and non-alcoholic drinks during a chill out period can assist patrons on negative effects of alcohol.</p>

	<p>Increased lighting inside the premises should be considered towards the end of an evening to affect the alertness of customers before they leave the premises.</p> <p>Increased external lighting particularly in car parks under the direct control of the licence holder will provide added safety for customers as they leave the premises.</p> <p>Care should be taken so that lighting does not impact on neighbours, particularly in and close to established residential areas.</p>
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Prevention of public nuisance

Excessive noise and nuisance from licensed premises is a major concern for persons living or working in the area. It is therefore recommended that applicants and licensees take a proactive approach to preventing and managing public nuisance from their premises.

All applications for new licences and variations should address the steps proposed to prevent public nuisance. Where entertainment or other potentially noisy activity is planned, a noise assessment should be carried out. For some premises, the assessment will need to be carried out by a suitably qualified consultant.

For new premises or the refurbishment of existing premises, preventative measures should be factored in during the planning and design stage. Consideration should be given to the structure and layout of the premises and equipment both internally and externally, to ensure that the premises are fit for purpose. Sound attenuation measures can include wall linings, acoustic curtains and acoustic treatment to mechanical ventilation or air conditioning systems. Consideration should also be given to historical noise problems at the premises with measures put in place to prevent them from recurring.

Licence holders should have clear documented policies and procedures in place which identify all potential public nuisance risks associated with their premises and measures implemented to prevent, manage and respond to those risks. Licence holders should also engage with local residents and businesses on a regular basis to ensure that they are being good neighbours and dealing with problems as they arise.

These good practice measures are suggested options to prevent public nuisance, they do not remove the local Authorities duties under section 79 of the Environmental Protection Act 1990 and the Anti-Social Behaviour, Crime and Policing Act 2014.

Risk	Good Practice measure
<p>Entertainment and Patron's noise</p>	<p>A noise management policy should be in place that sets out sound attenuation measures to prevent or control music, singing and speech noise breakout from the premises.</p> <p>The policy should be based on the findings of an acoustic consultant's assessment.</p> <p>All staff should be trained on the content of the policy to ensure a commitment to good noise management. A record should be kept of the date and name of person trained and made available for inspection by the licensing authority or environmental health responsible authority.</p> <p>DJs, event promoters or other entertainment providers should be made aware of the policy in advance of any performance.</p> <p>Windows and doors should be kept closed whilst the premises licence is in use to prevent noise breakout. Ventilation should be</p>

	<p>provided by mechanical means. Windows should be sound insulated. Emergency exits should be sealed acoustic doors. A lobbied area should be provided at the entrance and exit to the premises. Doors should be fitted with self-closing devices.</p> <p>Sound limiting device should be installed, set and sealed at a level approved by an acoustic consultant. The sound limiting device should be used at all times that relevant regulated entertainment is taking place, including all externally promoted events. Only the premises licence holder or a nominated deputy and the designated premises supervisor should have access to the sound limiting device.</p> <p>Locate entertainment facilities such as DJ booth, stage and loud speakers away from doors and windows. Rubber speaker mounts can be used to minimise structure borne noise.</p> <p>Methods for monitoring noise should be included in a noise policy. Methods could range from simple perimeter checks and listening tests by the licence holder/staff to a detailed measurement taken by a qualified consultant using sound measuring equipment.</p> <p>Noise monitoring should actively be carried out on a regular basis and in particular when a new form of entertainment is introduced at the premises, when alterations are made to the premises or when a complaint is made directly to the venue.</p> <p>A log book should be kept of any noise monitoring carried, the findings and any remedial action taken. The log should indicate whether it was routine noise monitoring or the result of a complaint.</p> <p>The log book should be made available for inspection to the licensing authority or environmental health or any other responsible authority.</p> <p>A contact telephone number should be made available to local residents and businesses which they can use to report noise disturbances to a responsible person at the venue as and when they occur. The phone line should be available at all times the licence is in use.</p>
<p>Noise when entering/leaving</p>	<p>Reduce the potential for excessive queue lines with a well-managed and efficient door policy.</p> <p>Long queues should be avoided and any queues should be directed away from residential properties.</p> <p>Queues should be actively managed by door staff, especially later in the evening, to keep noise to a minimum. Rowdy behaviour from people queuing to get in should not be tolerated. Door staff should refuse entry to anyone behaving in an anti-social way. Restrict admittance or re-admittance to the premises.</p> <p>Customer dispersal policy can minimise noise disturbance to local residents from customers leaving the premises. A policy should clearly set out measures to avoid a mass exit at the end of the evening.</p> <p>A gradual change in music style and reduction in volume, for example quiet or mellow music towards the end of an evening and increasing lighting levels can help to reduce the potential for rowdy behaviour.</p>

	<p>Sufficient staff should be available at the end of the evening to manage a controlled shut down of the premises and maintain good order as customers leave.</p> <p>Display prominent notices close to the exit doors, requesting patrons to leave the premises and quickly and quietly.</p> <p>Display notices in car parks reminding patrons that they are in a residential area and to leave quickly and quietly and not to slam doors, rev engines, sound horns or play loud music.</p> <p>Make announcements at the end of an evening, requesting patrons to leave the premises and area quickly and quietly.</p> <p>Provide a free taxi phone service and an internal waiting area for customers to prevent noise disturbance to neighbours.</p> <p>Steps should be taken to ensure that any taxi operators used and all their drivers are aware that they should arrive and depart as quietly as possible and should not sound their horns or leave engines idling unnecessarily.</p>
<p>Noise in external areas such as beer gardens or smoking areas.</p>	<p>Display prominent signs in external areas such as beer gardens and forecourts asking customers to keep noise to a minimum.</p> <p>Restrict the use of external areas after 11pm if premises are in a residential area.</p> <p>Door supervisors or staff should regularly monitor and manage external areas to ensure that customers are not causing a disturbance to local residents.</p> <p>Limit the number of smokers permitted outside at any one time after a certain time.</p> <p>Discourage smokers from loitering outside by not permitting them to take their drinks with them and removing external furniture after a certain time.</p> <p>Locate smoking areas away from residential premises.</p> <p>Do not permit customers to congregate on and block the public highway to passers-by.</p>
<p>Noise and disturbance caused by deliveries, collections and waste disposal</p>	<p>Commercial deliveries, collections and storage/ disposal of waste, including beer deliveries, refuse collections and storage / disposal of waste and recyclables in external areas should be restricted to normal working hours between 8am and 6pm Monday to Friday.</p>
<p>Litter and waste around the premises</p>	<p>Flyers should not be distributed outside the premises by the licence holder or any staff employed by the licence holder.</p> <p>If flyers are distributed they should be littered picked at the end of trading.</p> <p>Procedures should be in place for the prompt collection of street litter generated by the premises for example flyers, cigarette butts or food wrappers.</p>

	<p>Regular patrols of the area outside the premises should be undertaken by staff to clear any litter attributable to the premises.</p> <p>Use wall or floor mounted cigarette bins in designated smoking areas for customers.</p>
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Protection of children from harm

The carrying on of licensable activities in particular the provision of alcohol and some types of entertainment can increase risks of harm to children attending licensed premises. It is therefore recommended that applicants and licensees take a proactive approach to protecting and managing the well-being of children at their premises.

All applications for new licences and variations should address the steps proposed to protect children from harm and this is best achieved through a premises risk assessment.

Licence holders should have clear documented policies and procedures in place which identify all age restricted risks at their premises and measures implemented to prevent, manage and respond to those risks.

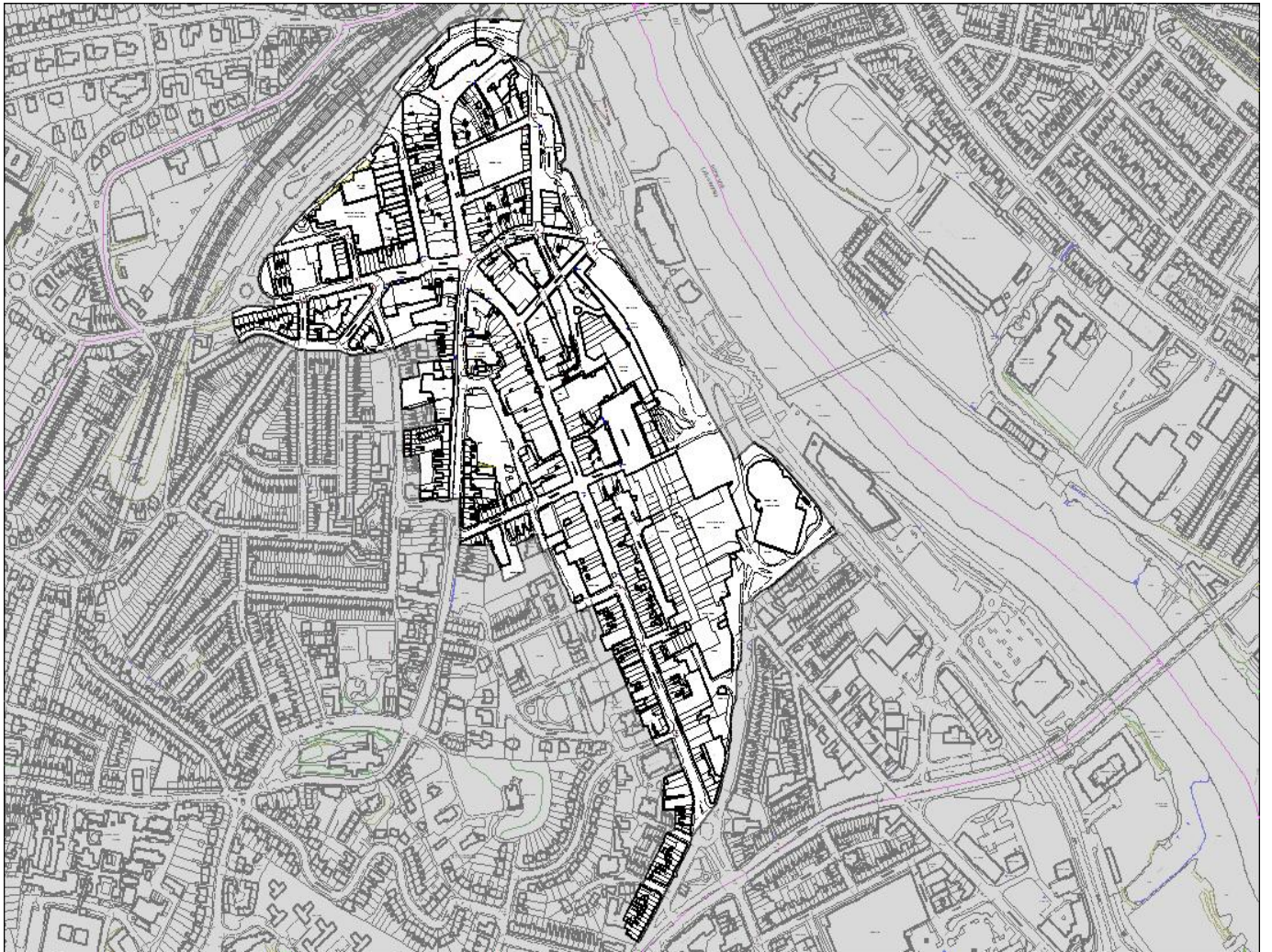
Risk	Good Practice measure
<p>Children accessing licensed premises</p>	<p>A documented policy setting out measures to protect children from harm should be in place at the premises. The policy should consider all activities associated with the premises including the sale of alcohol and the provision of regulated entertainment and when children should be allowed on or restricted from the premises. All staff including door staff and bar staff should be trained on the policy.</p> <p>Restrict access to children depending on the nature of the business and / or circumstances. The admission of children can be restricted up until a specified time in the evening.</p> <p>The admittance of children can only be permitted if they are accompanied by an adult</p>
<p>Underage sales of alcohol</p>	<p>Operate a strict ‘No ID – No Sale’ policy. ‘Challenge 21’ scheme serves as a reminder to staff of the need to be vigilant in preventing underage sales and to customers that it is against the law for anyone under 18 to purchase alcohol.</p> <p>‘Challenge 25’ scheme gives staff additional support and encouragement to ask for ID from any person appearing to be under 25 years of age to prove that they are over 18. Or a similar scheme, this should be supported by posters highlighting that ID checks take place on the premises.</p> <p>Only accept photographic driving licences, passports or PASS (Proof of Age Standards Scheme) cards approved as means of ID. Use till prompts to remind staff to ask for proof of age.</p> <p>Prominently advertise the scheme in your premises so that customers are aware, in particular, display proof of age signs at the point of sale.</p>

	<p>Display posters at the premises stating that it is an offence to purchase alcohol on behalf of an underage person (proxy sales).</p> <p>Keep a refusals book (or refusal button on EPOS –Electronic Point of Sale) on the premises and ensure it is completed whenever a sale is refused to a person who cannot prove they are over the age of 18. The book should contain the date and time of the incident, a description of the customer, the name of the staff member who refused the sale, and the reason the sale was refused.</p> <p>The book should be made available to Police and authorised Council officers on request and should be reviewed on a regular basis to see if any patterns emerge.</p> <p>Staff training in the age related sections of the Licensing Act 2003 should be provided to all door, bar and till staff. This includes the ability to competently check customers' identification where necessary.</p> <p>A record should be kept of the date and name of person trained and this should be signed by staff stipulating they understand the training they have undertaken. All records should be made available to any Responsible authority under the Licensing Act.</p>
<p>Access to age restricted films</p>	<p>Adequate provisions for restricting children from viewing age restricted films should be in place at the premises. Staff should be trained to check ages at point of sale and prior to entry to a screening room to ensure that admission of children to films is in accordance with the recommendations of the British Board of Film Classifications (BBFC).</p>

Appendix B

City Centre Cumulative Impact Policy

The Cumulative Impact area highlighted in the map below



Appendix C

LIST OF RESPONSIBLE AUTHORITIES

<p>South Wales Fire & Rescue Service Headquarters Forest View Business Park Llantrisant South Wales CF72 8LX</p> <p>Tel: (01443) 232000 Email: firesafety@southwales-fire.gov.uk</p>	<p>Children & Family Services Newport City Council Room 208 W Civic Centre Newport NP20 4UR</p> <p>Tel: (01633) 656656</p>
<p>Trading Standards Newport City Council Civic Centre Newport NP20 4UR</p> <p>Tel: (01633) 656656 Email: trading_standards@newport.gov.uk</p>	<p>Planning Services Newport City Council Civic Centre Newport NP20 4UR</p> <p>Tel: (01633) 656656 Email: planning@newport.gov.uk</p>
<p>Environmental Health (Health and Safety) Newport City Council Civic Centre Newport NP20 4UR</p> <p>Tel: (01633) 656656 Email: env.health@newport.gov.uk</p>	<p>Environmental Protection (Pollution) Environmental Health Newport City Council Civic Centre Newport NP20 4UR</p> <p>Tel: (01633) 656656 Email: env.health@newport.gov.uk</p>
<p>FAO The Licensing Officer Gwent Police A Divisional Police HQ Cardiff Road Newport NP20 2EH Tel: (01633) 245229 or (01633) 245249</p>	<p>Dr G Richardson Aneurin Bevan Health Board Mamhilad House Mamhilad Park Estate Pontypool Torfaen NP4 0YP</p>
<p>Licensing Authority, Newport City Council PO BOX 883, Civic Centre, Godfrey Road, Newport, NP20 4UR</p> <p>Tele: (01633) 656656 Email: environment.licensing@newport.gov.uk</p>	<p>Newport Event Safety Advisory Group Newport City Council Civic Centre Newport NP20 4UR</p> <p>Group Coordinator: Heather Andrews, 01633 210061 heather.andrews@newport.gov.uk</p>