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## AGENDA

<b>Committee</b>	LICENSING COMMITTEE
<b>Date and Time of Meeting</b>	TUESDAY, 3 NOVEMBER 2015, 10.00 AM
<b>Venue</b>	COMMITTEE ROOM 1 - COUNTY HALL
<b>Membership</b>	Councillor Parry (Chair) Councillors Manzoor Ahmed, Boyle, Bridges, Goddard (Deputy Chair), Hudson, Kelloway, Morgan, Murphy, Phillips, Simmons and Walsh

### 1 **Apologies for Absence**

To receive apologies for absence.

### 2 **Declarations of Interest**

To be made at the start of the agenda item in question, in accordance with the Members' Code of Conduct.

### 3 **Minutes** (*Pages 1 - 2*)

To approve as a correct record the minutes of the previous meeting on the 8<sup>th</sup> September 2015.

### 4 **Review of Statement of Licensing Policy** (*Pages 3 - 120*)

### 5 **Review of Statement of Gambling Licensing Act Policy** (*Pages 121 - 178*)

### 6 **Authorisation of Officers and Delegations** (*Pages 179 - 180*)

**Marie Rosenthal**

**Director Governance and Legal Services**

Date: Wednesday, 28 October 2015

Contact: Graham Porter, 029 2087 3401, g.porter@cardiff.gov.uk

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## LICENSING COMMITTEE

8 SEPTEMBER 2015

Present: County Councillor Parry(Chairperson)  
County Councillors Manzoor Ahmed, Boyle, Bridges, Hudson,  
Kelloway, Murphy, Phillips and Walsh

## 5 : APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Goddard, Morgan and Simmons.

## 6 : DECLARATIONS OF INTEREST

No declarations of interest were received.

## 7 : MINUTES

The minutes of the meeting held on 2 June 2015 were approved by the Committee as a correct record and were signed by the Chairperson.

## 8 : REVIEW OF STATEMENT OF LICENSING POLICY

The Licensing Act 2003 requires the authority to produce a Statement of Licensing Policy (SLP) which outlines its approach to licence applications and the processes used to address any issues associated with such applications. The SLP is required to be reviewed every 5 years in consultation with a number of stakeholders, including the responsible authorities and representatives of the licensing trade. Members were advised that Cardiff SLP was last reviewed in 2011 and it was therefore due to be renewed in January 2016.

Dave Holland presented the report. The Committee heard that the revised policy attempted to balance the competing needs of business development, planning, the responsible authorities and ward members. The new policy would allow Members a degree more flexibility when determining applications.

The main changes to the SLP were highlighted in the report. These are summarised as follows:

- Amendments to reflect legislative changes brought about by the Policy Reform and Social Responsibility Act 2011, the Live Music Act 2012 and the Deregulation Act 2015.
- Additional information to assist applicants
- Five factors emphasising the integral parts of the licensing process
- Amendments to the cumulative impact areas in the City Centre and City Road/Crwys Road

The Committee received a brief presentation from Claire Hartrey, Group Leader, Licensing. The presentation summarised the main changes to the SLP.

Members were advised that after extensive consultation with South Wales Police it was concluded that whilst there are large amounts of crime and disorder throughout the City Centre linked to the presence of licenced premises, not all types of licenced premises contribute to crime and disorder in the City Centre. Therefore certain types of premises such as hotels, cinemas and restaurants should be excluded from the Cumulative Impact Area. However, evidence suggests that premises offering late night refreshment, which are currently excluded from the Policy, do contribute to the problems in the City Centre. Therefore, the new policy proposes that these types of premises should be subject to the Cumulative Impact Policy.

Having conducted a review of crime statistics in City Road and Crwys Road it was apparent that there is no longer sufficient evidence of significant crime and disorder to justify the continuation of the Cardiff East Cumulative Impact Area. Crime figures will be monitored on an annual basis for any increase with a view to reinstating the Policy if there is evidence of a negative impact of licenced premises.

Members were asked to consider a further period of consultation on the draft revised SLP.

RESOLVED – That the Committee approves the Draft Statement of Licensing Policy for further consultation with those bodies listed in paragraph 1.2 of the report.

The meeting terminated at 10.40 am

**LICENSING COMMITTEE: 3 November 2015**

**Report of the Head of Regulatory Services**

**LICENSING ACT 2003 – REVIEW OF THE STATEMENT OF LICENSING  
POLICY**

**1. Background**

- 1.1 Under section 5 of the Licensing Act 2003 each licensing authority must produce a Statement of Licensing Policy (SLP) with respect to the exercise of its licensing functions. This policy should outline the licensing authority's approach to licence applications and the processes used to address any issues associated with such applications.
- 1.2 The SLP is required to be reviewed on a 5 year basis in consultation with:
- Chief Officer of Police for the area;
  - Fire and Rescue Authority for the area;
  - Local Health Board in Wales for an area any part of which is in the licensing authority's area,
  - Persons/bodies representative of local premises licence holders;
  - Persons/bodies representative of local club premises certificate holders;
  - Persons/bodies representative of local personal licence holders; and
  - Persons/bodies representative of businesses and residents in its area.

The SLP was last revised in 2011 and is due to be renewed in January 2016.

- 1.3 At its meeting of 8 September 2015 the Committee resolved to approve the draft SLP with those consultees listed in 1.2 above.

**2. Public Consultation on the Statement of Licensing Policy.**

- 2.1 A draft of the reviewed SLP was published for public comment during the period 8<sup>th</sup> September 2015 to 9<sup>th</sup> October 2015 for members of the public, trade and businesses to make observations on the revised version.
- 2.2 The revised Statement of Policy has been amended to reflect the views of consultees and is attached as Appendix A. Details of the comments received and amendments made as a result of the consultation exercise are contained in Appendix B.

**3. Achievability**

This report contains no equality personnel or property implications.

**4. Legal Implications**

- 4.1 Section 5 of the Licensing Act 2003 places a statutory requirement on licensing authorities to issue a Statement of Licensing Policy every five years. The Council is required to approve the SLP for publication.
- 4.2 All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. standing orders and financial regulations; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

**5. Financial Implications.**

- 5.1 This report does not result in any additional financial implications and can be achieved within existing budget provision.

**6. Recommendation**

- 6.1 It is recommended that Committee commend the amended Statement of Licensing Policy to the Council for approval prior to its publication.

**Dave Holland**  
**HEAD OF REGULATORY SERVICES**

**22 October 2015**

This report has been prepared in accordance with procedures approved by Corporate Managers.

Background Papers: Section 182 Guidance Licensing Act 2003

# City of Cardiff Council

## Statement of Licensing Policy

### 2016-2021



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# 1

## Introduction

The City of Cardiff Council has a duty to administer and enforce the Licensing Act 2003 which gives local authorities responsibility for licensing the sale and supply of alcohol, regulated entertainment and the provisions of late night refreshment.

The Licensing Act requires that Licensing Authorities publish a Statement of Licensing Policy for their area to guide them when considering licence applications and controlling licensed premises. This Statement of Licensing Policy is produced in response to this requirement and applies to all applications, notices, representations and requests we receive under the Licensing Act 2003. The Policy also aims to provide guidance to applicants, objectors and interested residents, businesses and the wider community about the approach we will take as the Licensing Authority. It has been the subject of consultation with local bodies, organisations and residents. A list of consultees is provided within the policy statement.

Cardiff's original policy was published in 2005 and was subsequently reviewed every 3 years as required by the legislation at that time. Since then changes to the Licensing Act 2003 mean that licensing authorities are now required to review their statements of Licensing Policies every 5 years. This policy is the 4<sup>th</sup> Statement of Licensing Policy produced by the City of Cardiff Council.

This is that statement of policy has been 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

## 2.1 Purpose and scope of the Licensing Policy

This Statement of Licensing Policy is produced in response to the requirements of Section 5 of the Licensing Act 2003. It aims to ensure a consistent approach to licensing within Cardiff. The policy will assist officers and members in reaching a decision on a particular application, setting out those matters that will normally be taken into account. In addition the Policy seeks to provide clarity for applicants and residents to enable them to understand the objectives being promoted and the matters that will be considered in determining licences. In carrying out its licensing functions the Licensing Authority must promote the following four licensing objectives:-

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

For the purposes of this Policy Statement, the City of Cardiff Council is the Licensing Authority and is referred to in this document as “the licensing authority” unless otherwise stated.

This Policy covers a wide range of licensing activities covered by the Licensing Act 2003 as follows:-

- Retail sale of alcohol
- Supply of alcohol to club members
- Provision of entertainment to the public or club members or with a view to making profit including raising money for charity where the entertainment involves:
  - A theatrical performance.
  - Film exhibition
  - Indoor sporting event
  - A boxing or wrestling entertainment
  - Live music performance
  - Playing or recorded music
  - Dance performance.
- Supply of hot food or drink from premises from 23.00 to 05.00 hours (the provision of late night refreshment).

The scope of the policy statement includes new licence and permit applications, renewals, transfers and variation of conditions for annual and where applicable occasional licences. Nothing in this policy will prevent a person applying for a variety of permissions under the Act.

This Policy Statement will come into force on 1 January 2016 and will be monitored and changed as necessary.

As part of the development of this Policy, various partners were engaged in consultation and their views have been taken into account. Consultation partners included:

- South Wales Police
- Cardiff Partnership
- Cardiff Licensees Forum
- Licensable Industry Companies
- Licensed Premises Supervisors
- Cardiff Children’s Services
- Cardiff Health and Safety Team
- Cardiff residents
- Cardiff Economic Development
- South Wales Fire Authority
- British Institute of Innkeeping
- Independent Licensees
- The Club and Institute Union
- Cardiff Trading Standards
- Cardiff Pollution Control
- Cardiff Development Control Team
- Cardiff and Vale Univ. Health Board
- Cardiff Access Group
- Licensing Solicitors

## Departure from the Policy

This Policy sets out the vision for the regulation of licensed premises throughout Cardiff and outlines the standards expected to ensure the promotion of the four licensing objectives of the City.

### Key message

**The Licensing Authority may depart from the Policy if it considers that doing so would benefit the promotion of the Licensing Objectives. Reasons will be given for any such departure from the general policy. However, it is expected that any such departure would be likely only in exceptional circumstances.**

## 2.2 Profile of Cardiff

Cardiff is the capital City of Wales and is continuing to grow faster than any other capital city in Europe. In population terms, it is the largest Local Authority in Wales (340,000) but measures of population belies Cardiff's significance as a regional trading and business centre. The population swells by approximately 70,000 daily with commuters and visitors. Its popularity as a shopping and leisure destination extends way beyond Wales with many visitors not only from the rest of the UK but from overseas.



Cardiff is the seat of government and the commercial, financial and administrative centre of Wales. Cardiff boasts one of the most vibrant city centres in the UK with an average daily footfall of 70,000 people which increases up to 150,000 when the City's Millennium Stadium hosts international events.

Cardiff Bay is a world class waterfront development and the Millennium Stadium ranks among the world's finest sports stadia, hosting major events that demonstrate Cardiff's developing role on the international stage. Its impressive range of cultural, sporting and arts facilities including the National Museum of Wales and the Museum of Welsh Life, St David's Hall, New Theatre, Millennium Centre and new City Stadium, as well as the International Sports Village.

Such developments have led to a vibrancy and dynamism across the City which presents significant challenge to enforcement services wanting to secure the safety of their local population and visitors. There are currently 1400 licensed premises in Cardiff, around a quarter of which are located in the City Centre.

The Cathays electoral ward which includes the City Centre has the highest number of licensed premises followed by Plasnewydd ward which has a busy commercial district along City Road, Albany and Wellfield Road. Both Cathays and Plasnewydd have large student populations. Butetown encompasses the popular Mermaid Quay waterside development with bars, restaurants and entertainment and has the third highest number of licensed premises.

It is widely recognised that licensed premises make a significant contribution to Cardiff's economy. The diverse range of licensed premises appeal to visitors, tourists and local citizens and include over 300 licensed restaurants, nearly 300 pub/bar/nightclubs, 200 convenience stores, 130 takeaways, 6 theatres and 50 sports clubs. Other licensed establishments include stadia, bowling alleys, cinemas, art galleries and hotels.

Successful partnership working with the licensed trade is crucial to supporting well run licensed premises that contribute positively to the local community and economy. Improvements made over recent years and the diversification of premises to become more attractive to a wider customer base have turned around the negative portrayals on Cardiff's night time economy that were experienced several years ago.

It is acknowledged that the majority of Cardiff's licensed premises are well run and positively promote the four licensing objectives. It is therefore essential to ensure that this is maintained and this policy contributes to the sustained improvement of the licensed economy as Cardiff continues to develop in the future.

## 3.1 Premises Licences

When determining applications the Licensing Authority will have regard to this Policy, the Act and the Section 182 Guidance.

Applicants should make themselves aware of the council's statement of licensing policy, in particular the issues that will need to be addressed in formulating the operating schedule.

The Licensing Authority will expect individual applicants to address the licensing objectives in their operating schedule having regard to the location and type of premises, the licensable activities to be provided, and the operational procedures.

Applicants will be encouraged to make themselves aware of any relevant local crime prevention strategies, , planning policies and supplementary planning guidance, tourism, cultural or local crime prevention, alcohol reduction strategies; and to have taken them into account, where appropriate, when formulating their operating schedule.

Applicants should consider the benefits of exceeding their statutory consultation requirements by proactively seeking the views of local residents, local ward Councillors, businesses and responsible authorities on their operating Schedules. Responsible authorities include the Police, Fire Authority, Local Health Board and the local authority (in particular the Pollution Control, Health and Safety, Trading Standards, Development Control sections and the Licensing Authority). Contact details for the responsible authorities are detailed in Appendix B of this Policy.

Applicants are expected to have taken the wider local concerns and issues into account when establishing appropriate conditions to meet the licensing objectives. Issues such as drink spiking, date rape, fly posting, irresponsible promotions, drink related violence and binge drinking should be addressed in the light of the situation in the City of Cardiff as a whole.

To ensure that cultural diversity thrives, the City of Cardiff Council has established a policy of obtaining Premises Licences for public spaces within their area in their own name. This enables performers and entertainers wishing to use public spaces for licensable activities to seek permission from the Council rather than applying for their own Premises Licence or Temporary Event notice.

## Live Music Act 2012 and Deregulation Act 2015

A number of changes have been made to the Licensing Act 2003 resulting from new legislation being implemented. These changes have had the effect of removing some activities from licensing requirements. The relevant legislation is as follows:-

- Live Music Act 2012
- Licensing Act 2003 (Description of Entertainment)(Amendment) Order 2013
- Deregulation Act 2015
- Legislative Reform (Entertainment Licensing) Order 2014.

Consequently, the following activities, no longer require licensing.

- Unamplified live music taking place between 08:00 and 23:00 hours in all venues
- Amplified live music and recorded music taking place between 08:00 and 23:00 hours before audiences of no more than 500 persons on premises authorised to supply alcohol for consumption on the premises
- Amplified live music taking place between 08:00 and 23:00 hours before audiences of no more than 500 persons in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment)
- Provision of entertainment facilities
- Travelling circuses
- Incidental films (where the film is incidental to another activity which is not a description of regulated entertainment)
- Greco-Roman and freestyle wrestling before an audience of up to 1000 persons
- The provision of entertainment by or on behalf of local authorities, health care providers or schools on their own defined premises
- It widens the licensing exemption for live music integral to a performance of Morris dancing or dancing of a similar type, so that the exemption applies to live or recorded music instead of unamplified live music.

Conditions on Premises Licences relating to these deregulated activities will not apply (during the restricted hours and as long as audience restrictions are not exceeded), however the Licensing Authority may still impose conditions about these activities following a review of a Premises Licence or Club Premises Certificate where relevant to promote the licensing objectives.

## Petrol/Service Stations

Section 176 of the Licensing Act 2003 states that no Premises Licence, Club Premises Certificate or Temporary Event Notice has effect to authorise the sale of alcohol from a motorway or trunk road service area or premises used primarily as a garage or which form part of premises which are primarily so used.

If a Licence is granted, the licensee must ensure alcohol is not sold any time when the primary use of the premises is as a garage.

### Key message

Satisfactory evidence will be required to accompany applications for the sale of alcohol at petrol and service stations to demonstrate their primary use.

## Grant and Full Variation Process

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

Applicants must:-

- Submit a completed application on the prescribed application form to the City of Cardiff Council with the required fee and a plan of the premises of 1:100 scale (unless agreed otherwise). The application form must include an Operating Schedule.
- Submit an entire copy of the application to all responsible authorities at the same time as the application is submitted to the Licensing Authority. NB. *If applicants chose to apply online through the Gov.UK portal, they are not required to submit copies to the responsible authorities.*
- Advertise the application in a prominent position at or on the premises on an a pale blue coloured notice of at least A4 size with a minimum font size of 16 , for not less than 28 consecutive days starting on the day following the day on which the application was submitted to the Licensing Authority.
- Advertise the application within 10 working days (starting on the day after the following the day on which the application was submitted to the Licensing Authority) in a local newspaper circulating in the relevant part of Cardiff's district such as the South Wales Echo or Western Mail.
- If the application includes the retail or supply of alcohol, the consent of individual Personal Licence holder who wishes to be the Designated Premises Supervisor (DPS) is required with the application.

The application will be advertised on the City of Cardiff Council's website.

It is strongly recommended that before submitting an application, applicants read "*The City of Cardiff Council's Licensing Act 2003: Guidance for applicants – New Premises and Variation Applications*".

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

## Minor Variation

Small changes to a Premises Licence or Club Premises Certificate that will not impact adversely on the licensing objectives can be dealt with via the 'Minor Variation' process which is a scaled down version of the full variation process detailed above with a reduced fee.

We expect that the process will be used for changes such as:

- Small changes to the structure or layout of a premises;
- Additional authorisations required for late night refreshment or regulated entertainment (such as live music, performance of plays or film exhibitions);
- Small changes to licensing hours (see below for changes that relate to alcohol);
- Revisions, removals and additions of conditions (this could include the removal or amendment of out of date, irrelevant or unenforceable conditions, or the addition of volunteered conditions).

Minor variation applications will not apply to:-

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

Applications for minor variations will be determined by Licensing Officers rather than the Licensing Sub-Committee, however if representations are received that demonstrate the application will impact adversely on any of the four licensing objectives the application will be refused. Applicants are recommended to contact the Licensing Team prior to submitting a minor variation application for advice.

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

## Licensing Fees

No refund is payable for any withdrawn or refused applications/notifications.

In accordance with the Licensing Act 2003, the full fee is refundable for minor variations if the Licensing Authority fails to determine the application within the statutory time period.

The City of Cardiff Council will utilise its powers under the Act to suspend Premises Licences or Club Premises Certificates for non- payment of the annual fee.

## Late Night Levy

A Late Night Levy (LNL) is an optional power available to local authorities to raise a contribution towards the costs of policing the night time economy. The power was introduced through the Police Reform and Social Responsibility Act and enables the authority to charge a levy to holders of Premises Licences and Club Premises Certificates authorised to sell alcohol. A LNL must apply across the whole of the local authority area and applies to all on and off licences. Temporary Event Notices are exempt.

A LNL would require that a levy be paid by those persons who are authorised to sell alcohol between the periods 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 0000 hrs and no later than 0600 hrs and must be the same period every day.

At least 70% of the Levy must be paid to the Police and Crime Commissioner. There are no restrictions on what the police portion can be used for. The local authority's portion can 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 and street cleansing.

The implementation of a LNL is subject to public consultation and, if it is to be introduced, must be adopted at a meeting of the Council.

The Licensing Authority may deduct the costs of preparing, publicising and administrating the levy (subject to regulations) before paying the police proportion, however an estimate of these costs must be published on the website.

The levy will apply indefinitely however it must be reviewed at regular intervals and may be ceased at the end of a levy year.

## Early Morning Restriction Orders

Whilst the Licensing Act 2003 introduced a simple integrated scheme for licensing premises used for the sale or supply of alcohol, regulated entertainment and late night refreshment, one of its primary purposes was to tackle problems associated with the misuse of alcohol.

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. On 31 October 2012 amendments to the Police, Reform and Social Responsibility Act were implemented that allows licensing authorities to adopt new measures for the management of their night time economies.

One of these measures is an Early Morning Restriction Order (EMRO) which allows local authorities to look at restricting the sale of alcohol at a specified time between 00:00 and 06:00 hours.

EMROS are intended to deal with alcohol related crime and disorder, anti social behaviour and serious public nuisance with is not directly attributable to licensed premises. Local authorities are encouraged to look at the relationship between their existing Cumulative Impact area, if one is in place and a proposed EMRO area.

An EMRO restricts the time within which alcohol can be supplied. Alcohol supply can be prohibited between 00:00-06:00 hours and applies to Premises Licences, Club Premises Certificates and Temporary Event Notices. There are no exceptions save that which authorise supply of alcohol to residents with overnight accommodation via minibars and room service.

Unlike the Late Night Levy, an EMRO can apply to a specific area or even single street, rather than applying to the whole local authority area. It can apply to specific days of the week, and can apply to limited periods of the year or for an unlimited period. It cannot apply on New Year's Eve/New Year's Day.

EMROs do not affect authorised hours for regulated entertainment or late night refreshment.

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 Premises Licences and/or Club Premises Certificates. The decision to adopt an EMRO has to be taken by a meeting of the Council.

EMROs must be periodically reviewed to ensure they remain appropriate to promote the licensing objectives and can be varied or revoked via the same process as adoption.

Alcohol supplied during the time when an EMRO is in force is treated as a Section 136 offence under LA03 (unauthorised licensable activity).

### Key message

**The City of Cardiff Council has not currently adopted the late night levy or EMRO provisions, but before considering doing so will conduct a full consultation.**

## Licence Reviews

The Licensing Act 2003 and associated legislation introduced a series of measures to enable the Council to deal with problematic premises. One of the most powerful of these measures was the implementation of a system of Licence Reviews.

Responsible Authorities or "other persons" can apply to the Licensing Authority for a Review of the Licence or Certificate should a matter arise at the premises in connection with any of the four licensing objectives.

Events that may trigger a Review must undermine at least one of the licensing objectives and may include, continued noise problems, underage sales of alcohol, frequent problems or disorder, allegations of crime taking place at the premises, impacts on health services (which would support other triggers).

Following receipt of a Review application, a 28 day consultation period will begin. The application will be determined by the Licensing Sub-Committee who can make the following decisions:-

- Take no further action.
- Issue a warning to the licence holder
- Modify the conditions of the Premises Licence
- Exclude a licensable activity from the scope of the Licence
- Remove the Designated Premises Supervisor
- Suspend the Licence for up to 3 months
- Revoke the Licence

In cases of serious crime and disorder at premises, the Police may apply for a summary review. On receipt of such an application, the Authority has 48 hours to determine whether any interim steps are required.

Alternatively, the police also have powers to serve a closure premises in circumstances such as serious incidents of crime, disorder, nuisance> in the case of persistent underage sales Trading Standards also have closure powers.

## 3.2 Personal Licence Applications

Any premises licensed for the sale of alcohol must specify the Designated Premises Supervisor (DPS). This person must be a Personal Licence holder.

In order to obtain a Personal Licence, the applicant must:-

- Be aged 18 or over;
- Possess a licensing qualification accredited by the Secretary of State;
- Not have forfeited a Personal Licence within 5 years of his/her application;
- Produce a satisfactory 'Basic Disclosure' from Disclosure Scotland, or the results of a subject access search of the police national computer by the National Identification Service;
- Not have an objection notice from the Police about the grant of a Personal Licence following notification of any unspent relevant offence or foreign offence; or must show that such an offence should not lead to refusal on crime prevention grounds;
- Pay the appropriate fee to the Council.

Any photographs submitted with the application must be clearly endorsed on the reverse side with the person's name, date of birth and contact number in order to ensure they are correctly processed.

Applicants with unspent criminal convictions for relevant offences set out in the Licensing Act are strongly encouraged to first discuss their intention to apply for a Licence with the Police and Licensing Authority before making an application.

There is no longer a requirement to renew a Personal Licence.

The Licence is portable although changes of home address must be notified to the issuing Licensing Authority.

It should be noted that the City of Cardiff Council may initiate legal proceedings against personal licence holders who fail to notify the Licensing Authority of changes to their personal licence such as changes in address or criminal convictions.

### 3.3 Temporary Event Notices and Other Events

Certain small scale events held in unlicensed premises on an occasional basis are not required to be licensed but must be notified to the Licensing Authority at least 10 working days before the event.

Temporary Event Notices can also be used for licensable activities to take place on licensed premises outside the permissions of the Premises Licence. E.g. a pub may wish to extend the hours they can sell alcohol to cover a sporting event.

It is recommended that these notifications known as Temporary Event Notices are submitted to the authority at least 28 days prior to the event to allow sufficient time for the organiser to liaise with relevant council officers and responsible authorities to ensure the event takes place with minimum problems.

Where relevant representations are received from the Police or the Council's Environmental Health Section, the matter will be referred to the Licensing Sub-Committee for a decision as to whether or not the event can take place. Where representations relate purely to the addition of conditions to the TEN which are consistent with an existing Premises Licence, a statement of conditions will be issued with the TEN by an authorised officer without the need for a Licensing Sub-Committee hearing, unless the applicant disagrees.

#### Late Temporary Event Notices

Late TENs are intended to be used by premises users who are required for reasons outside their control to, for example, change the venue at short notice. They should not be used save in **exceptional circumstances** e.g. last minute change of venue required.

Late TENs can be given up to five working days but no earlier than nine working days before the event is scheduled and, unless given electronically to the licensing authority, must also be sent by the premises user to the Police and the Council's Environmental Health Section.

It should be noted that in case of any relevant objections to a late TEN a counter notice will be served and the event cannot take place. There is not sufficient time for a hearing of the Licensing Sub-Committee.

### 3.4 Large Scale Events

Events with a capacity of over 499 people on the premises, will require a Premises Licence if licensable activities are taking place.

Such events of a temporary or more permanent nature will generally require detailed planning and more consultation with responsible authorities and representatives of other organisations concerned with safety.

The City of Cardiff Council operates an Events Liaison Panel consisting of various Council officers, Police, Fire and Emergency Services who provide advice and assistance to event organisers to ensure they are aware of their responsibilities and that all events run safely. It is recommended that applicants contact the Licensing and Health and Safety Services at their earliest opportunity to discuss their proposals so a decision can be made as to the suitability of the event for consideration by the Panel. Contact the Shared Regulatory Service – 029 2087 2054.

## 4

# Responsible Authorities and making representations

## 4.1 Responsible Authorities

Responsible Authorities are public bodies that must be notified of applications under the Licensing Act 2003. All responsible authorities are entitled to make representations in respect of grant, variation and review of applications. For all premises, responsible authorities include:-

- The relevant Licensing Authority and any other Licensing Authority in whose area part of the premises is situated;
- The Chief Officer of Police;
- The local Fire and Rescue Authority;
- The relevant enforcing authority under the Health and Safety at Work etc. Act 1974;
- The local authority with responsibility for environmental health;
- The local planning authority;
- A body that represents those who are responsible for, or interested in matters relating to the protection of children from harm;
- Each local authority's Director of Public Health (DPH) in England and Local health Boards in Wales; and
- The local weights and measures authority (Trading Standards).

## 4.2 Licensing Authority

In April 2012, the Police, Reform and Social Responsibility Act 2011 amended the Licensing Act 2003 to allow the Licensing Authority to act as a Responsible Authority in its own right.

This entitles the Licensing Authority to make representations in respect of an application, however it will do so when it considers appropriate based on individual circumstances of each situation and in accordance with its duties under Section 4 of the Act.

The Licensing Authority is unlikely to make representations on behalf of other parties such as individuals, local councillors etc, as these persons can make representations in their own right.

Similarly, the Licensing Authority will expect other Responsible Authorities to make representations on issues falling within their own remit. For example the Licensing Authority is unlikely to make representations purely based on crime and disorder as this falls within the remit of the Police.

Examples of circumstances that may cause the Licensing Authority to make representation include:-

- Where there is evidence of non-compliance with the existing Premises Licence. (In the case of variation or review applications)
- The premise is located within a 'Cumulative Impact Policy' area and the Licensing Authority is not satisfied that there will not be an adverse effect on any of the four licensing objectives.

The Licensing Authority will endeavour to interpret the wording in the applicant's Operating Schedule and proposed conditions in accordance with the applicant's intention. Such conditions will be appropriate, proportionate, realistic, timely, specific, measurable and achievable. Wherever possible there will be a clear distinction between the roles of the officer making representations and the officer preparing and presenting the report to the Sub-Committee. In practise the role of the responsible authority will be performed by officers in the Enforcement Team of the Licensing Service while the processing of applications and preparation of committee reports will be undertaken by officers in the Technical Team of the Licensing Service.

## 4.3 Local Health Board

In April 2012, the Police Reform and Social Responsibility Act 2011 amended the Licensing Act 2003 so that Local Health Boards (Wales) and Directors of Public Health (England) also became a responsible authority. In Cardiff the Local Health Board function is undertaken by Cardiff and Vale University Health Board (UHB).

The City of Cardiff Council as Licensing Authority recognises that although public health is not a licensing objective, the UHB holds valuable information relevant to the licensing objectives. For example, violent incidents as a result of drunken behaviour in licensed premises that have an adverse effect on public safety and crime and disorder objectives.

The UHB actively monitors:

- Emergency Unit attendances
- Hospital admissions
- Last Drink Data

The UHB uses this data to contribute to the understanding of the effects, levels and patterns of alcohol consumption within the UHB area.

The UHB have advised the City of Cardiff Council that examples of circumstances in which that may wish to make representations include:-

- New applications
- Applications for review or variation when:-
  - An existing licensed premise is perceived not to be promoting the licensing objectives, or,
  - When there is information to suggest non-compliance with an existing Premises Licence
  - Proposed changes to licensable activities that could have a detrimental effect on one or more of the licensing objectives
- The premise is situated within a “Cumulative Impact Policy” area, where the UHB believes that there will be an adverse effect on any of the licensing objectives.

The UHB have advised the City of Cardiff Council that they will use information from the Alcohol Treatment Centre and Emergency Department to monitor and inform the Licensing Authority of any activity that is causing concern and use the information to make representation where appropriate.

## 4.4 Other Persons representations

The Licensing Act 2003 allows any “other person” to make representation about a licensing application provided that it is relevant to one or more of the licensing objectives.

“Other persons” means any individual, body or business affected by the operation of licensed premises regardless of their geographical location. The term also includes local councillors who can make representations in their own right or on behalf of a named other person such as a resident or local business if specifically requested to do so.

## 4.5 Making representations

Responsible authorities, other persons or organisations representing them, may make relevant representations. In doing so they should state whether they are making the representation on their own behalf or on behalf of another person. The representation should clearly state the grounds of the representation which should relate to at least one of the following licensing objectives:-

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

Representations that do not relate to the licensing objectives or those that are repetitious, frivolous or vexatious will be rejected.

## 4.6 Anonymous representations and petitions

The Licensing Authority cannot accept anonymous representation. Full details of all representations must be made available to the applicant, however the Licensing Authority may consider withholding personal details in exceptional circumstances which justify such action.

In general, if a person wishing to make representation prefers to remain anonymous to the applicant, they may ask their local councillor to make representation on their behalf. In these circumstances, the Councillor will be asked for the details of the person in order to satisfy the Council that they are entitled to comment on the application, however they will not be passed on to the applicant.

Personal details will be anonymised from representations on documents in the public domain such as the Licensing Sub-Committee reports. Full details, however, including name and address of all relevant representation will be supplied to the applicant and/or the applicant's representative.

Any petitions received will be treated as one representation from the person sending it in, supported by the other signatories. Petitions will not be treated as individual representations from everyone who has signed.

# 5 Decision making and delegation of functions

## 5.1 Decision making

The Licensing Authority will strive to make all decisions required in a manner consistent with the Licensing Act 2003, the Guidance issued under Section 182 of the Act and this Statement of Licensing Policy.

The overriding principle adopted by the authority will be that each application will be determined on its merits.

Where relevant representations are received about an application, a hearing will be held unless the Licensing Authority, the applicant and everyone who has made representations agree that a hearing is not necessary. Applicants and those making representations should seek in advance of any hearing to try and reach agreement or narrow the areas in dispute, particularly where both are professionally represented.

In certain circumstances, applications may be rejected or following the receipt of representations, the authority may use its discretion to impose conditions on the licence to further the licensing objectives.

Licence conditions will be tailored to the individual application and only those considered appropriate to meet the licensing objectives will be imposed. Licence conditions will not be imposed where other regulatory regimes provide sufficient protection, for example Health and safety at work, fire safety legislation etc.

The Licensing Authority will also take into account when making its decision that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour, especially once individuals have left licensed premises and are therefore beyond the direct control of licensees. However, when making a decision, the authority will focus on the direct impact of the activities taking place on the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

The 'need' or demand for a licensed premises of any kind or the commercial damage that competition from a new licensed premises would do to other licensed premises in an area will not be matters that the authority will consider when discharging its decision making function.

In determining applications, the Licensing Committee has delegated its functions to the Licensing Sub Committee(s) and appropriate officers in approved cases. This is in the interests of speed, efficiency and cost effectiveness.

In the majority of hearings a summary of the decision will be given verbally on the day. A full written decision notice will be provided to the applicant and anyone who has made a relevant written representation within 5 working days of the hearing; this will include details on how to appeal a decision.

## 5.2 Conditions

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

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

The Licensing Authority will strive to ensure that only proportionate and reasonable licensing conditions are imposed as appropriate for the promotion of the licensing objectives and will avoid imposing conditions that overlap or duplicate controls provided in other relevant legislation e.g. the Regulatory Reform (Fire Safety) Order, Health and Safety at Work etc Act 1974, etc.

All sets of conditions attached to licences and certificates will be tailored to the individual application. When determining the appropriate set of conditions the Licensing Authority will focus primarily on the individual style of the premises and the licensable activities proposed.

Conditions will usually be volunteered by the applicant. However, where representations are made by responsible authorities and other persons the Licensing Authority is not restricted to these conditions and may impose other conditions where appropriate. It is recommended that responsible authorities consider the following when drafting suggested conditions:

- The size, nature and style of operation
- Whether the premises is part of a multiple operator's chain and therefore more likely to have an operating schedule that is tried and tested
- The cumulative effect of conditions in terms of cost and practical implementation
- The likely cost of the condition(s) for the operator
- Whether a simpler or better way of dealing with a perceived problem could be found
- Whether there is an actual risk of undermining an objective, as opposed to a conceivable risk. In the latter case, there is no need for the condition
- Whether the condition will be enforceable, if it is not specific or could be considered subjective it may not be enforceable

## 5.3 Delegation of Functions

In the interests of speed, efficiency and cost-effectiveness, licensing functions are carried out as shown in the table below:-

Matter to be dealt with:	Full Committee	Sub-committee	Officers
Licensing Policy issues	All cases		
Personal Licence application		If relevant representation made	If no relevant representation made
Personal Licence application with unspent convictions		All cases	
Premises Licence/Club Premises Certificate application		If relevant representation made	If no relevant representation made
Provisional statement application		If relevant representation made	If no relevant representation made
Variation Premises Licence/Club Premises Certificate application		If relevant representation made	If no relevant representation made
Application to vary Designated Premises Supervisor		If a police objection made	All other cases
Request to be removed as Designated Premises Supervisor			All cases
Application for transfer of Premises Licence		If police objection made	All other cases
Applications for Interim Authorities		If police objection made	All other cases
Application to review Premises Licence/Club Premises Certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of objection to a Temporary Event Notice		All cases	
Determination of application to vary Premises Licence at community premises to include alternative licence condition		If a police objection made	All other cases
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination of minor variation			All cases

# 6

## Enforcement, Agency Integration and other relevant legislation

### 6.1 Enforcement and Agency Integration

The City of Cardiff Council as the Licensing Authority will work closely with other agencies to address relevant issues associated with the licensing regime. Other mechanisms will also be utilised that sit outside the licensing regime such as working in partnership with local businesses, transport operators and other departments of the local authority to create a safe and clean city centre environment.

The Licensing Authority will work with Police to identify and target those premises that pose a high risk to the achievement of the licensing objectives. Every effort will be made in enforcing the law concerning disorder and anti-social behaviour. This may include the issue of fixed penalty notices where permitted, the prosecution of any Personal Licence holder or member of staff at premises selling alcohol to people who are drunk and the confiscation of alcohol from adults and children in designated areas. The Police have powers to close down instantly, for up to 24 hours, any licensed premises or temporary event on grounds of disorder or the likelihood of disorder or excessive noise emanating from the premises.

In cases of nuisance caused by anti-social behaviour linked to licensed premises, the Police, other responsible authorities and local residents or businesses are able to seek a review of the licence or certificate in question. In determining a Review, the onus will be on those seeking a review to provide the evidential base on which decisions will be made.

Where enforcement action is taken it will be in accordance with the principles of the City of Cardiff Council's Licensing Enforcement Policy. Inspection regimes will be risk based on an assessment of the individual premises based on the licensing objectives.

Cardiff Council has established protocols with the local police, local authority Pollution Control, Health and Safety and Trading Standards Services, University Health Board and Fire Authority on enforcement issues to provide a more efficient deployment of officers commonly engaged in enforcing licensing law and the inspection of licensed premises. These protocols will target agreed problem and high risk premises, while providing a lighter touch in respect of low risk premises. The production of internal protocols also reduces the possibility of duplication by the various regulatory bodies operated by Cardiff Council and builds a local approach.

Arrangements are in place for the sharing of information between the Licensing Authority, planning committee and transport providers to aid the dispersal of people from the City Centre swiftly and safely to avoid concentrations that produce disorder and disturbance.

Arrangements are also in place for Licensing Committee to receive reports on the local tourism economy, the employment situation, appropriate health issues including

observations submitted by the local Accident and Emergency Department, and other relevant cultural matters for the area. Such arrangements ensure that tourist, employment and cultural policies are reflected in the Licensing Committee's considerations.

## 6.2 Other relevant legislation and strategies

In carrying out its functions, the licensing authority will meet its statutory responsibilities under other relevant legislation. For example, the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity and to foster good relations between persons with different protected characteristics. These protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Cardiff Council recognises and embraces the diversity within the City and aims to ensure that nothing within this Statement of Licensing Policy or in the day to day role of the Licensing Authority discriminates against any group within the community. There are a number of Council and Government strategies and policies that complement the authority's licensing policy such as:-

- Licensing Enforcement Policy
- Regulatory Compliance Code
- Crime and Disorder Reduction Strategy
- Community Safety Strategy
- Drugs and Alcohol Strategies
- Planning policies and supplementary guidance
- Arts, Cultural and Tourism Strategies
- Objectives of the Private Security Industry Authority
- Everyone matters – Cardiff's Strategic Equality Plan.

## 6.3 Provision of Services Regulations 2009

The Regulations require that all notices and authorisation in scope be able to be completed electronically and via a "single point of contact" which in the UK, is the Electronic Application Facility, part of the [www.gov.uk](http://www.gov.uk) website.

The electronic application process relates to all regulated activities under the 2003 Act and to most authorisations and notices with the exception of Personal Licence applications, Licence Reviews and representations to licence applications. Further information on the application process is provided in the Guidance issued under Section 182 of the Licensing Act 2003 by the Home Office. It should be noted that the Guidance is regularly updated and therefore references to the above paragraphs may change through the life of this Policy. You are therefore advised to contact the Home Office for the latest version of the Guidance before submitting any application. The 'apply online' process is available through [www.gov.uk](http://www.gov.uk) website but can also be accessed through the relevant licensing web pages on Cardiff City Council's website [www.Cardiff.gov.uk/licensing](http://www.Cardiff.gov.uk/licensing).

## 6.4 Planning

The Planning and Licensing regimes are separate. The Licensing Committee are not bound by decisions made by the Planning Committee and vice versa. Licensing Committee matters will always be subject to consideration of the four licensing objectives, whereas Planning Committee matters are subject to different considerations.

Notwithstanding this, the Licensing Authority will keep the Planning Authority informed of all its actions, so applicants are recommended to obtain appropriate planning permission to avoid any unnecessary delays.

The Licensing and Planning authorities are responsible for enforcing conditions attached under their respective licences and consents. Where the terminal hours for the operation of premises is stated on a planning consent, but differs from that specified on the licence, the licence holder must observe the earlier closing time to operate legitimately.

# 7

## Key Factors

Within this Statement of Policy there are several key factors that have been identified to ensure that all licensed premises promote the licensing objectives and have a positive impact in the area they are located. The key factors are:-

1. What the City of Cardiff Council, as the Licensing Authority aims to encourage
2. Operating Schedules
3. Licensing Hours
4. Promoting the Licensing Objectives:-
  - Prevention of crime and disorder
  - Prevention of public nuisance
  - Public Safety
  - Protection of children from harm
5. Negative Cumulative Impact

### 7.1 What this Policy aims to encourage

Cardiff has seen much improvement over the years with the redevelopment of Cardiff Bay, the construction of the St David's 2 Shopping Centre and general improvements made to the City Centre. The City now includes a wider range of licensed premises that cater for various types of clientele.

With future developments planned such as the Central Square Scheme and Cardiff Capital Region, the aim is to ensure that Cardiff's licensed economy plays a part in the enhancement of Cardiff and continues to thrive with a mix of desirable premises operating in a safe environment.

#### Key message

Applications are encouraged from the following types of premises:-

- Those that will extend the diversity of entertainment and attract a wider range of customers, with less emphasis on high consumption of alcohol.
- Family-friendly venues where people with children can attend.
- Restaurants and cafes with or without alcohol.
- Outside the City Centre - predominantly seated premises with a focus on local community.

#### Key message

Premises with little seating that primarily offer high volume vertical drinking are largely considered less desirable due to the levels of alcohol related crime and disorder associated with these type of premises

## 7.2 Operating Schedules

An Operating Schedule must accompany any application for the grant, provisional statement of variation of a Premises Licence detailing how the premises is going to be operated and the steps that the operator intends to take to promote the licensing objectives.

The proposals contained in the Operating Schedule will form the main body of conditions attached to a Licence if granted, together with any mandatory conditions, any conditions agreed with responsible authorities during the application process and any conditions imposed by the Licensing Sub-Committee where representations have been made.

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 will be open to the public;
- If the Licence is only required for a limited period, that period;
- If the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the Designed Premises Supervisor;
- Whether alcohol will be supplied for consumption on or off the premises, or both;
- How the applicant proposes to promote the licensing objectives.

*NB. For some premises, it is possible that no measures will be appropriate to promote one or more of the licensing objectives, for example, they are adequately covered by other legislation.*

An Operating Schedules should be detailed enough to enable the responsible authority, members of the public and the Licensing Authority to assess whether the proposed steps are sufficient to ensure the licensing objectives are promoted and should :-

- Be precise and enforceable;
- Be unambiguous;
- Not duplicate other statutory provisions;
- Be clear in what they intend to achieve; and
- Be appropriate, proportionate and justifiable.

It is more likely that representations will be received about an application if it does not include sufficient information within its Operating Schedule. It is expected that in the case of applications that fall into a Cumulative Impact Policy areas that the applicant addresses the implications of cumulative impact in their Operating Schedule.

### Key message

- It is expected that all applicants identify within their Operating Schedules, clear, suitable measures to promote the licensing objectives taking into consideration the area in which the premises is situated, and address the other 'key factors' contained in this policy.

## 7.3 Licensing Hours

It is recognised that in some circumstances flexible licensing hours can help to avoid concentrations of customers leaving premises at the same time. Where representations are received, stricter conditions relating to noise control may be necessary in sensitive locations such as residential areas. Limits to opening hours will not be implemented without proper regard to the individual merits of an application and the representations received.

There will be a presumption that the licensing hours requested by an applicant will be granted unless there are relevant objections opposing those hours. Such cases will be determined on their individual merits ensuring any imposed restrictions are appropriate in relation to the licensing objectives.

When applying for later licensing hours, applicants are recommended strongly to demonstrate how the licensing objectives (in particular the prevention of public nuisance) will be met within their Operating Schedule.

Within Cardiff, there are very few solely commercial areas within Cardiff, with residential dwellings commonly located above and next to licensed premises situated outside the City Centre. Generally in most areas of Cardiff, ambient noise levels fall significantly after 23:00 hours but noise even from well behaved customers leaving licensed premises late at night, can disturb residents especially during the working week. As a consequence what would be acceptable in the City Centre where there are fewer residents would not be acceptable in heavily populated residential areas. In some areas, applicants may have to consider imposing an earlier terminal hour to reduce the adverse impact. Without this terminal hour the applicant risks representations being made against the application (especially by the Police and Environmental Health Service) and later applications for Review of the Premises Licence.

See Key factor 7.4c: Prevention of Public Nuisance for further information.

### Key message

- It is expected that shops and supermarkets that provide alcohol sales off the premises will do so at any time when the retail outlet is open to the public unless there are reasons relevant to the licensing objectives to restrict those hours.
- In terms of applications for premises that provide alcohol sales for consumption on the premises, it is suggested that the opening hours are determined to incorporate a period of 'drinking up time' which would normally be 30 minutes.

## 7.4 Promotion of the Licensing Objectives

The Licensing Authority when carrying out its functions and exercising its powers will aim to promote the licensing objectives at all times. In promoting these licensing objectives, the authority aims to encourage a safe crime free environment where everyone can enjoy the full range of leisure activities offered.

The Licensing objectives are:-

- The prevention of crime and disorder
- Public Safety
- The prevention of Public Nuisance
- The protection of children from harm

The licensing objectives are the main focus for the sub-committee when determining an application and when considering the need for conditions.

In furthering the licensing objectives, the authority will also use its powers under the Licensing Act to promote them using a broader range of powers including planning controls, transport controls, crime and disorder policies and pollution controls.

When an application could adversely impact on one or more of the licensing objectives, the public and businesses have the right to make representations against the application. Representations are vital for the full consideration of applications and notices and detailed consideration will be given to all relevant representations received. This will not include those that are frivolous, vexatious or repetitive.

In addition to making representations, there is nothing in this Policy that would prevent affected parties from utilising their powers to seek a Review of an existing licence or certificate where necessary.

The Licensing Authority has entered into partnership arrangements with the Police, Fire Authority and other responsible authorities to further promote the licensing objectives via the Representation and Review system created by the Licensing Act 2003.

### 7.4A Prevention of Crime and Disorder

Under the Crime and Disorder Act 1998, the Council must exercise its functions having regard to the likely effect on crime and disorder in its area, and must do all it can to prevent crime and disorder.

The Licensing Authority will therefore seek to promote the licensing objective of 'prevention of crime and disorder' where appropriate in a manner that supports crime reduction strategies and schemes aimed at reducing crime and promoting public safety.

The Licensing Authority will normally look to the Police as the main source of advice on crime and disorder and applicants are therefore recommended to seek advice from South Wales Police on what steps they can take to promote the prevention of crime and disorder. Operating Schedules should include the measures intended to be deployed in preventing crime and disorder.

Licence holders should have clear documented policies and procedures in place which identify all crime and disorder risks associated with their premises together with the measures to be implemented to prevent, manage and respond to those risks. Relevant factors that may be taken into consideration (where appropriate) when formulating these plans could include:-

- Provision and maintenance of CCTV systems
- Staff training with regards to crime prevention measures and conflict management
- Use of security radios
- Provision of door staff licensed by the Security Industries Association
- Measures to verify customers age
- Use of external lighting (although care should be taken to avoid light nuisance to neighbours)
- Membership of a recognised pub watch scheme
- Restricting sales of alcohol with the provision of food
- Measures employed to prevent the consumption and/or supply of illegal drugs and new psychoactive substances
- Frequent staff briefings
- Effective door policies including search policies, managing capacities, managing queuing, ejection/refusal procedures
- The use of plastic or polycarbonate drinking vessels instead of glass for instances during major events in Cardiff
- Clearly displayed door admission policies – including age restrictions dress codes
- Dispersal policies.

Please note that the above measures are examples only to assist and guide applicants when drafting their operating schedules in respect of their application. This list is not exhaustive and will not be used by the Licensing Authority to create standard conditions. All applications are considered on their own individual merits.

## **Off- Sales of alcohol**

The City of Cardiff Council has implemented an Alcohol Consumption in Designated Public Places Order throughout Cardiff to help prevent numerous problems caused by public consumption of alcohol. Street drinking can be a major cause of anti social behaviour, often involving underage persons, giving rise to disorder, concerns over public safety and harm to children. Furthermore, consumption of alcohol by persons on the way to on-licensed premises could give rise to problems of drunken and disorderly behaviour. The problems of street drinking are generally worse within the City Centre.

Designation as a controlled drinking zone provides the police with powers to require a person in such areas not to drink alcohol and to surrender any alcohol or alcohol containers (other

than sealed containers) in their possession. The ban has no effect on a properly licensed event where the consumption of alcohol is permitted by the licence, for example a licensed event within a park. While it is not an offence in itself to drink alcohol in a designated area, failure to comply with an officer's requirements in respect of public drinking or to surrender open vessels of alcohol without reasonable excuse, is an arrestable offence.

Careful consideration will be given to applications for licences with off-sales of alcohol in areas where there is evidence of problems of street drinking or disorder. Where representations are received in respect of such applications the Sub-Committee must be satisfied that granting the licence will not have a negative effect on any of the licensing objectives.

Applicants are advised to give particular consideration to the hours that they are applying for and the type of alcohol products they are offering. Persons who are alcohol dependent may be drawn to particular premises if they are licensed to sell alcohol at earlier/later times than other nearby premises.

## Drinking Vessels

In the City Centre or in areas close to large sporting venues, it may be necessary for licensees to implement restrictions on the types of drinking containers used in the interest of the licensing objectives. Such restrictions should be listed in the Operating Schedule when an application is made, however no restriction should compromise trading standards.

Glasses and glass bottles containing drinks may be used as weapons during incidents or disorder, inflicting serious harm. South Wales Police publish details of Cardiff's major event days on the website [www.ourbobby.com](http://www.ourbobby.com).

Suitable conditions can help reduce both harm and disorder and prevent persons from seeking to review a Licence. The Government believes that a risk-based, rather than a blanket approach in requiring licensed premises to use safer alternatives is the best way to tackle the problem of glass-related injuries.

### Key message

**Risk based consideration should be given to the use of non-glass drinking vessels, especially in the City Centre on days designated as 'Major Events' by South Wales Police.**

## Discounting and Sales Promotions

The inappropriate use of discounted drinks and sales promotions in premises licensed for the sale of alcohol has the potential to promote drunkenness and disorder. Applicant's and Licence Holders are therefore encouraged to adopt locally or voluntary industry Codes of Practice to minimise problems of crime and disorder arising from irresponsible discounting of drinks and sales promotions.

It is a mandatory condition that irresponsible drinks promotions are not carried out, where that promotion is carried on for the purposes of encourage the sale of alcohol on the premises.

### **‘Traffic Light System’**

The ‘Traffic Light System’ addresses alcohol related crime and disorder in licensed premises by taking account of data from Police and health service sources and categorising premises according to objective evidence. The system provides a management tool in reducing crime and disorder and has been agreed by all parties including the Cardiff Licensees Forum.

The ‘Traffic Light System’ exploits a data sharing protocol between the Safer Capital partnership and the University Hospital of Wales/NHS Trust who together provide detailed information on the time, place and nature of alcohol related crime and disorder.

Pubs and clubs in Cardiff City Centre are graded according to their size, location and capacity and are subsequently split into three categories, small, medium and large. Data on alcohol related crime and disorder are analysed on a monthly basis taking into account data from the previous six months. Points are allocated as set out below. The total number of incidents for each venue places the premises into a red (immediate action), amber (monitor closely), green (no concerns) category.

If a premise is found to be in the RED ZONE, they are assigned a dedicated licensing officer who meets with the premises management to draw up a specific, measurable, achievable, realistic and time framed (SMART) action plan that will seek to improve the premises promptly. Improvements are carefully monitored and the points system is used as an outcome measure together with compliance of the action plan. Lack of demonstrable improvement in safety levels results in enforcement action taken against the Designated Premises Supervisor.

In cases where there is no improvement and any of the licensing objectives are not being promoted, the premises may be referred for consideration to the Licensing Sub-Committee by way of a Review application.

## **7.4B Public Safety**

Applicants are expected to have regard to the layout and intended use of their premises, and provide details of how they plan to ensure the safe use of their premises and promote the public safety objective within their Operating Schedule.

Applicants are legally responsible for complying with a range of legislation relating to public safety, such as the Health and Safety at Work Act 1974, the Regulatory Reform (Fire Safety) Order 2005 and conducting suitable and sufficient risk assessments of their activities under both. Since the Regulatory Reform (Fire Safety) Order 2005 came into force in 2006, any conditions imposed by the Licensing Authority that relate to any fire safety requirements or prohibitions that are or could be imposed by the Order, automatically cease to have effect.

Failure to comply with the provision of the Regulatory Reform (Fire Safety) Order 2005 or any other Health and Safety legislation could have a negative effect on the public safety objective, prompting representations from the relevant responsible authorities. It is therefore recommended that applicants seek appropriate advice on public safety matters prior to operating the premises or before implementing variations.

Such relevant factors that may be taken into account can include:-

- Emergency access
- Facilities for disabled people, in particular in emergency situations
- Provision and levels of general and emergency lighting
- Checks on equipment at specific intervals
- Use and ratio of doorstaff
- Steps taken to manage the risks from glass, e.g. Use of bins, type of drinking vessel, glass collectors etc.
- Measures taken to prevent overcrowding, e.g. Recording customer numbers
- Seating arrangements, e.g. Specified number/floor area used for seating
- Suitable internal and external lighting especially on stairs and entry/exit routes
- Comprehensive staff training in areas such as first aid, fire safety procedures, evacuation procedures, security threats, overcrowding
- Any other measures considered appropriate to promote the licensing objective of public safety.

Please note that the above measures are examples only to assist and guide applicants when drafting their operating schedules in respect of their application. This list is not exhaustive and will not be used by the Licensing Authority to create standard conditions. All applications are considered on their own individual merits.

The Licensing Authority may also consider it appropriate in terms of public safety and disorder to impose a condition stating the maximum capacity of premises in circumstances where relevant representations have been received and a safe capacity has not been imposed through other legislation.

### Key message

**The Licensing Authority does not seek to duplicate requirements of other health and safety legislation, but it may consider steps to promote public safety where it is considered appropriate and when relevant factors/risks are not adequately addressed by other legislation**

## 7.4C Prevention of Public Nuisance

Applicants are expected to have regard to their proximity to residential properties or other business premises and how they intend to promote the licensing objective of prevention of public nuisance within their Operating Schedules.

There are very few solely commercial areas within Cardiff. Residential dwelling are commonly located above and next to licensed premises outside the City Centre. Problems may present themselves from premises located both in the main shopping areas of the City and also in residential areas that may require special consideration with regard to noise and nuisance.

Leisure and entertainment activities have become an accepted part of modern life, employing many people and adding vitality to commercial areas. They are vital to a thriving and successful society, and to the economic wellbeing of the City. All too often however, anti social behaviour problems experienced within the City are linked to the late night element of the industry which can contribute significantly to the fear of crime, economic deprivation and a loss of pride in the local area. The Licensing Committee must be mindful of these factors and seek to ensure that a fair balance is struck between the provision of facilities and the possibility of nuisance being caused.

The Licensing Authority considers that applications for late night bars, nightclubs and vertical drinking establishments would not usually be accommodated in residential areas due to the likelihood of disturbance.

Noise and nuisance arising from the operation of licensed premises will be considered. This will include not only the type of licensable activity taking place, for example, the playing of music, but also other wider issues that may cause disturbance such as patrons leaving the premises, either on foot or by car, or the disposal of refuse which must be carried out at reasonable time.

Operators should take particular care to ensure that customers using external drinking areas, smoking areas or the pavement outside, do not cause unnecessary nuisance to local residents. It is suggested that the terminal hour for external areas that are in close proximity to residential properties does not exceed 21:00hrs.

Careful consideration should also be given to determining suitable external areas for smoking. Ideally designated smoking areas should be sited at the furthest distance from residential properties and cigarette bins should be provided. Furthermore operators should also ensure as far as possible that large numbers of their customer do not block pavements, thereby causing pedestrians to step out into the roadway.

Where off-sales of alcohol and/or takeaway food sales are permitted at a licensed premises, operators should recognise their responsibility to ensure that litter discarded by their customers in the vicinity of their premises is cleared away regularly and that bins are provided.

Existing licensed premises do in the main, cause few problems of noise and nuisance while operating at their existing hours. However, leisure and entertainment premises that wish to apply for longer licensing hours for the sale of alcohol and public entertainment may be most appropriately located in:-

- The City Centre
- Inner Harbour (Mermaid Quay area), Cardiff Bay.

Applications for Premises Licences may also be acceptable in other commercial or business areas, depending upon the character of the area and whether there are residential properties nearby.

In order to avoid representations being made it is in the interests of applicants to propose stricter conditions with regard to nuisance control for licensed premises in areas that have denser residential accommodation within their Operating Schedules.

Licence Holders should have clear documented policies and procedures in place that identify all public nuisance risks associated with their premises together with 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 deal with problems as they arise.

Relevant factors and considerations that may be taken into account when formulating such policies, procedures and operating schedules include:-

- Use of soundproofing measures to reduce noise and vibration emanating from the premises. Such measures may include the installation of an acoustic lobby, air conditioning, keeping windows and doors closed, sound limitation devices
- Restricting entertainment in external areas
- Suitable customer signage
- Steps taken to prevent noise from customers arriving/leaving the premises by foot or in vehicles which may include consideration of customer parking, taxi arrangements, dispersal arrangements etc
- Measures taken to prevent and manage queuing
- Proximity to noise sensitive premises such as residential properties, nursing homes, hospices, places of worship
- Arrangements for deliveries or waste collections and the positions of areas used
- Consideration of noise reduction measures and a suitable terminal hour if external areas of the premises are in close proximity to residential properties Consideration should also be given to the position, volume and hours of use of external speakers or TVs.
- Position and hours of use of external areas such as beer gardens and the provision of smoking areas
- Use and siting of external lighting and security lighting in respect of neighbouring properties
- History of previous noise complaints, whether there are existing problems, and the applicant's willingness/ability to prevent nuisance

- Positioning of litter and bottle bins and frequency of emptying the bins, including the disposal of cigarette litter
- Steps taken to prevent fly posting and the distribution of flyers
- Removal of graffiti
- Implementation of customer dispersal policies
- Other relevant activities likely to give rise to nuisance

The above measures are examples only to assist and guide applicants when drafting their operating schedules in respect of their application. This list is not exhaustive and will not be used by the Licensing Authority to create standard conditions. All applications are considered on their own individual merits.

Applicants may wish to consult their staff, customers, local residents, local businesses, the Police and the Pollution Control Service of the Council before finalising their Operating Schedules.

It is recommended that applicants also read Section 3.1 in respect of the deregulation of regulated entertainment. Premises Licence conditions will not apply during performance of unregulated entertainment

## Outdoor events

A number of outdoor events take place in Cardiff every year. These include concerts, fetes and sporting events which are enjoyed by communities and visitors to the City. It is important to ensure that these events benefit local communities but at the same time do not cause nuisance to nearby residents.

If an event requires a Temporary Event Notice or a Premises Licence, applicants are recommended to discuss the event with Environmental Health and South Wales Police Licensing Team.

Larger events may need consideration by the Council's Events Liaison Panel to ensure all aspects of the event have been considered and the event takes place safely without causing nuisance.

When managing noise at outdoor events, operators should consider the following:-

- The position and direction of external speakers/PA equipment in respect of residential properties
- The operating hours of the event
- The hours of construction and de-rig of any equipment such as marquees, stage, etc.
- Undertaking background noise surveys prior to the event and setting appropriate noise levels. This may include consideration of the Code of Practice on Environmental Noise Control at Concerts
- Whether expert advice from an acoustic consultant is required
- Details of any noise monitoring to take place during the event and corrective action where agreed levels are exceeded
- The location and hours of use of any plant equipment such as generators

- The location of lighting in respect of residential properties
- The provision and location of waste bins and arrangements for collection
- Communication with local residents and businesses.
- The use of fireworks/outdoor displays and the potential impact on local residents
- Providing contact details to the Pollution Control Section in case of any complaints so that they can possibly be rectified at the time.

## 7.4D Protection of Children from Harm

In carrying out its duty to protect children, the Licensing Authority has determined that the responsible authority for the protection of children is the City of Cardiff Council's Children's Services.

The Licensing Authority believes that the admission of children to any premises should remain a matter of discretion for the licence holder and as such will not impose conditions requiring such admission. It will however encourage the provision of facilities for children and family friendly policies in licensed premises in accordance with the requirements of the Act.

The Authority will also not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them.

The Licensing Authority would expect additional measures or may impose additional conditions to protect children where:-

- Any member of the current staff is convicted of serving alcohol to minors, or
- The premises has a known association with drug taking or dealing;
- A strong element of gambling (other than by way of amusement with prize machines) takes place on the premises; or
- Where entertainment of an adult or sexual nature is commonly provided; or
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the service provided

In these circumstances, it is likely that a combination of limitations will be imposed, rather than a complete ban. These could include a limitation on the hours when children may be present, age limitations and restrictions or conditions requiring an accompanying adult and exclusion of children (under 18s) from certain parts of the premises during certain activities.

Competent adult supervision is required at any regulated entertainments attended by unaccompanied children, such as under 18s nights in nightclubs. In addition to any parents present, a sufficient number of attendants must be employed to control the access and egress of children and to protect them from harm. Where children attend as entertainers, there should be a responsible adult present.

For the purposes of this Statement, an attendant is any competent adult person employed or engaged either individually or through an agency, by the licensee, to control access to the regulated entertainment to assist children entering or leaving the premises and to maintain good order and decent behaviour within and in the vicinity of the premises. Attendants who are not registered with the Security Industry Authority may only be used with the written permission of the Licensing Authority.

There is an expectation that licensees implement effective and appropriate measures to ensure age restrictions are enforced at their premises. Relevant considerations include:-

- Details of the forms of ID that are acceptable
- The use of till prompts
- The maintenance of refusal logs

These measures should be backed up by the provision of comprehensive documented staff training.

The Portman Group operates on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. The Licensing Authority commends the Code to all applicants and licence holders.

## Exhibition of films

Where the exhibition of films is permitted, the authority will expect the mandatory conditions imposed by the Act to be complied with and age restrictions to be in place in accordance with the British Board of Film Classifications. Only in exceptional cases will variations of this general rule be considered by the Licensing Authority.

Requests for certification of unclassified films should be made to the Licensing Authority at least 28 days in advance of the proposed screening date. Requests should include:-

- A DVD copy of the film
- Details of any existing classification issued by an existing classification body, whether within or outside the UK
- A synopsis of the film identifying the material within the film considered by the exhibitor to be likely to have a bearing on the age limit for the audience for exhibition of the film.
- Any recommendation made by the film maker upon age limit for the intended audience for exhibition of the film.
- Proposal of age restriction by the applicant.

The Licensing Authority shall concern itself primarily with the protection of children from harm when classifying films.

## 7.5 Negative Cumulative Impact

Cumulative impact is defined in the Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003 as “the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a Licensing Authority to consider in developing its licensing policy statement”.

The cumulative impact of the number, type and density of premises in particular areas such as the City Centre may lead to them becoming saturated with premises of a certain type, making them a focal point for large groups of people together leading to severe or chronic problems of crime and disorder, public nuisance, anti social behaviour, and matters relating to public safety.

In relation to applications for the grant or variation of a Premises Licence or Club Premises Certificate the Licensing Authority will consider representations from other persons and responsible authorities stating that they believe that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. The onus will be on the individual or organisation making such a representation to provide an evidential basis for it.

Furthermore, the Section 182 Guidance allows the Licensing Authority to make a policy, within its Statement of Licensing Policy, to deal with cumulative impact. Where there is evidence that the number of licensed premises in an area has had a negative cumulative effect upon crime and disorder, public nuisance, and public safety, the Licensing Authority will consider making a Cumulative Impact Policy (CIP). It will make such a Policy only after it is satisfied that there is evidence to support it.

A Cumulative Impact Policy has been made in Cardiff in respect of Cardiff City Centre and appears in Part 8 of this Statement of Licensing Policy.

The effect of adopting a Cumulative Impact Policy of this kind is to create a rebuttable presumption, provided that relevant representations are received, that applications for new Premises Licences or Club Premises Certificates or material variations of them will normally be refused, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced. What constitutes a material variation will depend upon the policy in place and the reasons for the area being designated as suitable for adoption of a Cumulative Impact Policy.

Applicants will need to address the cumulative impact policy issues in their Operating Schedules in order to rebut the presumption. However it must be stressed that a Cumulative Impact Policy does not relieve responsible authorities or interested parties of the need to make a relevant representation before the Licensing Authority may lawfully consider giving effect to its cumulative impact policy. If it receives no relevant representations 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.

## 8. City of Cardiff Council Cumulative Impact Policy

Having regard to the Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003, the City of Cardiff Council as Licensing Authority has consulted upon the issue of cumulative impact. It has taken into account the views of respondents and considered the evidence and has adopted a Cumulative Impact Policy in respect of the **City Centre area**.

The Cumulative Impact Policy applies to applications for grants and full variations of Premises Licences and Club Premises Certificates in the circumstances set out in Table 1 and Table 2. The effect of Table 1 and Table 2 is more fully described below.

When the Policy applies it creates a rebuttable presumption that where relevant representations have been received the application will be refused or subject to certain limitations unless the applicant can successfully demonstrate that the premises will not add to the negative cumulative impact on one or more of the licensing objectives.

The Licensing Authority takes the view that where relevant representations are received in respect of an application for a premises that is adjoining or is in close proximity to (but not within) the Cumulative Impact Area (CIA)'s defined boundary, and where those representations raise a material impact on the CIA, then the Cumulative Impact Policy will be applied if the Licensing Sub-Committee reasonably judges that to grant the particular application would add to the cumulative impact being suffered in the defined area.

### Key message

**This Cumulative Impact Policy is not absolute. The circumstances of each application will be considered on its merits and the Licensing Authority will grant licences and certificates that are unlikely to add to the negative cumulative impact on the licensing objectives.**

It must be stressed that the presumption to refuse an application does not relieve the responsible authorities or 'other persons' of the need to make a relevant representation, referring to information which was before the Licensing Authority when it made this Policy. If there are no representations the Licensing Authority must grant the application in terms that are consistent with the Operating Schedule submitted.

The Licensing Authority will review the Cumulative impact Policy periodically with the Police to assess whether it is needed any longer or needs amending.

## Evidence

When determining the City Centre, the Licensing Authority has had regard to the following evidence:-

- Crime and disorder figures, particularly alcohol related
- Alcohol related injuries reported to A&E/Alcohol Treatment Centre
- Last drink data
- Noise complaints
- The number, type and hours of licensed premises
- Residential proximity and density
- Views of residents, businesses and licence holders.

## Consideration of other initiatives and partnership working

There are a number of measures in place in Cardiff that are aimed at providing a safe environment and minimising problems of crime, disorder and nuisance. These measures have been taken into account when determining the CIA. They include:-

- A Designated Public Places Order is applied to the whole of Cardiff. The Order provides the Police with the power to require a person in the designated area not to drink and to surrender any alcohol or alcohol containers (other than sealed containers) in their possession.
- Pedestrian and Road Closures – Large parts of the City Centre are pedestrianised to separate pedestrians and vehicles and promote public safety. Furthermore, due to the increased number of visitors to the City Centre on major event days there are additional road closures in place. Night time road closures also exist around the Greyfriars Road area of the City Centre to protect members of the public who have been visiting the licensed premises in that area.
- Taxi Marshalls are employed at a number of the main taxi ranks to aid dispersal of customers from late night premises.
- The Alcohol Treatment Centre led by Cardiff and Vale University Health Board operates within the City Centre providing treatment to heavily intoxicated patients in the locality. The Centre eases pressure on the hospital's Emergency Unit and whilst also offering patients the opportunity of viewing footage of their drunken behaviour before leaving, in a bid to make them consider their safety and highlighting the health risks of excessive drinking.
- Cardiff Licensee's Forum is an organisation representing licensed premises in the City Centre and Cardiff Bay. The Forum meet to share information and good practice and to create good communication links between licensed premises, the Police and the Council.
- The majority of licensed premises in the City Centre have a radio system linked to the Police Control room where they can provide/request information or require assistance.
- Pubwatch Schemes
- The Traffic Light System led by South Wales Police provides a management tool to monitor levels of crime and disorder at licensed premises. Further details can be found on page 32.

- Vulnerability Training is provided by South Wales Police to staff at licensed premises, in particular door staff. The training assists participants in identifying people who could be considered as 'vulnerable' usually due to being under the influence of alcohol, and provides advice on what action should be taken to safeguard these people.
- Restrictions through planning controls
- Provision of CCTV in public areas
- Enforcement powers available to the Police, Licensing Officers and Trading Standards Officers under the Licensing Act 2003.

The Licensing Authority is satisfied that in the Cumulative Impact Area there is evidence to support the implementation of the Cumulative Impact Policy and, after taking into consideration other existing initiatives, that it is proportionate and the most effective measure to address the problems identified.

## Applications

The CIP applies to applications for Grant and Full Variation of Premises Licences and Club Premises Certificates in the circumstances set out in Table 1 and Table 2. The Policy creates a rebuttable presumption that, where relevant representations have been received, any of these applications will be refused or subject to certain limitations, where relevant representations have been received, unless the applicant can successfully demonstrate that the premises will not add to the negative cumulative impact on one or more of the licensing objectives.

When making a decision on an application in a CIA, the Licensing Authority will have regard to CIP Table 1 in determining whether the CIP applies to that application. Where Table 1 indicates that the CIP applies to an application, the rebuttable presumption of refusal applies as explained above.

Table 2 provides a brief definition of each premises type for the purpose of the CIP and explains the 'core hours' and 'additional measures' restrictions in respect of premises applications classed as 'amber'.

The CIP does not normally apply to premises types categorised as 'green' in Table 1.

The Policy will not apply to premises which are 'amber' if the application is limited to the 'core hours' and the 'additional measures' mentioned in Table 2 are adequately addressed in the accompanying Operating Schedule.

The CIP applies to premises types categorised as 'red' in Table 1.

It should be noted that a green or amber category does not make the application immune from representations from responsible authorities or other persons. All relevant representations will be considered by the Licensing Sub-Committee and the application determined on its merits. Those green/amber applications that would normally fall outside the CIP will be treated as a 'standard' application and the rebuttable presumption of refusal created by the CIP will not apply. However this Policy is not absolute. Each application will be determined individually on its merits and the Licensing Authority shall permit licences and

certificates that are unlikely to add to the cumulative impact on the licensing objectives to be granted.

Applicants are expected to address the effects of the CIP in the Operating Schedule. They are expected to clearly demonstrate how the operation of the premises would not add to the negative cumulative impact being experienced in the area.

### **Premises with combined use/premises undefined type**

Certain applications will not fall neatly into one of the categorised premises types or they may have a combined use. For example, there may be instances where a premises operates as a restaurant by day and a bar a night, or there may be a pub that has a strong emphasis on food sales.

This Policy cannot cover all eventualities. Each application will be determined on its own merits and in taking a view of whether the CIP applies the Licensing Authority will take into consideration the primary use of the premises, the licensable activities applied for, and the licensable hours.

#### **Key message**

**The Licensing Authority expects applications for premises within the Cumulative Impact Area to be exceptional. The authority does not consider that premises that are well managed and fully compliant with their licensing conditions and all relevant legislation to be 'exceptional'. This is what is expected of all licensed premises.**

**Table 1**

<b>Premises Types (See criteria in Table2)</b>					
<b>Area:</b>	<b>Ancillary alcohol sales</b>	<b>Pubs/Members Clubs/Bars/ Nightclubs</b>	<b>Restaurants</b>	<b>Takeaways/Fast Food Restaurants</b>	<b>Off-Licences</b>
<b>City Centre</b>	<b>No CIP (Green)</b>	<b>CIP applies (Red)</b>	<b>CIP only applies if the application is outside the 'Core Hours' or the applicant is unwilling to adopt the 'Additional Measures' (Amber)</b>	<b>CIP applies (Red)</b>	<b>CIP only applies if the application is outside the 'Core Hours' (Amber)</b>

**Table 2**

Premises Type	Criteria
<p><b>Ancillary Alcohol Sales</b></p>	<p><b>For the purpose of this policy: Venues where the sale of alcohol is ancillary to the main purpose of the premises, and alcohol sales make up a small percentage of the business.</b></p> <p>This may include:</p> <ul style="list-style-type: none"> <li>• Cinemas</li> <li>• Theatres</li> <li>• Bowling alleys, hairdressers, florists</li> <li>• Hotels/B&amp;Bs where alcohol is provided for consumption on the premises by people staying in overnight accommodation</li> <li>• Art galleries.</li> <li>• Workplace Bar solely for use of employees of the premises</li> </ul> <p>This does not include:</p> <ul style="list-style-type: none"> <li>• Sexual Entertainment Venues</li> <li>• Hotel bars with public access (not just available to customers staying in overnight accommodation)</li> </ul>
<p><b>Takeaways/Fast food outlets</b></p>	<p><b>Premises that provide late night refreshment either by way of take away for immediate consumption, or fast food on a counter or self seating basis.</b></p>
<p><b>Pubs/Bars/Nightclubs</b></p>	<p><b>Premises which supply alcohol primary for the consumption on the premises, with or without the provision of off sales and with or without the provision of regulated entertainment. This also includes premises where hot food and hot drink are provided for consumption on or off the premises</b></p>

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**Off-Licences****Premises that supply alcohol primarily for the consumption off the premises**

This includes convenience stores and supermarkets.

**Core Hours:**

City Centre CIA Only:

Sale of alcohol: 07:00 -21:00

**Restaurants****Premises which primarily supply substantial table meals for consumption on the premises and dining is the main activity for customers.**

The Policy will not apply to restaurants if the core hours and additional measures form part of the operating schedule

Fast food premises and takeaways are **not** considered as 'restaurants' for the purpose of this Policy.

**Core Hours:**

Sale of alcohol

09:00 – 01:00

**Additional Measures:**

At least 70% of the public space is occupied by tables and chairs

All meals are consumed at tables with non disposable crockery

The sale of alcohol for consumption on the premises is ancillary to the taking of a substantial table meal

There is no self-seating; customers are shown to their table by staff.

All food is served by waiter/waitress service, with the only exception of buffet-style restaurants.

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## 8.1 CIA: City Centre

### Main Aims of the Cumulative Impact Policy in the City Centre

The policy aims to reduce incidents of alcohol related problems, crime and disorder, public nuisance, and risks to public safety, particularly late at night. It aims to discourage an increase in the number of late opening premises primarily concerned with the sale of alcohol and takeaways/late night refreshment premises with the intention of ensuring that the City Centre is a safe environment for people visiting, working and living in the area.

The Licensing Authority recognises that a problem area can be improved by the introduction of new styles of business types, such as food led premises, or high quality/speciality enterprises, rather than vertical drinking establishments.

#### Key message

The Policy aims to encourage diverse, well-run licensed premises (to an exceptional standard), where the main focus of the premises is not high volume consumption of alcohol.

Family friendly premises are encouraged together with cafes and restaurants with the exception of fast food premises that aim to attract late night revellers.

#### Background

Cardiff's City Centre has a thriving day and night time economy with an average daily footfall of 70,000 and an annual footfall of 40 million. People are drawn to the City Centre for its numerous shops, bars, restaurants and entertainment venues including the Millennium Stadium, all of which are situated in a small walkable area. The City Centre has an extremely high density of licensed premises with 314 premises in a 0.5 square mile area.

The night-time economy is busiest on Friday and Saturday nights and includes a mixture of local people from Cardiff and the surrounding areas, tourists, hen/stag parties, and students. A number of the licensed premises also promote 'student nights' on various nights of the week.

Footfall in the City Centre swells to 135,000-150,000 on event days in the Millennium Stadium such as the 6 Nations Rugby matches, which results in many of the pubs and bars being full to capacity throughout much of the day and night. These 'major event days' also see increased levels of crime and disorder and hospital/ATC admissions in the City Centre.

There are two main areas within the City Centre that are the main focus of late night entertainment and drinking. These are St Mary Street/High Street area and the Greyfriars Road area which historically had dedicated special policies. Outside these areas, there are also large numbers of licensed premises and high levels of alcohol related crime and disorder across the City Centre. With this in mind and the future redevelopment of the Central Square area the Licensing Authority has extended the CIA to include the whole of the City Centre (as shown on Map 1 on page 53). The locations of licensed premises in the City Centre are shown on the plans in Appendix D.

It has been widely reported in the media over the years that there are problems of crime and disorder in Cardiff City Centre associated with the night-time economy. South Wales Police has provided statistical data that demonstrates that the City Centre area has high highest levels of crime and disorder, however the data does not distinguish alcohol related crime specifically. It is often difficult to categorise alcohol-related crime as it may be recorded as a number of different offences such as anti social behaviour, violent crime and public order offences. Furthermore an offence could be caused by offender who is drunk (who may not even be identified or caught for the offence) or it could be a victim of a crime has been targeted due to being in an intoxicated state.

Despite this the data demonstrates that there are high levels of crime and disorder in the City Centre especially at night and on weekends when people are visiting the City Centre due to the night time economy and the presence of licensed premises.

The close proximity of licensed premises in the area can result in difficulties in identifying individual premises responsible for causing problems. This sometimes makes it difficult to deal with problems by way of an action plan at specific premises or through the Premises Licence review process.

Streets within the City Centre with relatively lower numbers of licensed premises such as Queen Street and The Friary still have high crime figures that demonstrate the cumulative impact of the licensed premises in the City Centre area.

## Reasons for the Policy in the City Centre

There are a number of problems in the area caused by the cumulative effect of large numbers of licensed premises. These problems undermine the licensing objectives of:

- Prevention of crime and disorder
- Prevention of public nuisance
- Public Safety.

The CIP is in place to minimise these problems and further promote these objectives.

### Pub/bars/nightclubs

Data collected to assist the formulation of this policy indicates that premises in the City Centre that primarily serve alcohol (with or without ancillary entertainment) contribute to problems of alcohol related crime and disorder in the premises or in the surrounding streets as people leave. Whereas anti-social behaviour across Cardiff has decreased since 2010/11, it has actually increased in the City Centre by 6%. The main hotspot times for crime in the City Centre is Friday and Saturday evening until the early hours (5am/6am) of the next morning. It is therefore considered that premises offering later operating hours pose the biggest risk in terms of promoting the licensing objectives.

The data collected also suggests that due to the high density of licensed premises in the City Centre people tend to travel from premises to premises, and may have visited several licensed premises in the course of a night out. This can present difficulties in identifying individual premises that are the cause of problems of crime and disorder and creates a cumulative effect. This may include premises with earlier terminal hours that have contributed to customers being intoxicated and causing problems later in the night at other licensed premises or in the street. Therefore the policy intends to capture all grant and full variation applications in respect of pubs/bars/nightclubs regardless of their terminal hour.

Other factors that have been considered in the formulation of this policy include:

- A recent taxi demand survey indicates that the period of highest demand for taxis in the City Centre is between 2am and 3am every night of the week, which demonstrates the time at which the majority of late night revellers are leaving licensed premises to go home.
- St Mary Street, Queen Street, Greyfriars Road and Mill Lane have the highest levels of violent crime in Cardiff. However, Queen Street has no pubs, bars or restaurants yet it is consistently in the top 3 for the highest levels of violent crime in Cardiff. This is likely because of high footfall at night with people crossing the city from the St Mary Street and Greyfriars Rd/Churchill Way areas.
- Recent increases in the numbers of residential accommodation in the City Centre coupled with later opening hours also gives rise to the potential of noise nuisance. Residents trying to sleep may be disturbed by noise from entertainment at licensed premises or persons leaving those premises. This disturbance may be greater later at night or on weekday nights when the ambient background noise is lower. The Council's Pollution Control Service

receive around 30 complaints a year from residents in the City Centre regarding noise from commercial premises, the majority of which were concerned with amplified music from pubs, bars and nightclubs. Nearly 60% of city centre residents that responded to the Council's consultation regarding the City Centre CIP stated that they have trouble sleeping as a result of noise from licensed premises, the majority of which live on Westgate Street. Residents of Westgate Street agreed strongly with the suggestion of the introduction of a CIP in the City Centre.

The Licensing Authority is also concerned that the presence of large numbers of licensed premises makes the City Centre attractive to thieves and criminals who target people who are vulnerable due to intoxication from alcohol. Police evidence shows that there are large numbers of thefts (excluding shoplifting) taking place in the City Centre between 19:00 and 06:00, which occur in areas that have high levels of other crimes such as anti social behaviour and violent crime such as St Mary Street, Queen Street and Greyfriars Road.

## Off-Licences/Convenience Stores

In addition to the problems associated with alcohol related crime & disorder at licensed premises with on-sales of alcohol, there are also problems connected with off-licences due to the presence of street drinkers in the City Centre, particularly around the Central Square area which is due for re-development. The Council and South Wales Police have worked with licensees in the City Centre to try to reduce the sale of alcohol to street drinkers and those intoxicated but the problem remains.

Many of the off-licences within the City Centre are general convenience stores and alcohol makes up a small percentage of annual turnover. These stores are generally frequented by city centre residents and city centre workers/visitors on their lunch breaks and on their way home for predominantly food and household goods.

Off-licences that open later in the evening, or sell alcohol products attractive to street drinkers, are considered a higher risk of adversely affecting the licensing objectives. Alcoholic drinks such as super strength lager/cider, or single cans, or miniature bottles of spirits are attractive to people pre-loading or attempting to conceal alcohol into licensed premises, and it is recommended that this is considered by applicants when drafting their operating schedules. Earlier closing hours reduces the risk of pre-loading purchases by those intending to visit the pubs, bars and nightclubs in the City Centre.

### Key message

**Operators of off licence/convenience stores are advised to carefully consider their product lines in respect of alcohol to ensure they do not exacerbate problems of street drinking and pre-loading in the area. It is also advised that all staff that sell alcohol are appropriately trained with regards to proxy sales, age restrictions, and selling to people who are intoxicated.**

## Takeaways/fast food outlets

People leaving licensed premises often do not go straight home choosing instead to visit one of the many takeaways and fast food outlets in the City Centre, particularly Caroline Street which is densely populated with late night refreshment premises.

Takeaways and fast food outlets attract large numbers of intoxicated individuals which inevitably leads to problems of crime and disorder in and around those premises. Evidence provided by the Cardiff & Vale University Health Board shows that of those patients reporting to the City's Emergency Unit or Alcohol Treatment Centre as a result of an alcohol related activity on Queen Street, over 20% were reported from fast food outlets that were not licensed to sell alcohol.

The presence of takeaways/fast food outlets slows down the dispersal of people out of the City Centre, and leads to an increase in the number of people on the streets. This is supported by high levels of recorded crime and Health Board data which shows high levels of incidents in the Caroline Street area which is densely populated with takeaways and Queen Street which has 3 fast food outlets.

A survey of local residents indicated that one of the main problems relating to the night-time economy in the City Centre is litter. The City of Cardiff Council spends £20,000 providing additional bins on weekends to cope with the additional litter, much of which is generated from takeaways. It is reported that many of the litter 'hotspots' are in the Caroline Street/lower St Mary street area and in the vicinity of fast food outlets.

There is little evidence to demonstrate that traditional restaurants have a negative impact on the licensing objectives.

## Conclusion

The Licensing Authority has received satisfactory evidence (detailed in a separate annex) that the cumulative impact of licensed premises selling alcohol and providing late night refreshment from fast food outlets/takeaways in the City Centre area is undermining the promotion of the Licensing Objectives in relation to crime and disorder, public nuisance and public safety. The Licensing Authority is satisfied that the following factors are occurring in the City Centre as a result of the cumulative impact of licensed premises in the area:-

- Street drinking and associated anti-social behavior
- Crime hot spots as a consequence of late opening fast food premises
- Significant nuisance arising from Litter
- Excessive noise from licensed premises and on the street, particularly at weekends
- An undue number of targeted thefts of personal belongings and sexual assaults being perpetrated against people under the influence of alcohol
- An undue number of alcohol related injuries through violence or accidents resulting in attendance at the Emergency Unit or Alcohol Treatment Centre.

Therefore in the interests of minimising crime, disorder and nuisance and promoting public safety, to create a safe environment for people to enjoy the nighttime economy in Cardiff, the Licensing Authority considers it is appropriate for the Cumulative Impact Policy to apply to new and full variation applications in the City Centre area in Map 1 below for licensed premises classified as amber and red in Table 1 above.

## MAP 1: City Centre CIA Area



For clarity part or whole of the following streets are included in the CIA:

Bakers Row	Barrack Lane	Barry Lane
Boulevard de Nantes	Bridge Street	Bute Terrace
Canal Street	Caroline Street	Castle Street
Cathedral Walk	Central Square	Charles Street
Church Street	Churchill Way	Crockherbtown Lane
Customhouse Street	David Street	Duke Street
Dumfries Place	Frederick Street	Golate Street
Great Western Lane	Greyfriars Road	Guildford Crescent
Guildford Street	Guildhall Place	Havelock Street
Hayes Bridge Road	Hayes Place	High Street
Hills Street	Hope Street	Kingsway
Little Frederick Street	Love Lane	Mary Ann Street
Mill Lane	Millicent Street	Newport Road (part of)
North Edward Street	Park Lane	Park Place (part of)

Park Street  
Queen Street  
St John Street  
Stuttgarter Strasse  
Tredegar Street  
Victoria Place  
Wharton Street  
Windsor Lane  
Working Street

Penarth Road (part of)  
Saunders Road  
St Mary Street  
The Friary  
Trinity Street  
Wesley Lane  
Wharton Place  
Womanby Street

Quay Street  
Scott road  
Station Terrace  
The Hayes  
Union Street  
Westgate Street  
Windsor Place  
Wood Street

# Appendix A - Glossary of Terms

**Designated Premises Supervisor (DPS)** - The DPS is a Personal Licence holder specified on the Premises Licence. All premises licensed to sell alcohol must identify a DPS. The DPS should be the person in day to day control of the premises, and will provide a point of contact for responsible authorities.

**Other Persons** - 'Other persons' relate to any individual, body or business entitled to make representations to the Licensing Authority in respect of applications for the grant, variation, minor variation, or review of Premises Licences and Club Premises Certificates, regardless of geographic proximity to the premises.

**Late Night Refreshment** - The provision of late night refreshment refers to the supply of hot food or hot drink for consumption on or off the premises between 23:00 and 05:00 hours. Please refer to Schedule 2 of the Licensing Act 2003 for exemptions.

**Licensable Activities** - Those activities under the Licensing Act 2003 which require a licence from the Licensing Authority, namely: *the sale by retail of alcohol; the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club; the provision of regulated entertainment; the provision of late night refreshment*

**Licensing Authority** - This refers to the City of Cardiff Council as the body responsible for licensing under the Act

**Licensing Sub-Committee** - The sub-committee is made up of 3 members of the full Licensing Committee.

**Personal Licence** - A licence granted to an individual that authorises that individual to supply alcohol, or authorise the supply of alcohol in accordance with the Premises Licence

**Regulated Entertainment** - Schedule 1 of the Licensing Act 2003 sets out what activities are regarded as regulated entertainment:

- 1) A performance of a play
- 2) An exhibition of a film
- 3) An indoor sporting event
- 4) Boxing or wrestling entertainment
- 5) A performance of live music
- 6) A performance of recorded music
- 7) A performance of dance
- 8) Entertainment of a similar description to live music, recorded music or dance

**Relevant Representation** - These are written representations made by a responsible authority or other persons that relates to the likely effect of the grant/variation of the licence on the promotion of at least one of the licensing objectives. Representations are only valid if received during the statutory 28 day consultation period.

**Responsible Authorities** - Responsible authorities are public bodies that are notified of applications and are entitled to make representations in relation to applications for the grant, variation or review of a Premises Licence or Club Premises Certificate. They include:

- Licensing Authority
- Chief officer of police
- Fire Authority
- The enforcing authority for health and safety at work
- Local health board
- Planning authority
- The local authority responsible for minimising or preventing the risk of pollution or harm to human health
- The recognised body responsible for the protection of children from harm
- Trading standards

In respect of vessels only:-

- The Environment Agency
- The British Waterways Board
- The Maritime and Coastguard Agency, and if different from these:
- The relevant navigation authority/authorities for the place(s) where the vessel is usually moored or berthed or any waters where it is proposed to be navigated at a time when it is used for licensable activities.

**Section 182 Guidance** - Section 182 of the Licensing Act 2003 provides that the Secretary of State must issue and, from time to time, may revise guidance to licensing authorities on the discharge of their functions under the 2003 Act. The Guidance is provided for licensing authorities carrying out their functions. It also provides information for magistrates hearing appeals against licensing decisions and has been made widely available for the benefit of operators of licensed premises, their legal advisers and the general public. It is a key mechanism for promoting best practice, ensuring consistent application of licensing powers across the country and for promoting fairness, equal treatment and proportionality.

**Temporary Event** - A temporary event is defined as the use of premises for one or more of the licensable activities during a period not exceeding 168 hours usually where a Premises Licence covering the licensable activity is not in place

**Vertical Drinking Establishment** - Premises used primarily for, or exclusively for, the sale and consumption of alcohol, with little or no seating for patrons. A “high volume” type premises.

# Appendix B - Responsible Authorities

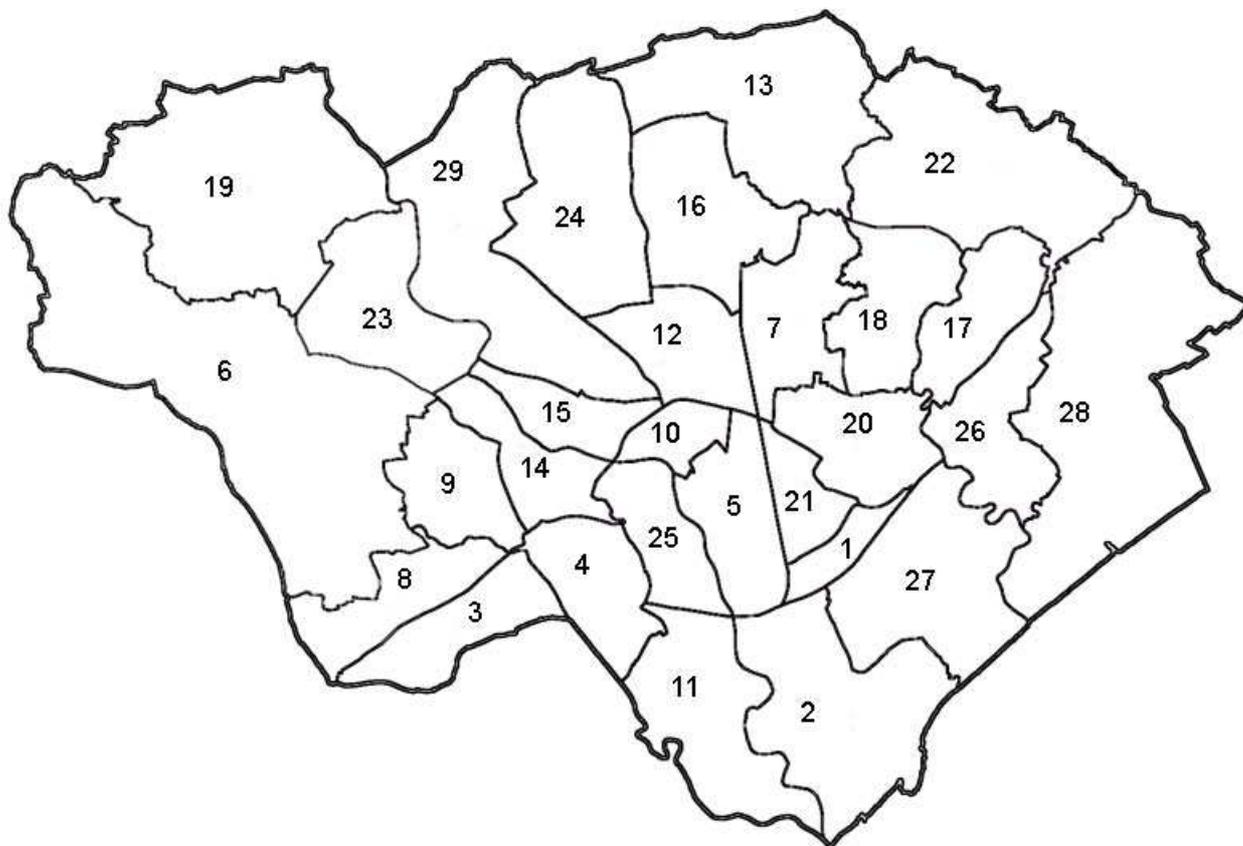
## Contact Details

Consultation with all Responsible Authorities is encouraged prior to the submission of the application. Where copies of applications have to be submitted to the Chief Officer of Police and/or the Responsible Authorities dependant on licence application type the following addresses should to be used:

<p>The Group Leader (Licensing) Licensing City of Cardiff Council City Hall Cardiff CF10 3ND 029 20871651 <a href="mailto:licensing@cardiff.gov.uk">licensing@cardiff.gov.uk</a></p>	<p>The Chief Officer of Police South Wales Police Licensing Department, Cardiff Bay Police Station, Eastern B.C.U James Street Cardiff CF10 5EW <a href="mailto:SWPCardiffLicensing@south-wales.pnn.police.uk">SWPCardiffLicensing@south-wales.pnn.police.uk</a></p>
<p>The Chief Fire Officer Fire Safety Department South Wales Fire and Rescue Service Headquarters Forest View Business Park Llantrisant Pontyclun CF72 8LX 01443 232520 <a href="mailto:Safety-south@southwales-fire.gov.uk">Safety-south@southwales-fire.gov.uk</a></p>	<p>The Operational Manager ,Development Management Development Management Cardiff Council County Hall Cardiff. CF10 4UW 029 20871135 <a href="mailto:development@cardiff.gov.uk">development@cardiff.gov.uk</a></p>
<p>The Operational Manager (Neighbourhood Services) (<a href="#">Noise Pollution</a>) City of Cardiff Council City Hall Cardiff CF10 3ND 029 20871856 or 20871675 <a href="mailto:Noise&amp;AirPollution@cardiff.gov.uk">Noise&amp;AirPollution@cardiff.gov.uk</a></p>	<p>The Operational Manager (Commercial Services) (<a href="#">Health and Safety</a>) City of Cardiff Council City Hall Cardiff. CF10 3ND 029 2087 2054 <b>(Premises where health &amp; safety is enforced by Cardiff County Council)</b> <a href="mailto:Health&amp;SafetyEnforcement@cardiff.gov.uk">Health&amp;SafetyEnforcement@cardiff.gov.uk</a></p>
<p>The Operational Manager Child Protection Unit Trowbridge Family Centre Greenway Road Trowbridge Cardiff CF3 1QS 029 20774642 <a href="mailto:childprotectionunit@cardiff.gov.uk">childprotectionunit@cardiff.gov.uk</a></p>	<p>The Operational Manager Commercial Services) (Trading Standards) Room 120 County Hall Atlantic Wharf, Cardiff CF10 4UW 029 2087 2054 <a href="mailto:tradingstandards@cardiff.gov.uk">tradingstandards@cardiff.gov.uk</a></p>

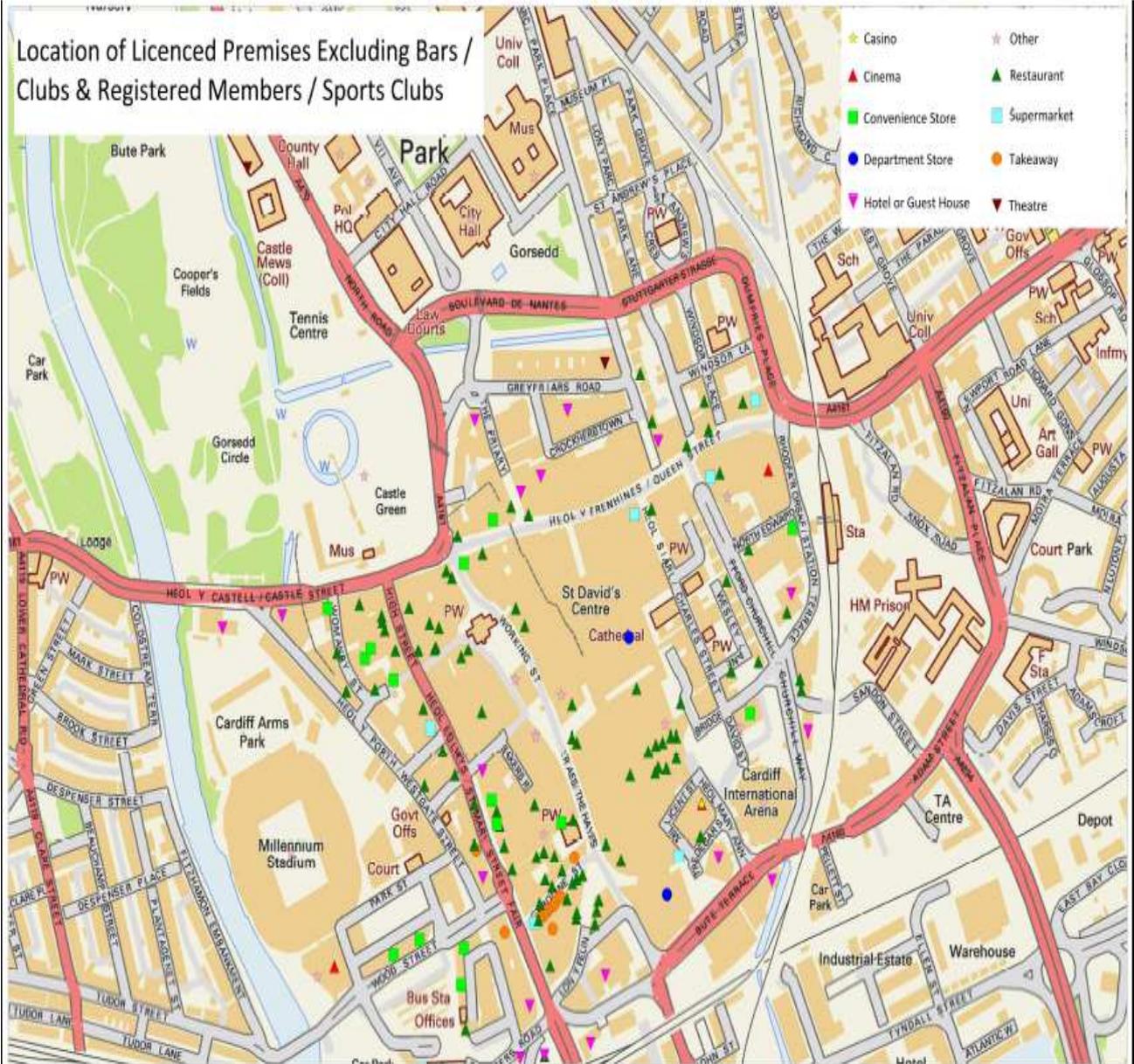
<p>The Operational Manager for Wales  Health and Safety Executive  Government Buildings  Ty Glas, Llanishen  Cardiff  CF14 5SH  029 20263000  <b>(Premises where health &amp; safety is enforced  by HSE)</b></p>	<p><b><u>For Cardiff Bay Vessels Only</u></b>  Cardiff Harbour Authority  Queen Alexandra House  Cargo Road  Cardiff  CF10 4LY  029 20877900</p>
<p>Dr Sharon Hopkins  Executive Director of Public Health  Cardiff and Vale University Health Board  University Hospital of Wales  Cardiff  CF14 7NB  <a href="mailto:sharon.hopkins3@wales.nhs.uk">sharon.hopkins3@wales.nhs.uk</a></p>	

## Appendix C: Map of City of Cardiff



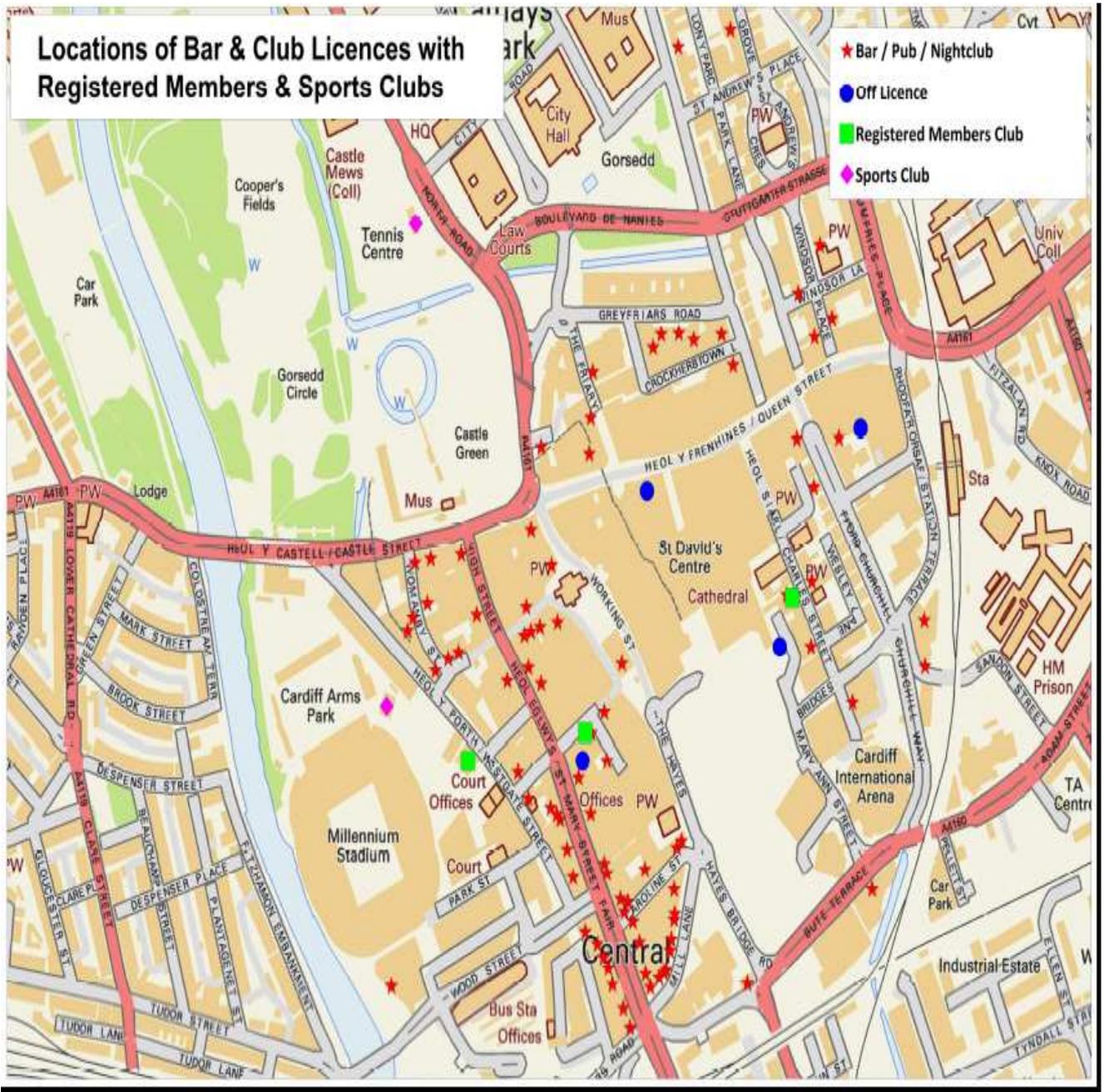
- |                         |                                  |
|-------------------------|----------------------------------|
| 1. Adamsdown            | 16. Llanishen                    |
| 2. Butetown             | 17. Llanrumney                   |
| 3. Caerau               | 18. Pentwyn                      |
| 4. Canton               | 19. Pentyrch                     |
| 5. Cathays              | 20. Penylan                      |
| 6. Creigiau & St Fagans | 21. Plasnewydd                   |
| 7. Cyncoed              | 22. Pontprennau & Old St Mellons |
| 8. Ely                  | 23. Radyr & Morganstown          |
| 9. Fairwater            | 24. Rhiwbina                     |
| 10. Gabalfa             | 25. Riverside                    |
| 11. Grangetown          | 26. Rumney                       |
| 12. Heath               | 27. Splott                       |
| 13. Lisvane             | 28. Trowbridge                   |
| 14. Llandaff            | 29. Whitchurch & Tongwynlais     |
| 15. Llandaff North      |                                  |

# Appendix D



# Locations of Bar & Club Licences with Registered Members & Sports Clubs

- ★ Bar / Pub / Nightclub
- Off Licence
- Registered Members Club
- ◆ Sports Club



## Draft Licensing Act Policy Consultation Responses

Date	Source	Details of Representation	Details of Amendment
13/09/15	Welsh Council – Wynford Ellis Owen	<p>The document is detailed and comprehensive, and the highlighted objectives are commendable. Where the document is disappointing is in its cold and legalistic tone, and it doesn't give an objective overview of the effect of alcohol on the consumer. There are moral, social, economic and health issues that are not referred to in the document. The LA would probably argue that such matters are not their direct concern, nor are such matters accommodated within licensing laws. The issue remains to be dealt with – who does ensure that the misuse of alcohol is seen as a collective concern?</p> <p>The police deals with the events on the street, the courts receive the cases where examples of violence must be punished, and the hospitals and medical centres respond to the physical damage of those who are drunk and injured. The long-term damage is another facet that society needs to confront. Yet the Licensing Authority can stand back and disclaim responsibility. The distillers and brewers would walk away from accepting liability. There needs to be a collective view on the welfare of the whole community, and this document fails to recognize the consequence of the over lenient attitude to the provision of alcohol in society.</p> <p>One accepts that restaurants and bars would keep an overview of behavioural concerns and would need to maintain certain standards from their staff and managers. They would have limited opening hours.</p> <p>The clubs seem to be less stringent in their discipline and probably the social problems are heightened in consequence.</p> <p>The document does not refer to the circumstances where an application would be refused. Would the Authority grant a licence to a grocery store that might be open at 5.00 am or where a shop would offer alcohol after 11.00pm in a residential area?</p> <p>Outside London, Cardiff is seen as the most attractive location to the south of Birmingham. Drawing alcohol based visitors may offer business to many in Cardiff, but surely the LA must take a broad view of all the alcohol related issues. How many hospital beds are occupied by alcohol related illnesses and how many cases in the Magistrates Courts are alcohol related?</p> <p>The document may be well written and within the letter of licensing laws, but it falls short of having a caring and protective mind-set of those who live in the communities of our city. We would encourage the relevant committee to revisit the document, especially with regard to the outlets where the customers don't drink on site and to the standards expected in the city centre clubs. The police, hospitals and social workers must have an input into the document, as the people who deal with the consequences on the other side of the street. A discussion with groups such as 'Street Pastors' and 'The Living Room Cardiff' could offer another insight before this document is rubber stamped for another three years.</p>	Licensing Act Policy is not the tool to deal with wider issues of alcohol misuse
22/09/2015	Matthew Phipps, TLT Solicitors	<p><b>Paragraph 2.1</b></p> <p>I think that the policy seeking to provide clarity for applicants is important, but I think it is to enable them to understand how to apply and how decisions are arrived at, as well as an understanding of the objectives. The matters that will be considered material ought to feature. Getting applicants to see and to understand the context in which licensing decisions are made could and should be an articulated feature?</p> <p>Where on page 6 of 61 you advise on consultation partners, there seems to be an available bullet for licensing solicitors!</p> <p><b>Key Message</b></p> <p>(Page 6 of 61) - although you may do it later I would have thought that you would want to articulate what might, or might not, be exceptional circumstances.</p>	<p>Licensing Solicitors added to bullet points</p> <p>Difficult to add example as each application determined on its own merits.</p>

	<p><b>Page 8 of 61</b></p> <p>I think it should be sports stadia not stadiums</p> <p><b>Paragraph 3.1</b></p> <p>Where reference is made to applicants being encouraged to make themselves aware of the relevant local crime prevention strategies (etc) perhaps these could and/or should be referenced by way of an on-line link later in the policy or perhaps there could be a page on the Cardiff City Council website directing people toward those various policies. Solicitors and licence holders with both time and resource to investigate these policies might well take advantage of the passing reference in the policy, but actually offering direct transparent lines of sight into these policies will benefit many more than just those who go to the extra time, trouble and expense of finding them.</p> <p>In the next paragraph where you make reference to contacting responsible authorities with details provided in appendix b of the policy I would have thought the same sort of thing could and should be offered for the policies mentioned above.</p> <p><b>Live Music Act and Deregulation</b></p> <p>Whilst this all looks correct as of 18 September, it may be worth treating that element as its own section within the policy and highlighting that the authority may reserve the right to revise that part of the policy (without the need to revise the entire policy) if, and/or when the legislation changes.</p> <p><b>Petrol/Service Stations</b></p> <p>I think you probably need to have another look at the prohibition on premises licensing for motorway or trunk road service areas. It is not particularly my area, but I think that it is only those that were configured as such before 1991 (?) certainly I know that Wetherspoons have applied for and obtained licences on motorways and/or significant service areas recently as have a number of off-licence premises (we applied for and obtained a premises licence for WH Smith in Cobham on the M25 last year).</p> <p>The key message for petrol service stations goes directly to the issue of trading figures which is of course drawn from the Shell Garage case, that is the leading case in "primary use" considerations. However, I think that as it is merely a case it is a precedent only for so long as it is not challenged in the Courts. I would have thought that the (better) key message would be that it is incumbent upon the applicant to produce satisfactory evidence to demonstrate that the primary use of the premises is not as a garage, how they chose to do that is a matter for them, would be a better articulation of what is required (and doesn't tie you down to something that risks becoming redundant).</p> <p><b>Grant and Full Variation Process</b></p> <p>The third bullet suggests that the notice needs to be on an A4 pale blue coloured notice. I don't think that is right. The requirement is that it is a blue notice but I don't think there is any restriction of it being on A4. You might also want to make reference to the fact that the font size is set out in the regulation as well.</p> <p><b>Page 14 of 61</b></p> <p>It seems to me that the primary message about what may trigger a review is an undermining of the licensing objectives. These may be evidenced through.... Noise problems, underage sales of alcohol (etc), but I think the fundamental point about the undermining of the licensing objectives probably needs to be made.</p> <p><b>Page 15 of 61</b></p> <p>In cases of serious crime and disorder at premises police may apply for a summary review (of course), but there ought to be reference to</p>	<p>Point changed</p> <p>Will consider referencing policies when Shared Service Website in place</p> <p>Add the words 'Satisfactory evidence' to replace the word 'Documentation such as trading figures'</p> <p>Need to add the words 'at least' before A4 and refer to font size</p> <p>Reword paragraph to emphasise the undermining of licensing objectives</p> <p>Add sentence re Closure Notices</p>
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	<p>the fact that they have significant powers under a number of other legislations for closure orders and closure notices as well.</p> <p><b>Personal Licences</b></p> <p>I think that there could and/or should be reference to the fact that the authority has from time to time taken, or at least threatened, criminal proceedings for failure to update the licence.</p> <p><b>4.3 - Local Health Board</b></p> <p>I don't think that the licensing authority policy should presume to know the circumstances that may cause the UHB to make representations to an application. The UHB is, after all, nothing more (and I entirely accept nothing less) than a responsible authority. This part of the policy risks effectively endorsing or seeming to corroborate a potential UHB representation inappropriately.</p> <p>Where you go on to say that the UHB will use information of alcohol treatment centre, emergency department and monitoring and inform licensing authority of any activity that is causing concern and use the information to make representations where appropriate, that has the appearance of validating their representation (before they have even submitted it!).</p> <p>I appreciate that they are a responsible authority, I appreciate that they are entitled to make a rep. but I am afraid I think that this goes too far in that it invites the conclusion that it will be at least difficult to marginalise and/or discount their representation (which applicants may very well want to do). To use an example in the Bierkeller case I felt that their representation was without any real merit and the way that this part is drafted invites the conclusion that there is some legitimacy to what, at least in that case, I considered was pretty hollow observation.</p> <p><b>4.6 - Anonymous Representations</b></p> <p>From memory the legislation, or perhaps the National Guidance, allows for representations to be anonymous where there is a legitimate anxiety about intimidation (or some such) and I think that the policy perhaps goes a little bit too far in that it seems to prohibit anonymous reps, where the legislation seems to allow for them (albeit in exceptional circumstances). Better I think for the policy to say that you would not usually accept anonymous representations, rather than you cannot (under any circumstances) accept them.</p> <p><b>5.2 - Conditions</b></p> <p>The first sentence the second paragraph doesn't make sense (all conditions attached by the licensing authority will be focused on matters within the control granted by relevant authorisations). I am not sure the rest of the paragraph is particular good either!</p> <p><b>6.1 - Enforcement and Agency Integration</b></p> <p>Where you reference Cardiff Council's licensing enforcement policy perhaps an on-line link or reference to it as an appendix might be made in the policy.</p> <p><b>The Top of Page 24 of 61</b></p> <p>Where arrangements are in place for licensing committee to receive reports on local tourism economy (etc) I think that provision could and should be made, both in the policy and at any hearing, for reference to those policies so that applicants and representors know what the "additional" issues that the licensing committee may be looking at when coming to a determination.</p> <p><b>6.3 - Provision of Services Regulation</b></p> <p>I have asked Andrew in my team to drop you a separate note about that as he has a much better understanding of the on-line portal process and systems that we use with all the other various authorities around the country and hopefully he can offer some real</p>	<p>and ASB Crime &amp; Policing Act</p> <p>Section amended to refer to prosecutions</p> <p>Small amendments made to wording to state this is what UHB have advised Cardiff Council</p> <p>Add Licensing Authority may consider withholding some personal details in circumstances which justify such action</p> <p>Remove paragraph</p> <p>Will add link once website updated</p> <p>The LC considers reports rather than policies so not needed to be referenced.</p>
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		<p>value to that element.</p> <p><b>6.4 - Planning</b></p> <p>I think the last element of that section, which states, "the licence holder must observe the earlier closing time to operate lawfully" might be better worded as "the licence holder must observe the earlier closing times to operate legitimately". I don't really understand what the enforcement procedures and protocols are when one trades in breach of planning, but I know it is not a criminal offence (as it is in licensing), and so it may be that "lawfully" isn't the right phrase (this is not my area of expertise and I may very well be wrong here!).</p> <p><b>7.1 - Key Message</b></p> <p>Where you indicate that a high volume of vertical drinking establishments are largely considered less desirable I think that you could and/or should articulate why that is. Is it because the evidence suggests that those are the premises that are most likely to generate customers who will themselves conduct themselves in an anti-social manner (etc).</p>	<p>Changed as suggested</p> <p>Add... 'due to the levels of alcohol related crime and disorder associated with these types of premises'</p>
24/09/2015	Pollution Control	<p><b>7.3 –Licensing Hours &amp; 7.4c Prevention of Public Nuisance</b> Add information on limiting the use of external areas to 9pm in residential areas</p> <p><b>7.4c Outdoor Events</b> Add bullet points referencing:</p> <ul style="list-style-type: none"> <li>• Refer to Code of Practice on Environmental Noise Control at Concerts when undertaking noise surveys</li> <li>• Use of fireworks</li> <li>• Advise provide event organiser details to Pollution Control</li> </ul> <p><b>Map 1: City Centre CIP Area</b> Include separate larger map for reference</p>	<p>Text added</p> <p>Text added</p> <p>Separate map produced</p>
15/09/2015	South Wales Police Licensing	<p><b>7.4A Prevention of Crime &amp; Disorder</b> Refer to crime reduction initiatives in general rather than specific initiatives as subject to change</p> <p><b>Off –Sales of alcohol</b> DPPO refers to open vessels of alcohol</p> <p><b>Traffic-Light System</b> Explain meaning of 'SMART' action plan</p> <p><b>Map 1: City Centre CIP Area</b> Extend to include Central Station due to forthcoming development</p>	<p>Amended as suggested</p> <p>Addition of words as suggested</p> <p>Text added –Specific, measurable, achievable, realistic, time-based</p> <p>Map amended</p>
01/10/2015	Carl Ryan	<p>The policy takes into account data not only from the Police but health services. Whilst I fully appreciate the obvious cost benefits of pooling data from various sources, the accuracy of some of this data could be questioned. If, for instance, the health statistics are based on asking an intoxicated person where they have just been, is this data valid enough to use when forming the policy? Similarly, would the data be valid enough to form a reasoned objection to a licence application? This is data that would be under intense scrutiny should someone wish to appeal a decision, and the outcome of such an appeal could have a knock on effect on the whole policy.</p>	<p>Response from data analyst -It should be noted that the Health data is not used on its own but is used to corroborate evidence from police data the data used is from A &amp; E records. The use of A &amp; E Data together with police data has been nationally recognised as a way of reducing violence within the night time economy. It should be noted that the Health data would not be used exclusively to carry out any objections etc but would be used to corroborate the police data.</p>
2/10/2015	Leamgate Ltd on behalf of Le Monde, Soda, Attic	<p><b>Point 1.</b></p> <p><b>References to any other documents (such as the 'guidance for applicants') need to include details of where they can be found, preferably with a link to the relevant web- page</b></p> <p>Page 11 makes reference to 'The City of Cardiff Council's Licensing Act 2003: Guidance for applicants- New Premises and Variation Applications'. A link to the document needs to be provided.</p>	<p>To be completed when the website updated</p>

	<p>The section on the Local Heath Board (page 18) makes reference to information made available to the licensing authority. Where possible, such information should be made available to applicants to assist in making applications and drafting operating schedules.</p> <p>Reference is made (page 23) to 'Cardiff Council's Licensing Enforcement Policy' and 'established protocols'. A link to these documents needs to be provided.</p> <p>References are made at page 29 to Cardiff Business Crime Reduction Partnership, National Pubwatch and Safer Clubbing Guide: Links to all 3 would be useful to applicants.</p> <p>Reference is made to the 'Council's Events Liaison Panel'. A link or contact details would be of value to applicants.</p> <p>Reference is made on pages 32 and 41 to the 'traffic light policy'. Links to any supporting documents would be valuable.</p> <p>Reference to licensing fees is made throughout the document without any link or other means to establishing what the fee is. This would provide useful</p> <p>All such links could be contained in a useful link page at the back, or as footnotes, so long as readers are notified at the appropriate points where references are made.</p> <p><b>Point 2</b></p> <p><b>The section dealing with Live Music Act 2012 and deregulation contains some factual errors and does not deal with the recorded music deregulation</b></p> <p>An analysis of the advice given in relation to Live music Act 2012 and Deregulation Act 2015 misses some important points and in the first bullet is incorrect in the hours it suggests unamplified music can take place.</p> <p>The section misses out the requirement that the live and recorded exemption (bullet 2) is only available during hours that alcohol can be sold.</p> <p>There is no mention of how the exemptions and deregulations are applied in outside areas of premises licensed to sell alcohol and when conditions do apply (such as in beer gardens shown on plans but not licensed).</p> <p><b>Point 3</b></p> <p><b>The list of potential decisions on review ignores' misses issuing a warning to the licence holder and would benefit from being re-ordered;</b></p> <p>The list of actions a licensing committee can take on review (page 15) appears to go from the least to most draconian in terms of order with the exception of 'take no further action' which appears at the bottom. We suggest that this should appear at the top, with a new bullet under it stating: 'Issue a formal warning to the premises licence holder'.</p> <p><b>Point 4</b></p> <p><b>The Temporary Event Notice section makes no reference to use of TENs by licensed premises and would benefit from a tightening of the language</b></p> <p>In presenting the purpose of TENs on page 16, there is no reference in the opening paragraph to their use at licensed premises. This is factually incorrect. There is no distinction made (except in relation to what conditions can be added to a TEN) between licensed and non-licensed premises for the purpose of TENs.</p> <p><b>Point 5</b></p>	<p>Corrected typo regarding unamplified music. Recorded music already included</p> <p>Added text 'issue warning to the licence holder'</p> <p>Added text as suggested</p>
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	<p><b>The responsible authority list should be complete and role of administrator of an application should always be distinct from the officer making a representation on behalf of a licensing authority</b></p> <p>The list of responsible authorities (page 17) would be of more assistance to applicants if it were a complete list. Where responsible authorities, such as waterways, need only be consulted/ included in specific circumstances, these could be highlighted as such at the bottom of the list.</p> <p><b>Point 6</b></p> <p><b>The role of administrator of an application should always be distinct from the officer making a representation on behalf of a licensing authority</b></p> <p>Local authorities are obliged in law to ensure that not only do all decision making bodies act in a fair and unbiased way, but they are seen to be acting in a fair and unbiased way. An applicant whose application was administered by the same person objecting to it could legitimately say that this could lead to bias, in particular where the administering officer is writing the committee report, whether or not they then appear as an objector.</p> <p><b>Point 7</b></p> <p><b>The section on anonymous representations materially differs from that issued in the S182 Guidance</b></p> <p>Page 19 makes reference to anyone wishing to make representations but requiring they remain anonymous to make their representation through their local councillor. This goes further than the S182 Guidance. Paragraphs 9.25 to 9.29 of the March 2015 Guidance suggests other alternatives. There is a chance, in simply suggesting that parties wishing remain anonymous should go through their councillor that they will not be able to make their legitimate representations in time, either due to absence of their councillor or a reluctance to approach them.</p> <p><b>Point 8</b></p> <p><b>The section on conditions would benefit from setting out the expectations of the council in terms of proposed conditions by officers.</b></p> <p>Section 5.2 (page 21) would benefit from having a paragraph setting out the principles the council expect to be taken into account by responsible authorities and other parties when making representations that suggest conditions to be added to an operating schedule. One of the significant frustrations for applicants and their advisers is when responsible authorities make representations to applications which include lists of conditions drawn from their standard representation, irrespective of whether they are appropriate to the application or not. We suggest the following factors should be considered:</p> <ul style="list-style-type: none"> <li>• The size, nature and style of operation</li> <li>• Whether the premises is part of a multiple operator's chain and therefore more likely to have an operating schedule that is tried and tested</li> <li>• The cumulative effect of conditions in terms of cost and practical implementation</li> <li>• The likely cost of the condition(s) for the operator</li> <li>• Whether a simpler or better way of dealing with a perceived problem could be found</li> <li>• Whether there is an actual risk of undermining an objective, as opposed to a conceivable risk. In the latter</li> </ul>	<p>No changes necessary as policy already makes reference to split between technical and enforcement team</p> <p>RA contact details updated</p> <p>As Point 5</p> <p>Advice doesn't differ from guidance, but amend reference to cllrs acting on behalf of people wishing to make anonymous reps. Also add text ...'however the Licensing Authority may consider withholding personal details in exceptional circumstances which justify such action'.</p> <p>Bullet points added plus additional point regarding conditions needing to be being enforceable</p>
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	<p>case, there is no need for the condition</p> <p><b>Imposition of conditions at hearings</b></p> <p>It would also be helpful to establish a principle in the Policy that conditions that have not been discussed by all parties in a hearing, but which are raised as a potential resolution to a point of dispute by a licensing sub-committee in closed session when discussing their determination will be brought back to the parties for consideration and submission prior to any final determination on whether to add them. This will save time and costs, in particular in relation to appeals which are often brought because of conditions that have been added by licensing sub-committees without taking into account the views of the relevant parties</p> <p><b>Point 9</b></p> <p><b>The enforcement section does not appear to encourage dialogue between a complainant and premises prior to seeking a review</b></p> <p>Section 6, page 23 encourages businesses and local residents to seek to review premises licences if they are believed to cause nuisance. It would be in all parties' interests to have sought to engage in dialogue beforehand and the Policy should reflect this. Review should only occur where other options have been exhausted. In the same way applicants coming before a committee having refused to engage in dialogue without good reason are considered by the policy not to have acted properly, the same principle should apply to any other party seeking a review.</p> <p><b>Point 10</b></p> <p><b>The list of matters for applicants to consider in relation to the crime prevention objective would benefit from revision</b></p> <p>Page 30 lists factors operators should take into account when drafting operating schedules.</p> <p>In relation to CCTV, the information Commissioner has made it clear that CCTV is often demanded or installed where it shouldn't be and in breach of data protection law. This needs to be reflected in this section.</p> <p>The list also tacitly suggests that the use of glass can have criminal connotations. It is submitted that this is a public safety issue, not an issue of crime and disorder. When consideration is given to the number of glasses used in Cardiff on any given day and the number of offences where glass is used as a weapon, the issue could almost be dismissed under the de-minimis rule, however, there are rare occasions where a pattern is established in relation to a particular premises and the removal of glassware needs to be considered to prevent crime and disorder. The usual reasons for imposing plastic or non-glass receptacles is for public safety reasons on match days or in particularly busy premises where alcohol is ancillary to entertainment or dancing. To include it in a list of crime prevention measures is disproportionate</p> <p>It is questionable whether other bullets included such as restricting alcohol to sales of food or these repeating mandatory conditions (drinks promotions) simply dilute the list. A shorter more considered list, it is submitted, is better than a longer less focussed one.</p> <p><b>Point 11</b></p> <p><b>The policy appears to suggest that Cardiff City Council takes a different approach to the use of glassware than the Government</b></p> <p>The section on drinking vessels, final paragraph (page 31) appears</p>	<p>We do not propose to amend the policy in this regard</p> <p>Policy amended to reflect current legal position</p> <p>Added following text: 'Please note that the above measures are examples only to assist and guide applicants when drafting their operating schedules in respect of their application. This list is not exhaustive and will not be used by the Licensing Authority to create standard conditions. All applications are considered on their own individual merits.'</p> <p>This is addressed in the key message box under the drinking</p>
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	<p>to suggest that the Policy does not agree with the Government policy on risk-based approach to use of glasses rather than a blanket approach. It would be useful if the policy clarified this one way or the other.</p> <p><b>Point 12</b>  <b>The suggestion that frequent use of discounted drinks somehow undermines the licensing objectives in and of themselves cannot be correct</b></p> <p>The opening line on discounting and sales promotions (page 31) suggests that 'frequent use of discounted drinks' has the potential to promote drunkenness and disorder. We suggest that the only factor, as recognised in the Mandatory Conditions is the appropriateness of the promotion. We suggest reference is made to the Mandatory condition and that the reference to frequency of promotions is removed.</p> <p><b>Point 13</b>  <b>The prevention of public nuisance section makes no reference to the live Music Act or recorded music deregulation</b></p> <p>The section on public nuisance (pages 22-36) makes no reference to the Live Music Act, or deregulation of recorded music. It is important insofar as it determines when conditions will have effect or not. In addition, it would probably assist to remind applicants and potentially residents that other legislation, such as Environmental Protection Act offers protection against noise nuisance for residents/ businesses and operators relying on the Live Music Act or deregulation need to be aware that noise abatement notices can be served, as well as 24-hour closures for premises causing a nuisance.</p> <p><b>Point 14: The proliferation of, and harm caused by, off-licensed premises</b></p> <p>Table 1 of the cumulative impact policy (page 44) designates off-licensed premises in the CIP as 'amber', therefore only including them as subject to the CIP outside of 'core hours' (7am to 9pm). The purchase of alcohol from the early morning would appear to be within one of the key reasons for the policy which is to try to discourage street drinkers from the area. Making such early sales fall outside of the CIP appears contrary to this stated aim.</p> <p>There is also a conflict between the statement in page 28 'key message' in relation to off-sales premises being expected to provide alcohol sales during their hours of operation in the CIP 'core hours' policy.</p> <p>Finally, there are 2 reasons for restricting off-sales of alcohol in the city centre: pre-loading and prevention of street drinking. The only legitimate reasons for off-sales therefore is to provide residents and workers in the city with somewhere to purchase alcohol to take home. It is hard to argue that the majority of alcohol sold in the various shops in the city centre is being sold for that purpose, particularly on event days and at the weekends, from Friday evening and as such it is hard to justify the need for more off-licences in the city centre cumulative impact zone.</p> <p>In addition, whilst we commend Cardiff on not suggesting model conditions in relation to applications, it would be useful to expand upon the issues off-licence applicants would want to consider prior to making an application (page 31), perhaps by way of a list of considerations, such as:</p> <ul style="list-style-type: none"> <li>• Stocking cheap high ABV products (in relation to street drinking, pre-loading and event management)</li> <li>• Identification of source of products sold</li> <li>• Additional restrictions during event days and at weekends</li> <li>• Percentage of premises given over to the sale of alcohol</li> <li>• Notices warning of designated controlled drinking zones</li> </ul>	<p>vessels section</p> <p>Paragraph amended:  It is a mandatory condition that irresponsible drinks promotions are not carried out, where that promotion is carried on for the purposes of encourage the sale of alcohol on the premises.</p> <p>Following sentence added:  'It is recommended that applicants also read Section 3.1 in respect of the deregulation of regulated entertainment. Premises Licence conditions will not apply during performance of unregulated entertainment'</p> <p>We do not see any conflict between pg28 &amp; pg44</p> <p>Some wording added to advise applicants to consider measures when drafting operating schedule</p>
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		<ul style="list-style-type: none"> <li>• Sales of single cans or bottles, or smaller bottles of spirits</li> <li>• Discounts</li> </ul> <p>The link between pre-loading and street drinking and crime/ disorder has been amply recognised in the draft policy but there is not enough said about that is expected of applicants for off-licences in the city centre to combat these concerns.</p> <p><b>Point 15</b></p> <p><b>The introductions of minimum pricing/ ban on below cost alcohol sales for on and off-licensed premises would benefit Cardiff</b></p> <p>The prevalence of cheap alcohol, in particular discounts on alcohol used as a loss-leader in supermarkets, promotes both binge drinking and pre-loading. Both add to the problems of ensuring the night time economy remains a safe and happy place for visitors to Cardiff. Many potential customers prefer to drink at home or in discount on-licensed premises to make the most of the offers available. They then often look to move onto better managed venues later, which effectively passes the buck and creates problems for those operators trying to ensure that customers are not already intoxicated. A minimum pricing policy that ensured alcohol could not be bought at such low prices would do a great deal to assist with this issue. It would also assist in raising standards across Cardiff.</p>	<p>May look into a minimum pricing scheme in future on a voluntary basis. Not enough work on this area has been done to include in proposed policy. Welsh Government have indicated may address minimum alcohol pricing in future Bill</p>
2/10/2015	For your Eyes Only, Playhouse Gentlemen's Club, Fantasy Lounge	<p>Points 1,3,6,7,8 &amp;11 of the Leamgate Ltd representation are repeated, with the addition of the following point:</p> <p><b>References to SEV licences need to reflect the true nature of the control of such premises, in particular in relation to the ancillary nature of alcohol sales</b></p> <p>There are occasional references to SEV's, or sections of relevance to them in the draft policy. These appear in relation to protection of children from harm and where SEVs are excluded from premises with ancillary alcohol sales in Table 2 of the cumulative impact policy section.</p> <p>In our experience, there is often a specific section in licensing policies dealing with SEV premises. In the case of Cardiff, and because of the adoption of the Local Government (Miscellaneous Provisions) Act 1982, a dedicated section may not be necessary, albeit it provides clarity to do so. In such circumstances any reference to SEV licensed premises in the draft policy should make reference to the adoption of the Local Government (Miscellaneous Provisions) Act 1982 regime and the existence of a specific policy dealing with such premises.</p> <p>The specific exclusion of SEV's from the list of premises identifying alcohol as ancillary is misleading given that alcohol is clearly ancillary to the main purpose of the premises (for the reasons set out above). The effect of making such an exclusion from the list invites representations to applications made by premises licence holders that also benefit from having an SEV where there is no potential undermining of the licensing objectives, for instance on an application to change the layout which by its nature falls outside of a minor variation. Such representations could be made on the basis of cumulative impact of premises even though there may be nothing to suggest that the application would undermine the licensing objectives.</p> <p>As an operator in Cardiff, we maintain a close working relationship with the police and authorities in general in order to ensure that the licensing objectives are promoted. The existence of a specific SEV policy gives added protection in terms of standard of operation required and it is the SEV licensing regime, we suggest, that is better suited for the enforcement of any problems with the running of the premises, rather than the alcohol licensing regime. In these circumstances there is no reason to exclude SEV licensed premises from the list of premises where alcohol is ancillary to other activities and therefore outside of the cumulative impact policy.</p> <p>We are aware of at least one premises in Cardiff which has an SEV but that operated primarily as a bar and nightclub. In order to ensure that there is no loophole permitting such premises to claim that the cumulative impact policy does not apply, we suggest that the</p>	<p>There is a separate Sexual Entertainment policy so not need to be duplicated in Statement of Licensing Act Policy.</p> <p>It is proposed in the policy that SEVs are still included in the CIP. Although it can be argued that alcohol is ancillary to the entertainment, it is unlikely that alcohol sales only make up a small percentage of the business. There are a number of premises which hold an SEV but only operate this type of entertainment on an occasional basis and otherwise run as a nightclub.</p>

		wording in table 2 is amended to exclude from the definition of SEV licensed premises: 'premises that hold SEV licences but operate otherwise than solely as a sexual entertainment venue'.	
2/10/2015	The Chameleon Group	<p>Points 1 -13 of the Leamgate Ltd representation are repeated, with the addition of the following points:</p> <p><b>Point 14 The expansion of the cumulative impact zone gives cause for concern</b></p> <p>Whilst we understand the reasons for measures such as cumulative impact policies, we question their effectiveness and in particular the reasons for the expansion of the city centre area.</p> <p>We question whether the expansion in terms of size of the cumulative impact zone into new areas will actually discourage investment into the city centre. Visitor numbers coming to the city have increased greatly in recent years, which is testament to the operators, police and licensing authority working hard to change the image of the city from as recently as 10 years ago.</p> <p>We look to take on and run innovative venues with a range of activities. Cardiff City Centre has benefited from new operators like us coming in and helping to improve standards. Others who would like to come into Cardiff may be put off by the increased cumulative impact area.</p> <p>We have a concern that expanding the area will put off innovation by creating a 'closed shop' mentality, unintentionally supporting those premises that have licences but do not want to invest in Cardiff City Centre. We fear that it may actually lead to standards decreasing, not because certain premises won't get new licences, but simply because new and exciting concepts are likely to be deterred by what they will consider to be a risky venture.</p> <p><b>Point 15 In the 'Report on Community Safety Issues Within the Cardiff City Centre' document, the analysis of crime and disorder and the conclusions drawn from it appear to be at odds. The brief given to the analysts and proper disclosure of the data sources and how it was filtered needs to be included to make sense of what the conclusions.</b></p> <p>We are concerned that some of the data used in evidence to support the expansion of the cumulative impact zone appears to have come from sources where there is not enough information given to fully understand the conclusions drawn from them.</p> <p>We also dispute some of the key findings in terms of increases in crime and disorder in the night time economy, where statistically there has actually been a real fall in numbers. It also concerns us that there is an acknowledgement that recording methods for crime and disorder offences have changed in recent years, but no indication that this has been taken into account in the statistics. Indeed, we are given to understand that these changes have lead to increases in figures without any real demonstrable increase in crime and disorder. The general trend has been downward in terms of offences associated with the night time economy and this needs to be acknowledged.</p> <p>Further there is a lack of correlation between visitor numbers and crimes based on a 'per head' basis. We suspect this is because it would show a significant decrease in crimes per 1000 visitors, which in turn would not support the contention that crime is rising.</p>	<p>It is considered that there is satisfactory evidence of cumulative negative impact on the licensing objectives in the whole city centre area.</p> <p>The policy does exclude certain premises types and is clear on what it is trying encourage and discourage. So this Policy seeks to apply a more discerning approach towards determining applications. It is therefore considered unlikely that applicants of well run, innovative premises would be discouraged from applying.</p> <p>Each application will be determined on its own merits, and there are plenty of examples whereby applications in the current CIP have been granted despite objections from the responsible authorities.</p> <p>Changes in reporting explained in data document. Official SWP &amp; UHB figures</p>
2/10/2015	S A Brain	Points 1 -13 of the Leamgate Ltd representation are repeated, and the additional 2 points raised by The Chameleon Group	
2/10/2015	TLT Solicitors	Points 1 -13 of the Leamgate Ltd representation are repeated, and the additional 2 points raised by The Chameleon Group	
20/10/2015	Alcohol Concern	<p><u>Section 7.1 "What this policy aims to encourage"</u></p> <p>We feel this section could be strengthened by referencing authority-wide aims for health and well-being, and encouraging applicants to</p>	Noted comments –consider do not want to dilute key message

	<p>show through operating schedules how they will contribute to Cardiff Council's wider aims of promoting healthier lifestyles. As you will know, one of the key outcomes in Cardiff 'What Matters' 10 year strategy is that "people in Cardiff are healthy". - <a href="https://www.cardiff.gov.uk/ENG/resident/Health-and-social-care/Health-and-wellbeing/Pages/Health%20and%20wellbeing.aspx">https://www.cardiff.gov.uk/ENG/resident/Health-and-social-care/Health-and-wellbeing/Pages/Health%20and%20wellbeing.aspx</a></p> <p>A good example of referencing health and well-being aims in an SLP is from the London Borough of Barking &amp; Dagenham <a href="https://www.lbbd.gov.uk/wp-content/uploads/2014/09/licensingpolicy2012.pdf">https://www.lbbd.gov.uk/wp-content/uploads/2014/09/licensingpolicy2012.pdf</a> (pg7-8), which specifically states that the Authority will look more favourably on applications that will "promote healthy lifestyles by encouraging responsible drinking". In this example, there is also a more extensive list of applications that will be less favourably looked upon that you might wish to consider, including applications for very late/early licences in residential areas and areas suffering high levels of anti-social behaviour, among others.</p> <p><u>Inclusion of a specific health statement</u></p> <p>It is increasingly considered good practice for SLPs to incorporate health statements that acknowledge and demonstrate understanding of the impact of alcohol consumption on residents and the importance of addressing these issues. The advantage of including such a health statement is that it can provide a holistic view of the local area, allowing health concerns to be highlighted when they are often lost behind the premises by premises approach that the rest of the policy will take. A good example can be found in Appendix A of the London Borough of Islington's SLP <a href="http://www.islington.gov.uk/publicrecords/library/Environmental-protection/Business-planning/Policies/2012-2013/(2013-02-01)-Licensing-Policy-2013-2017.pdf">http://www.islington.gov.uk/publicrecords/library/Environmental-protection/Business-planning/Policies/2012-2013/(2013-02-01)-Licensing-Policy-2013-2017.pdf</a> (pg 41). Islington acknowledges the powers of public health as Responsible Authorities on p45 to "promote sensible drinking messages and support the approach to managing the local availability of alcohol, ensuring the links between density of licensed premises, alcohol availability and indicators of health related harm to inform licensing decisions." According to a review of various SLPs in London by the Safe Sociable London Partnership, licensing partners feel that the way their SLP is written has made it easier for public health to make representations under the 4 licensing objectives.</p> <p><u>Section 8: Cumulative Impact Policy</u></p> <p>Alcohol Concern Cymru fully supports extending the CIP to the whole of the city centre, and understands the reasoning of applying different restrictions depending on the type of premise. However, the core hours of 7am - 9pm for off-trade premises we feel is too wide. It ignores that some people will choose to purchase and consume alcohol from off-trade premises in the city centre prior to, or between, entering on-trade premises, primarily because alcohol is typically sold for a much lower price in the off-trade. Although police have powers to confiscate alcohol from drinkers on the street, it is difficult for this to be fully enforced by the police except for on the very quietest nights. We would therefore recommend the core hours be reduced to 7am - 7pm, which would still not unduly penalise most workers shopping on their commute home from work but would help limit pre-loading practices which can lead to public nuisance and anti-social behaviour.</p> <p>The London Borough of Croydon's SLP includes 4 CIPs that include off-trade premises. The SLP specifically acknowledges how drinking behaviour has changed where more people now purchase alcohol from supermarkets and shops. It states that Croydon has seen a 12% increase in the number of off licences and a 20% decrease in the number of pubs, indicating a significant shift in sales of alcohol from the on trade to the off trade. The Licensing Authority therefore expressly states its wish to ensure that their policy recognises this shift in drinking patterns, and acknowledges the strong evidence base that effective interventions to reduce the negative impacts of alcohol are those that restrict the ease of acquiring alcohol itself. This can be achieved by increasing the cost of alcohol but also reducing the hours and days of sale and by restricting the number of outlets. See <a href="https://www.croydon.gov.uk/sites/default/files/articles/downloads/Licensing%20Policy%202013.pdf">https://www.croydon.gov.uk/sites/default/files/articles/downloads/Licensing%20Policy%202013.pdf</a> (Appendix 8).</p>	<p>Health is not currently a licensing objective. However the Policy acknowledges the important role of the UHB as a Responsible Authority.</p>
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15/10/2015	Policy, Partnerships & Community Engagement (CCC)	<p>Could we include specific mention of Human trafficking and Child Sexual exploitation?</p> <p>The section on Enforcement and Agency Integration seems the logical place for Human trafficking to be mentioned , it could include</p> <ul style="list-style-type: none"> <li>• What HT is and a commitment to work with other agencies to tackle it</li> <li>• Training for staff on how to spot the signs of HT and how to report – there is free training session available that staff could access – myself and Nici Evans can provide details if required</li> <li>• Could a reference be made to how joint work would be undertaken with the Gangmaster Licensing Authority?</li> <li>• Powers that would be used to close somewhere done if necessary</li> <li>• There is a section on Protection of Children and I wondered if there could be a similar reference to Protection of Vulnerable Adults , I know the legislation is different in terms of responsibilities this would be good practice</li> </ul> <p>The section on Protection of Children from Harm might be a good place to put in something about CSE</p> <ul style="list-style-type: none"> <li>• Again similar to above could we reference training to spot the signs and outline action taken to protect child and powers that could be used to close down premises should they be involved</li> <li>• Provision of training for staff to spot signs</li> </ul>	<p>Not enough understanding of this subject at present and how fits into policy, will consider for future revisions</p> <p>Vulnerability training is currently being offered to security staff/licensed trade by South Wales Police</p>
12/10/2015	Cardiff & Vale APB	<p><b>3.1 (Pg 9 of 61) – Premises licenses</b> It is felt that a stronger obligation in relation to related local strategies is needed than simply being aware, and that operating schedules should be expected to evidence where they have taken these into account. On the same theme, it is felt that applicants should be expected to <u>evidence</u> how they have taken the wider local concerns and issues into account.</p> <p><b>5.2 (Pg 21 of 61) – Licensing Conditions</b> It is recommended that the statement is expanded to provide capacity for <i>conditions</i> to be included that ensure the delivery of commitments made A) in relation to local strategies and plans, and B) in taking wider local concerns and issues into account, as described above in 3.1</p> <p><b>6.2 (Pg 24 of 61) – Other legislation and strategies</b> Following the list of strategies, it is recommended that the policy</p>	<p>Will link strategies to web pages when updated so that they remain current</p> <p>Conditions only required to appropriate for promoting licensing objectives</p> <p>As above</p>

		<p>states that applicants will be expected to have shown due consideration of these strategies and plans within the application.</p> <p><b>7.4(b) (Pg 33 of 61) – Public Safety</b> It is recommended that the suggested bullet points are expanded to include</p> <ul style="list-style-type: none"> <li>▪ An appropriate, and quality assured response policy for the management of individuals identified with medical, clinical or health needs</li> </ul> <p><b>7.5 (Pgs 38-39 of 61) – Cumulative Impact</b> The APB is concerned that the onus lies on representative organisations to evidence cumulative impact, in the absence of an objective statement that articulates what the licensing authority has agreed to be a saturation point. It is strongly recommended that work is carried out outside of this policy in order to use an evidence based approach to identifying total licensed capacities for different geographical sectors of the night time economy i.e. a maximum licensed capacity of all venues combined in a given street, or area. The evidence sources given in section 8 (Pg 41), can be challenged in every instance by a license applicant, as none of these can be attributable to any one application. Without agreeing baseline information regarding maximum licensed capacity per area, the required evidence base cannot be produced, rendering the cumulative impact function relatively ineffective</p>	<p>CIP creates a presumption of refusal, therefore onus is on applicant to successfully demonstrate their operation won't have any negative impact on the licensing objectives</p>
12/10/2015	Cardiff & Vale University Health Board	<p><b>The role of the Local Health Board (p.18)</b> We would like to draw attention to the fact that the UHB does more than hold information that can be used for alcohol licensing. We would like the policy to acknowledge that the UHB <i>actively monitors alcohol related harm</i> in order to contribute to the licensing process. We would like the policy to recognise that the UHB actively monitors:</p> <ul style="list-style-type: none"> <li>- Emergency Unit attendances</li> <li>- Hospital admissions</li> <li>- Last Drink Data</li> </ul> <p>All of this data is used to contribute to the understanding of the effects, levels and patterns of alcohol consumption within the UHB area, and is used to inform responses to alcohol license applications. Examples of events that may trigger reviews include: <u>The prevention of crime and disorder</u> The UHB may submit a representation citing a large number of patients presenting at the Emergency Unit from assaults within a licensed premise.</p> <p><u>Public safety</u> The UHB may submit a representation following a trend with last drink data and Emergency Unit data indicating a high number of alcohol poisoning cases coming from a particular premise or from within its near vicinity.</p> <p><u>Prevention of public nuisance</u> The UHB may support local resident representations on a premises' application for the extension of trading hours. The UHB may submit a representation requesting noise related conditions or object to an extension of hours using evidence of the health impacts that sleep deficit can have on local residents.</p> <p><u>The protection of children from harm</u> The UHB may submit evidence on the rates of alcohol related domestic abuse towards children in an area, to object to an application for an off-licence to extend its opening hours, based on the cumulative impact this would have on the rates of abuse towards children in the area. Additionally our clinical academics within the UHB generate new evidence regarding what works to reduce harm related to alcohol. This evidence contributes to the wider evidence base, but crucially, provides evidence to local alcohol licensing decisions. Representations for all future applications for alcohol licenses will be based on up to date and emerging evidence from within this area.</p> <p><b>Discounting and sales promotions (p.31)</b> The UHB fully supports imposing appropriate licence conditions to restrict alcohol discounting and sales promotions.</p>	<p>Original information in the policy was provided by the UHB, will amend to reflect this</p> <p>Irresponsible drinks promotions covered by mandatory conditions</p>

	<p>We believe that conditions should be imposed on applications where it is perceived that the premise will promote excessive and harmful alcohol consumption. This includes promotions such as:</p> <ul style="list-style-type: none"> <li>- Happy hours</li> <li>- Two for one promotions</li> <li>- Prepaid drinks packages</li> </ul> <p>and any discount and sales promotion that encourages excessive and harmful alcohol consumption.</p> <p>Additionally, the UHB believes that conditions should be imposed on licenses to prevent sub-companies to be licensed to carry out drinks promotions within licensed premises. Examples of this would include companies running promotions of 'shots' within a premise with an existing licence.</p> <p>The UHB believes it has an important role to play in discussing the detail of these conditions with partner Responsible Authorities, and would welcome regular discussion on these issues.</p> <p><b>Drinking vessels (p.31)</b></p> <p>The UHB fully supports imposing appropriate licence conditions for the use of non glass drinking vessels in premises within the city centre and close to large sporting venues.</p> <p>We believe that serious consideration should be made, to impose appropriate conditions on new licenses within the city centre and close to large sporting venues during major events, and during particularly busy nights throughout the year.</p> <p>The UHB believes it has an important role to play in discussing the detail of these conditions with partner Responsible Authorities, and would welcome regular discussion on this issue.</p> <p><b>Cumulative Impact Policies (p.40)</b></p> <p>The UHB fully supports the adoption of Cumulative Impact Policies (CIP) and in particular supports the widening of the Cumulative Impact Area (CIA) to incorporate the whole of the city centre.</p> <p>The UHB also supports the principles of how the CIP will be applied to the following premise types:</p> <ul style="list-style-type: none"> <li>• Ancillary alcohol sales</li> <li>• Pubs / Members Clubs / Bars / Nightclubs</li> <li>• Restaurants</li> <li>• Takeaways / Fast Food Restaurants</li> </ul> <p>However, we believe that the CIP should be applied to new applications of Off-Licenses within the CIA of Cardiff city centre, along with any proposed variations to existing Off-License premises. We believe that this will make a positive contribution to the identified dangers and problems related to pre-loading and street drinking within the city centre area, and contribute to minimising and reducing alcohol related harm.</p> <p><b>Late Night Levy (P.13)</b></p> <p>The UHB fully supports the option of implementing a Late Night Levy to contribute to Policing and supporting the management of the night time economy. We believe that a Late Night Levy would begin to contribute to the costly impact of alcohol on local services.</p> <p><b>Petrol / Service Stations (p.10)</b></p> <p>The UHB supports restrictions to alcohol licenses at petrol / service stations.</p> <p>Even when documentation such as trading figures to demonstrate primary use of the premise are provided, we would like to reiterate the dangers related to availability of alcohol, and the normalisation of alcohol availability.</p>	and the Policy
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Conrad Eydmann  
Cardiff & Vale Area Planning Board  
Cardiff and Vale Public Health Team  
Whitchurch Hospital  
Park Road  
Cardiff  
CF14 7XB

October 8<sup>th</sup> 2015

## **Cardiff and Vale Substance Misuse Area Planning Board**

### **Response to City of Cardiff Council: Statement of Licensing Policy**

Cardiff and Vale Substance Misuse Area Planning Board supports the revision to the City of Cardiff Council Statement of Licensing Policy and are grateful for the opportunity to respond to the draft.

The APB exists as a public and voluntary sector partnership that oversees all aspects of substance misuse strategy, policy and service delivery across Cardiff and the Vale of Glamorgan. ( <http://cardiffandvaleapb.org/> ). It would be helpful if the APB could be cited in the list of consulted partners, to clarify the role that the board has in relation to this agenda.

There are a number of observations that the board would like to make in relation to the current policy draft as follows:

#### **3.1 (Pg 9 of 61) – Premises licenses**

It is felt that a stronger obligation in relation to related local strategies is needed than simply being aware, and that operating schedules should be expected to evidence where they have taken these into account.

On the same theme, it is felt that applicants should be expected to evidence how they have taken the wider local concerns and issues into account.

## **5.2 (Pg 21 of 61) – Licensing Conditions**

It is recommended that the statement is expanded to provide capacity for *conditions* to be included that ensure the delivery of commitments made

A) in relation to local strategies and plans, and

B) in taking wider local concerns and issues into account,

as described above in 3.1

## **6.2 (Pg 24 of 61) – Other legislation and strategies**

Following the list of strategies, it is recommended that the policy states that applicants will be expected to have shown due consideration of these strategies and plans within the application.

## **7.4(b) (Pg 33 of 61) – Public Safety**

It is recommended that the suggested bullet points are expanded to include

- ♣ An appropriate, and quality assured response policy for the management of individuals identified with medical, clinical or health needs

## **7.5 (Pgs 38-39 of 61) – Cumulative Impact**

The APB is concerned that the onus lies on representative organisations to evidence cumulative impact, in the absence of an objective statement that articulates what the licensing authority has agreed to be a saturation point. It is strongly recommended that work is carried out outside of this policy in order to use an evidence based approach to

identifying total licensed capacities for different geographical sectors of the night time economy i.e. a maximum licensed capacity of all venues combined in a given street, or area.

The evidence sources given in section 8 (Pg 41), can be challenged in every instance by a license applicant, as none of these can be attributable to any one application.

Without agreeing baseline information regarding maximum licensed capacity per area, the required evidence base cannot be produced, rendering the cumulative impact function relatively ineffective.

The APB hopes that you find these responses helpful in progressing development of the policy statement. Please do not hesitate to contact me if you require any further information at this stage.

Sincerely,

A handwritten signature in black ink, appearing to read 'Conrad Eydmann', with a long horizontal flourish extending to the right.

**Conrad Eydmann**

**Head of Partnership Strategy and Commissioning  
(APB Lead Officer)  
Cardiff and Vale University Health Board**

## RESPONSE TO CARDIFF STATEMENT OF LICENSING POLICY CONSULTATION

The Chameleon Group is a young, dynamic, independently owned and operated group that consists of seven very unique venues within the cosmopolitan City of Cardiff. These venues are:

- Meating Place, St Mary Street CF10: Contemporary grill house
- Potted Pig, High Street CF10: Modern British food and wonderful gins through ever-changing, seasonal menus
- Porro, High Street CF5: Modern British food with Italian influences
- Mocka Lounge, Mill Lane CF10: Lounge bar and restaurant

With each and every venue we have tried to break the mould of what people expect and receive when they visit one of our venues, whether it's a private event, corporate function, or simply a drink or a meal where our customers expect the best for their guests, company or friends and family.

We also create tailor made packages for groups and companies, where we can arrange dinner at The Potted Pig or Porro followed by cocktails at The Mocka Lounge.

We are ideally placed therefore to comment on Cardiff City Council Licensing Policy and the effects it has on us as an operator.

### Executive Summary

We have focussed on comments that are more general in nature and may be of value in terms of finessing the policy to give the most scope to be a source of valuable information for applicants, residents and responsible authorities.

In essence, the points we make are as follows, with full reasons below:

- 1 References to any other documents (such as the 'guidance for applicants') need to include details of where they can be found, preferably with a link to the relevant web-page;
- 2 The section dealing with Live Music Act 2012 and deregulation contains some factual errors and does not deal with the recorded music deregulation;
- 3 The list of potential decisions on review either ignores or misses issuing a warning to the licence holder and would benefit from being re-ordered;
- 4 The Temporary Event Notice section makes no reference to use of TENs by licensed premises and would benefit from a tightening of the language used in the policy;
- 5 The responsible authority list should contain all responsible authorities
- 6 The role of administrator of an application should always be distinct from the officer making a representation on behalf of a licensing authority;
- 7 The section on anonymous representations materially differs from that issued in the S182 Guidance;
- 8 The section on conditions would benefit from setting out the expectations of the council in terms of proposed conditions by officers;
- 9 The enforcement section does not appear to encourage dialogue between a complainant and premises prior to seeking a review;

- 10 The list of matters for applicants to consider in relation to the crime prevention objective would benefit from revision as it loses impact from having too many bullets;
- 11 The policy appears to suggest that Cardiff City Council takes a different approach to the use of glassware than the Government;
- 12 The suggestion that frequent use of discounted drinks somehow undermines the licensing objectives in and of themselves cannot be correct for the reasons set out below;
- 13 The prevention of public nuisance section makes no reference to the live Music Act or recorded music deregulation;
- 14 The expansion of the cumulative impact zone gives cause for concern;
- 15 In the 'Report on Community Safety Issues Within the Cardiff City Centre' document, the analysis of crime and disorder and the conclusions drawn from it appear to be at odds. The brief given to the analysts and proper disclosure of the data sources and how it was filtered needs to be included to make sense of what the conclusions.

#### **Point 1.**

#### **References to any other documents (such as the 'guidance for applicants') need to include details of where they can be found, preferably with a link to the relevant web-page**

Page 11 makes reference to 'The City of Cardiff Council's Licensing Act 2003: Guidance for applicants- New Premises and Variation Applications'. A link to the document needs to be provided.

The section on the Local Heath Board (page 18) makes reference to information made available to the licensing authority. Where possible, such information should be made available to applicants to assist in making applications and drafting operating schedules.

Reference is made (page 23) to 'Cardiff Council's Licensing Enforcement Policy' and 'established protocols'. A link to these documents needs to be provided.

References are made at page 29 to Cardiff Business Crime Reduction Partnership, National Pubwatch and Safer Clubbing Guide: Links to all 3 would be useful to applicants.

Reference is made to the 'Council's Events Liaison Panel'. A link or contact details would be of value to applicants.

Reference is made on pages 32 and 41 to the 'traffic light policy'. Links to any supporting documents would be valuable.

Reference to licensing fees is made throughout the document without any link or other means to establishing what the fee is. This would provide useful

All such links could be contained in a useful link page at the back, or as footnotes, so long as readers are notified at the appropriate points where references are made.

#### **Point 2**

#### **The section dealing with Live Music Act 2012 and deregulation contains some factual errors and does not deal with the recorded music deregulation**

An analysis of the advice given in relation to Live music Act 2012 and Deregulation Act 2015 misses some important points and in the first bullet is incorrect in the hours it suggests unamplified music can take place.

The section misses out the requirement that the live and recorded exemption (bullet 2) is only available during hours that alcohol can be sold.

There is no mention of how the exemptions and deregulations are applied in outside areas of premises licensed to sell alcohol and when conditions do apply (such as in beer gardens shown on plans but not licensed).

### **Point 3**

**The list of potential decisions on review ignores/ misses issuing a warning to the licence holder and would benefit from being re-ordered;**

The list of actions a licensing committee can take on review (page 15) appears to go from the least to most draconian in terms of order with the exception of 'take no further action' which appears at the bottom. We suggest that this should appear at the top, with a new bullet under it stating: 'Issue a formal warning to the premises licence holder'.

### **Point 4**

**The Temporary Event Notice section makes no reference to use of TENs by licensed premises and would benefit from a tightening of the language**

In presenting the purpose of TENs on page 16, there is no reference in the opening paragraph to their use at licensed premises. This is factually incorrect. There is no distinction made (except in relation to what conditions can be added to a TEN) between licensed and non-licensed premises for the purpose of TENs.

### **Point 5**

**The responsible authority list should be complete and role of administrator of an application should always be distinct from the officer making a representation on behalf of a licensing authority**

The list of responsible authorities (page 17) would be of more assistance to applicants if it were a complete list. Where responsible authorities, such as waterways, need only be consulted/ included in specific circumstances, these could be highlighted as such at the bottom of the list.

### **Point 6**

**The role of administrator of an application should always be distinct from the officer making a representation on behalf of a licensing authority**

Local authorities are obliged in law to ensure that not only do all decision making bodies act in a fair and unbiased way, but they are *seen* to be acting in a fair and unbiased way. An applicant whose application was administered by the same person objecting to it could legitimately say that this could lead to bias, in particular where the administering officer is writing the committee report, whether or not they then appear as an objector.

### **Point 7**

**The section on anonymous representations materially differs from that issued in the S182 Guidance**

Page 19 makes reference to anyone wishing to make representations but requiring they remain anonymous to make their representation through their local councillor. This goes further than the S182 Guidance. Paragraphs 9.25 to 9.29 of the March 2015 Guidance suggests other alternatives. There is a chance, in simply suggesting that parties wishing remain anonymous should go through their councillor that they will not be able to make their legitimate representations in time, either due to absence of their councillor or a reluctance to approach them.

## **Point 8**

### **The section on conditions would benefit from setting out the expectations of the council in terms of proposed conditions by officers**

Section 5.2 (page 21) would benefit from having a paragraph setting out the principles the council expect to be taken into account by responsible authorities and other parties when making representations that suggest conditions to be added to an operating schedule. One of the significant frustrations for applicants and their advisers is when responsible authorities make representations to applications which include lists of conditions drawn from their standard representation, irrespective of whether they are appropriate to the application or not. We suggest the following factors should be considered:

- The size, nature and style of operation
- Whether the premises is part of a multiple operator's chain and therefore more likely to have an operating schedule that is tried and tested
- The cumulative effect of conditions in terms of cost and practical implementation
- The likely cost of the condition(s) for the operator
- Whether a simpler or better way of dealing with a perceived problem could be found
- Whether there is an actual risk of undermining an objective, as opposed to a conceivable risk. In the latter case, there is no need for the condition

### **Imposition of conditions at hearings**

It would also be helpful to establish a principle in the Policy that conditions that have not been discussed by all parties in a hearing, but which are raised as a potential resolution to a point of dispute by a licensing sub-committee in closed session when discussing their determination will be brought back to the parties for consideration and submission prior to any final determination on whether to add them. This will save time and costs, in particular in relation to appeals which are often brought because of conditions have been added by licensing sub-committees without taking into account the views of the relevant parties.

## **Point 9**

### **The enforcement section does not appear to encourage dialogue between a complainant and premises prior to seeking a review**

Section 6, page 23 encourages businesses and local residents to seek to review premises licences if they are believed to cause nuisance. It would be in all parties' interests to have sought to engage in dialogue beforehand and the Policy should reflect this. Review should only occur where other options have been exhausted. In the same way applicants coming before a committee having refused to engage in dialogue without good reason are considered by the policy not to have acted properly, the same principle should apply to any other party seeking a review.

## **Point 10**

### **The list of matters for applicants to consider in relation to the crime prevention objective would benefit from revision**

Page 30 lists factors operators should take into account when drafting operating schedules.

In relation to CCTV, the Information Commissioner has made it clear that CCTV is often demanded or installed where it shouldn't be and in breach of data protection law. This needs to be reflected in this section.

The list also tacitly suggests that the use of glass can have criminal connotations. It is submitted that this is a public safety issue, not an issue of crime and disorder. When consideration is given to the number of glasses used in Cardiff on any given day and the number of offences where glass is used as a weapon, the issue could almost be dismissed under the de-minimis rule. However, there are rare occasions where a pattern is established in relation to a particular premises and the removal of glassware needs to be considered to prevent crime and disorder. The usual reasons for imposing plastic or non-glass receptacles is for public safety reasons on match days or in particularly busy premises where alcohol is ancillary to entertainment or dancing. To include it in a list of crime prevention measures is disproportionate.

It is questionable whether other bullets included such as restricting alcohol to sales of food or those repeating mandatory conditions (drinks promotions) simply dilute the list. A shorter more considered list, if submitted, is better than a longer less focussed one.

#### **Point 11**

##### **The policy appears to suggest that Cardiff City Council takes a different approach to the use of glassware than the Government**

The section on drinking vessels, final paragraph (page 31) appears to suggest that the Policy does not agree with the Government policy on risk-based approach to use of glasses rather than a blanket approach. It would be useful if the policy clarified this one way or the other.

#### **Point 12**

##### **The suggestion that frequent use of discounted drinks somehow undermines the licensing objectives in and of themselves cannot be correct**

The opening line on discounting and sales promotions (page 31) suggests that 'frequent use of discounted drinks' has the potential to promote drunkenness and disorder. We suggest that the only factor, as recognised in the Mandatory Conditions is the appropriateness of the promotion. We suggest reference is made to the Mandatory condition and that the reference to frequency of promotions is removed.

#### **Point 13**

##### **The prevention of public nuisance section makes no reference to the live Music Act or recorded music deregulation**

The section on public nuisance (pages 22-36) makes no reference to the Live Music Act, or deregulation of recorded music. It is important insofar as it determines when conditions will have effect or not. In addition, it would probably assist to remind applicants and potentially residents that other legislation, such as Environmental Protection Act offers protection against noise nuisance for residents/ businesses and operators relying on the Live Music Act or deregulation need to be aware that noise abatement notices can be served, as well as 24-hour closures for premises causing a nuisance.

#### **Point 14 The expansion of the cumulative impact zone gives cause for concern**

Whilst we understand the reasons for measures such as cumulative impact policies, we question their effectiveness and in particular the reasons for the expansion of the city centre area.

We question whether the expansion in terms of size of the cumulative impact zone into new areas will actually discourage investment into the city centre. Visitor numbers coming to the city have increased greatly in recent years, which is testament to the operators, police and licensing authority working hard to change the image of the city from as recently as 10 years ago.

We look to take on and run innovative venues with a range of activities. Cardiff City Centre has benefited from new operators like us coming in and helping to improve standards. Others who would like to come into Cardiff may be put off by the increased cumulative impact area.

We have a concern that expanding the area will put off innovation by creating a 'closed shop' mentality, unintentionally supporting those premises that have licences but do not want to invest in Cardiff City Centre. We fear that it may actually lead to standards decreasing, not because certain premises won't get new licences, but simply because new and exciting concepts are likely to be deterred by what they will consider to be a risky venture.

**Point 15 In the 'Report on Community Safety Issues Within the Cardiff City Centre' document, the analysis of crime and disorder and the conclusions drawn from it appear to be at odds. The brief given to the analysts and proper disclosure of the data sources and how it was filtered needs to be included to make sense of what the conclusions.**

We are concerned that some of the data used in evidence to support the expansion of the cumulative impact zone appears to have come from sources where there is not enough information given to fully understand the conclusions drawn from them.

We also dispute some of the key findings in terms of increases in crime and disorder in the night time economy, where statistically there has actually been a real fall in numbers. It also concerns us that there is an acknowledgement that recording methods for crime and disorder offences have changed in recent years, but no indication that this has been taken into account in the statistics. Indeed, we are given to understand that these changes have led to increases in figures without any real demonstrable increase in crime and disorder. The general trend has been downward in terms of offences associated with the night time economy and this needs to be acknowledged.

Further there is a lack of correlation between visitor numbers and crimes based on a 'per head' basis. We suspect this is because it would show a significant decrease in crimes per 1000 visitors, which in turn would not support the contention that crime is rising.

**FOR AND ON BEHALF OF THE CHAMELEON GROUP**

## RESPONSE TO STATEMENT OF LICENSING POLICY CONSULTAION

This response is made on behalf of the operator of the following three premises in Cardiff:

- **For your Eyes Only**
- **Playhouse Gentlemen's Club**
- **Fantasy Lounge**

All 3 premises are within the CF10 postcode and all 3 premises hold sexual entertainment venue licences under the Local Government (Miscellaneous Provisions) Act 1982, as well as premises licences under the Licensing Act 2003.

The premises licensing regime, when it came into force in 2005, did not anticipate the changes brought about by the Policing and Crime Act, which from 6 April 2010 classified lap dancing clubs as sexual entertainment venues ('SEV's'). This change permitted councils to adopt a policy regulating the activities of SEV's, which Cardiff has done, thereby requiring SEV premises to hold 2 separate licences in order to undertake lap dancing or striptease, as well as sell alcohol. The SEV licensing regime requires that certain conditions are complied with in order to operate (standard conditions), many of which would ordinarily be covered by the premises licence regime, where the provisions of the Local Government (Miscellaneous Provisions) Act 1982 have not been adopted. In Cardiff therefore, there is significant overlap between the two regimes, one of which is more general in nature (premises licensing under the Licensing Act 2003) and one specific to the nature of the premises (Local Government (Miscellaneous Provisions) Act 1982).

The sale of alcohol is ancillary to the activities of each of the above premises and the entertainment provided is specific in nature, rather than more generally found in late night premises in Cardiff city centre. The exemption and deregulation of various activities under the Licensing Act, such as 'background' music and provision of facilities for dancing, for example, has further diluted the potential undermining of the licensing objectives by such premises and further ensured that the SEV licensing regime is the primary means by which SEV licensed premises are controlled.

In light of the above, this consultation response has concentrated on the mater raised in the draft policy likely to affect such premises.

### Executive Summary

In essence, the points we make are as follows, with full reasons below:

- 1 References to any other documents (such as the 'guidance for applicants') need to include details of where they can be found, preferably with a link to the relevant web-page;
- 2 The list of potential decisions on review either ignores or misses issuing a warning to the licence holder and would benefit from being re-ordered;
- 3 The role of administrator of an application should always be distinct from the officer making a representation on behalf of a licensing authority;
- 4 The section on anonymous representations materially differs from that issued in the S182 Guidance;
- 5 The section on conditions would benefit from setting out the expectations of the council in terms of proposed conditions by officers, especially where there is an overlap with other legislative controls;
- 6 The policy appears to suggest that Cardiff City Council takes a different approach to the use of glassware than the Government;

- 7 References to SEV licences need to reflect the true nature of the control of such premises, in particular in relation to the ancillary nature of alcohol sales.

#### **Point 1**

**References to any other documents (such as the 'guidance for applicants') need to include details of where they can be found, preferably with a link to the relevant web-page**

Page 11 makes reference to 'The City of Cardiff Council's Licensing Act 2003: Guidance for applicants- New Premises and Variation Applications'. A link to the document needs to be provided.

The section on the Local Health Board (page 18) makes reference to information made available to the licensing authority. Where possible, such information should be made available to applicants to assist in making applications and drafting operating schedules.

Reference is made (page 23) to 'Cardiff Council's Licensing Enforcement Policy' and 'established protocols'. A link to these documents needs to be provided.

References are made at page 29 to Cardiff Business Crime Reduction Partnership, National Pubwatch and Safer Clubbing Guide: Links to all 3 would be useful to applicants.

Reference is made to the 'Council's Events Liaison Panel'. A link or contact details would be of value to applicants.

Reference is made on pages 32 and 41 to the 'traffic light policy'. Links to any supporting documents would be valuable.

Reference to licensing fees is made throughout the document without any link or other means to establishing what the fee is. This would provide useful

All such links could be contained in a useful link page at the back, or as footnotes, so long as readers are notified at the appropriate points where references are made.

#### **Point 2**

**The list of potential decisions on review ignores/ misses issuing a warning to the licence holder and would benefit from being re-ordered**

The list of actions a licensing committee can take on review (page 15) appears to go from the least to most draconian in terms of order with the exception of 'take no further action' which appears at the bottom. We suggest that this should appear at the top, with a new bullet under it stating: 'Issue a formal warning to the premises licence holder'.

#### **Point 3**

**The role of administrator of an application should always be distinct from the officer making a representation on behalf of a licensing authority**

Local authorities are obliged in law to ensure that not only do all decision making bodies act in a fair and unbiased way, but they are *seen* to be acting in a fair and unbiased way. An applicant whose application was administered by the same person objecting to it could legitimately say that this could lead to bias, in particular where the administering officer is writing the committee report, whether or not they then appear as an objector.

#### **Point 4**

**The section on anonymous representations materially differs from that issued in the S182 Guidance**

Page 19 makes reference to anyone wishing to make representations but requiring they remain anonymous to make their representation through their local councillor. This goes further than

the S182 Guidance. Paragraphs 9.25 to 9.29 of the March 2015 Guidance suggests other alternatives. There is a chance, in simply suggesting that parties wishing remain anonymous should go through their councillor that they will not be able to make their legitimate representations in time, either due to absence of their councillor or a reluctance to approach them.

#### **Point 5**

##### **The section on conditions would benefit from setting out the expectations of the council in terms of proposed conditions by officers, especially where there is an overlap with other legislative controls**

Section 5.2 (page 21) would benefit from having a paragraph setting out the principles the council expect to be taken into account by responsible authorities and other parties when making representations that suggest conditions to be added to an operating schedule. In particular, where an SEV licence is in place, many of the standard conditions requested by officers are dealt with in detail in the SEV licence mandatory conditions. As such, they should not be repeated in the premises licence.

One of the significant frustrations for applicants and their advisers is when responsible authorities make representations to applications which include lists of conditions drawn from their standard representation, irrespective of whether they are appropriate to the application or not. We suggest the following factors should be considered:

- The size, nature and style of operation, including other licences held
- Whether the premises is part of a multiple operator's chain and therefore more likely to have an operating schedule that is tried and tested
- The cumulative effect of conditions in terms of cost and practical implementation
- The likely cost of the condition(s) for the operator
- Whether a simpler or better way of dealing with a perceived problem could be found
- Whether there is an actual risk of undermining an objective, as opposed to a conceivable risk. In the latter case, there is no need for the condition

#### **Point 6**

##### **The policy appears to suggest that Cardiff City Council takes a different approach to the use of glassware than the Government**

The section on drinking vessels, final paragraph (page 31) appears to suggest that the Policy does not agree with the Government policy on risk-based approach to use of glasses rather than a blanket approach. It would be useful if the policy clarified this one way or the other.

#### **Point 7**

##### **References to SEV licences need to reflect the true nature of the control of such premises, in particular in relation to the ancillary nature of alcohol sales**

There are occasional references to SEV's, or sections of relevance to them in the draft policy. These appear in relation to protection of children from harm and where SEVs are excluded from premises with ancillary alcohol sales in Table 2 of the cumulative impact policy section.

In our experience, there is often a specific section in licensing policies dealing with SEV premises. In the case of Cardiff, and because of the adoption of the Local Government (Miscellaneous Provisions) Act 1982, a dedicated section may not be necessary, albeit it provides clarity to do so. In such circumstances any reference to SEV licensed premises in the draft policy should make reference to the adoption of the Local Government (Miscellaneous Provisions) Act 1982 regime and the existence of a specific policy dealing with such premises.

The specific exclusion of SEV's from the list of premises identifying alcohol as ancillary is misleading given that alcohol is clearly ancillary to the main purpose of the premises (for the reasons set out above). The effect of making such an exclusion from the list invites representations to applications made by premises licence holders that also benefit from having an SEV where there is no potential undermining of the licensing objectives, for instance on an application to change the layout which by its nature falls outside of a minor variation. Such representations could be made on the basis of cumulative impact of premises even though there may be nothing to suggest that the application would undermine the licensing objectives.

As an operator in Cardiff, we maintain a close working relationship with the police and authorities in general in order to ensure that the licensing objectives are promoted. The existence of a specific SEV policy gives added protection in terms of standard of operation required and it is the SEV licensing regime, we suggest, that is better suited for the enforcement of any problems with the running of the premises, rather than the alcohol licensing regime. In these circumstances there is no reason to exclude SEV licensed premises from the list of premises where alcohol is ancillary to other activities and therefore outside of the cumulative impact policy.

We are aware of at least one premises in Cardiff which has an SEV but that operated primarily as a bar and nightclub. In order to ensure that there is no loophole permitting such premises to claim that the cumulative impact policy does not apply, we suggest that the wording in table 2 is amended to exclude from the definition of SEV licensed premises: 'premises that hold SEV licences but operate otherwise than solely as a sexual entertainment venue'.

For and on behalf of:

**For your Eyes Only**

**Playhouse Gentlemen's Club**

**Fantasy Lounge**

## **Draft response: Leamgate Limited**

This response is made on behalf of Leamgate Limited, the operator of the following premises in Cardiff:

### **Le Monde**

Situated at the bustling end of St Mary Street and a stone's throw from the fantastic St David's II retail development, Le Monde offers the freshest choice of fish, shellfish, steak and poultry. Atmospherically lit and with banquet style tables and magnificent art deco style décor Le Monde is famous for its fresh display cabinets, live kitchen and unique environment.

### **Soda**

Soda has been designed to meet the demand of a growing crowd of people who had become disenchanted by the corporate chains dominating the city. These people wanted a more personal, intimate experience; to hang out with friends and like-minded people in a stylish, yet comfortable environment; somewhere they could listen to good music, enjoy good drinks and experience good service.

### **Attic**

Exclusive Members Bar offering the ultimate VIP experience. The Attic- One of Soda's best kept secrets, has vintage furniture & chilled out beats and offers a new clubbing experience. With its prominent location, elegant interior and team of experienced event coordinators, The Attic is the perfect place to hold exclusive events and celebrations. As well as a changeable layout, we are able to tailor a number of factors including lighting and music to create a general atmosphere to suit any mood.

## **Executive Summary**

We have focussed on comments that are more general in nature and may be of value in terms of finessing the policy to give the most scope to be a source of valuable information for applicants, residents and responsible authorities.

In essence, the points we make are as follows, with full reasons given below:

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- The size, nature and style of operation
- Whether the premises is part of a multiple operator's chain and therefore more likely to have an operating schedule that is tried and tested
- The cumulative effect of conditions in terms of cost and practical implementation
- The likely cost of the condition(s) for the operator
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It would also be helpful to establish a principle in the Policy that conditions that have not been discussed by all parties in a hearing, but which are raised as a potential resolution to a point of dispute by a licensing sub-committee in closed session when discussing their determination will be brought back to the parties for consideration and submission prior to any final determination on whether to add them. This will save time and costs, in particular in relation to appeals which are often brought because of conditions have been added by licensing sub-committees without taking into account the views of the relevant parties.

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Section 6, page 23 encourages businesses and local residents to seek to review premises licences if they are believed to cause nuisance. It would be in all parties' interests to have sought to engage in dialogue beforehand and the Policy should reflect this. Review should only occur where other options have been exhausted. In the same way applicants coming before a committee having refused to engage in dialogue without good reason are considered by the policy not to have acted properly, the same principle should apply to any other party seeking a review.

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#### **The list of matters for applicants to consider in relation to the crime prevention objective would benefit from revision**

Page 30 lists factors operators should take into account when drafting operating schedules.

In relation to CCTV, the Information Commissioner has made it clear that CCTV is often demanded or installed where it shouldn't be and in breach of data protection law. This needs to be reflected in this section.

The list also tacitly suggests that the use of glass can have criminal connotations. It is submitted that this is a public safety issue, not an issue of crime and disorder. When consideration is given to the number of glasses used in Cardiff on any given day and the

number of offences where glass is used as a weapon, the issue could almost be dismissed under the de-minimis rule. However, there are rare occasions where a pattern is established in relation to a particular premises and the removal of glassware needs to be considered to prevent crime and disorder. The usual reasons for imposing plastic or non-glass receptacles is for public safety reasons on match days or in particularly busy premises where alcohol is ancillary to entertainment or dancing. To include it in a list of crime prevention measures is disproportionate.

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The opening line on discounting and sales promotions (page 31) suggests that 'frequent use of discounted drinks' has the potential to promote drunkenness and disorder. We suggest that the only factor, as recognised in the Mandatory Conditions is the appropriateness of the promotion. We suggest reference is made to the Mandatory condition and that the reference to frequency of promotions is removed.

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The section on public nuisance (pages 22-36) makes no reference to the Live Music Act, or deregulation of recorded music. It is important insofar as it determines when conditions will have effect or not. In addition, it would probably assist to remind applicants and potentially residents that other legislation, such as Environmental Protection Act offers protection against noise nuisance for residents/ businesses and operators relying on the Live Music Act or deregulation need to be aware that noise abatement notices can be served, as well as 24-hour closures for premises causing a nuisance.

#### **Point 14: The proliferation of, and harm caused by, off-licensed premises**

Table 1 of the cumulative impact policy (page 44) designates off-licensed premises in the CIP as 'amber', therefore only including them as subject to the CIP outside of 'core hours' (7am to 9pm). The purchase of alcohol from the early morning would appear to be within one of the key reasons for the policy which is to try to discourage street drinkers from the area. Making such early sales fall outside of the CIP appears contrary to this stated aim.

There is also a conflict between the statement in page 28 'key message' in relation to off-sales premises being expected to provide alcohol sales during their hours of operation in the CIP 'core hours' policy.

Finally, there are 2 reasons for restricting off-sales of alcohol in the city centre: pre-loading and prevention of street drinking. The only legitimate reasons for off-sales therefore is to provide residents and workers in the city with somewhere to purchase alcohol to take home. It is hard to argue that the majority of alcohol sold in the various shops in the city centre is being sold for

that purpose, particularly on event days and at the weekends, from Friday evening and as such it is hard to justify the need for more off-licences in the city centre cumulative impact zone.

In addition, whilst we commend Cardiff on not suggesting model conditions in relation to applications, it would be useful to expand upon the issues off-licence applicants would want to consider prior to making an application (page 31), perhaps by way of a list of considerations, such as:

- Stocking cheap high ABV products (in relation to street drinking, pre-loading and event management)
- Identification of source of products sold
- Additional restrictions during event days and at weekends
- Percentage of premises given over to the sale of alcohol
- Notices warning of designated controlled drinking zones
- Sales of single cans or bottles, or smaller bottles of spirits
- Discounts

The link between pre-loading and street drinking and crime/ disorder has been amply recognised in the draft policy but there is not enough said about that is expected of applicants for off-licences in the city centre to combat these concerns.

#### **Point 15**

##### **The introductions of minimum pricing/ ban on below cost alcohol sales for on and off-licensed premises would benefit Cardiff**

The prevalence of cheap alcohol, in particular discounts on alcohol used as a loss-leader in supermarkets, promotes both binge drinking and pre-loading. Both add to the problems of ensuring the night time economy remains a safe and happy place for visitors to Cardiff. Many potential customers prefer to drink at home or in discount on-licensed premises to make the most of the offers available. They then often look to move onto better managed venues later, which effectively passes the buck and creates problems for those operators trying to ensure that customers are not already intoxicated. A minimum pricing policy that ensured alcohol could not be bought at such low prices would do a great deal to assist with this issue. It would also assist in raising standards across Cardiff.

## RESPONSE TO CARDIFF LICENSING POLICY

This response is made on behalf of **SA BRAIN** ('Brains').

Brains is Wales' most famous drink. It is the toast of a nation. Still owned by the descendants of the founders that took over a fledgling brewery in a small stone building behind a Cardiff pub in 1882, you can now find the Brains name above the door of over 250 pubs, bars and hotels across Wales and the West of England.

Brewed at The Cardiff Brewery, Brains' award-winning beers are now widely available across Wales and can increasingly be found throughout the rest of Britain in Sainsbury's, Waitrose and Morrison's, as well as in pubs all over the country as guest ales.

The pub estate has expanded rapidly over the past 10 years and nearly every pub now offers a good range of quality food. And if you are looking for somewhere to stay, entertain or celebrate, many Brains pubs now offer bedrooms and function rooms.

Brains has always had close links with Welsh sport. For six years the family name was emblazoned across the national rugby team's chests, during which Wales famously won two Grand Slams in the RBS 6 Nations. Today Brains is the official ale of the WRU. As well as sponsoring the Welsh Rugby Union, Brains is also the official beer of the Football Association of Wales and Glamorgan Cricket.

The company is proud of its independence and the way that it has evolved over its colourful history.

The Brains estate comprises both managed and tenanted premises, split almost 50/50. Brains hold the premises licences for the tenanted estate which gives the company a level of control over the licences without directly running the premises. Each tenant is responsible for appointing the DPS and ensuring the staff have the right qualifications to carry out their roles. As such, the leased estate would be directly affected by any changes that lead to conditions being applied to premises licences despite not actually having staff at the premises who will be personal licence holders.

The managed estate is made up of premises that are directly managed by Brains employees. It is estimated that currently 200 employees of Brain's managed estate hold personal licences and that in the last 12 months approximately 60 employees will have been put through the personal licence course. As a matter of good practice, the area managers that look after this part of the business are also personal licence holders, with a majority having come through the pub trade before being promoted to their current roles.

We fully support the view that all premises should be well run and promote the four licensing objectives. We do not however, support the view that those premises or indeed any premises should be subject to a potential further administrative burden from ad-hoc local requirements contained in licensing policies. For a company with premises spread over a significant number of local authorities, these locally imposed burdens on licence holders and operators, create additional work and can undermine the objectives by creating burdens on managers and staff where not strictly necessary.

We believe that the Licensing Act 2003 and associated relevant legislation contain sufficient safeguards and means of dealing with premises that cause or contribute to crime and disorder.

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**Point 14 The expansion of the cumulative impact zone gives cause for concern**

Whilst we understand the reasons for measures such as cumulative impact policies, we question their effectiveness and in particular the reasons for the expansion of the city centre area.

We question whether the expansion in terms of size of the cumulative impact zone into new areas will actually discourage investment into the city centre. Visitor numbers coming to the city have increased greatly in recent years, which is testament to the operators, police and licensing authority working hard to change the image of the city from as recently as 10 years ago. Brains has played a part in, as well as benefited from, that growth in numbers; but has also worked very hard to provide safe and fun environments for our customers.

We have a concern that expanding the area will put off innovation by creating a 'closed shop' mentality, unintentionally supporting those premises that have licences but do not want to invest in Cardiff City Centre. We fear that it may actually lead to standards decreasing, not because certain premises won't get new licences, but simply because new and exciting concepts are likely to be deterred by what they will consider to be a risky venture.

Whilst it may sound counter-intuitive for the single largest holder of premises licences in Cardiff to want to ensure there is healthy competition, we recognise that if Cardiff thrives, so do we.

**Point 15 In the 'Report on Community Safety Issues Within the Cardiff City Centre' document, the analysis of crime and disorder and the conclusions drawn from it appear to be at odds. The brief given to the analysts and proper disclosure of the data sources and how it was filtered needs to be included to make sense of what the conclusions.**

We are concerned that some of the data used in evidence to support the expansion of the cumulative impact zone appears to have come from sources where there is not enough information given to fully understand the conclusions drawn from them.

We also dispute some of the key findings in terms of increases in crime and disorder in the night time economy, where statistically there has actually been a real fall in numbers. It also concerns us that there is an acknowledgement that recording methods for crime and disorder offences have changed in recent years, but no indication that this has been taken into account in the statistics. Indeed, we are given to understand that these changes have lead to increases in figures without any real demonstrable increase in crime and disorder. The general trend has been downward in terms of offences associated with the night time economy and this needs to be acknowledged.

Further there is a lack of correlation between visitor numbers and crimes based on a 'per head' basis. We suspect this is because it would show a significant decrease in crimes per 1000 visitors, which in turn would not support the contention that crime is rising.

**FOR AND ON BEHALF OF SA BRAIN**

## **About TLT**

TLT LLP are a full-service commercial solicitors practice. TLT's main office is in Bristol, with the firm being created in the city in 2000 from the merger of 2 established Bristol firms. TLT currently employs approximately 615 people in our 2 Bristol offices. In addition, TLT has UK offices in Manchester, London, Glasgow, Edinburgh and Belfast, employing just under 1,000 people across the offices

TLT offers licensing advice to a number of the countries largest pub companies, as well as a range of 'bespoke' clients and large retail chains. TLT's licensing team is recognised as a market leader, being ranked first in both the Chambers legal Guide and joint first in the Legal 500 solicitors guides for licensing advice in the west of England.

The size and scope of TLT's licensing practise mean that we have advised clients with premises in every licensing area in England and Wales. As such, when it comes to comparative assessments of local authority licensing policies, TLT can talk with authority.

TLT have provided licensing advice to a significant number of licensed premises in Cardiff, including advising SA Brain on all licensing matters within the city. We have also acted for clients across the spectrum of licensed premises within Cardiff, from major nightclubs to striptease venues and from property developers to fish and chip shops.

Matthew Phipps, head of licensing for England and Wales, has had a long association with Cardiff, being born and bred in south Wales. He has appeared on panels and at various Cardiff licensing forums over the years. TLT has also attended functions in support of the Cardiff Street Pastor scheme.

The breadth and range of experience in Cardiff means that TLT are very well placed to comment on the Cardiff licensing policy consultation.

## **Executive Summary**

We have focussed on comments that are more general in nature and may be of value in terms of finessing the policy to give the most scope to be a source of valuable information for applicants, residents and responsible authorities.

In essence, the points we make are as follows, with full reasons given below:

- 1       References to any other documents (such as the 'guidance for applicants') need to include details of where they can be found, preferably with a link to the relevant web-page;
- 2       The section dealing with Live Music Act 2012 and deregulation contains some factual errors and does not deal with the recorded music deregulation;
- 3       The list of potential decisions on review either ignores or misses issuing a warning to the licence holder and would benefit from being re-ordered;
- 4       The Temporary Event Notice section makes no reference to use of TENs by licensed premises and would benefit from a tightening of the language used in the policy;
- 5       The responsible authority list should contain all responsible authorities
- 6       The role of administrator of an application should always be distinct from the officer making a representation on behalf of a licensing authority;
- 7       The section on anonymous representations materially differs from that issued in the S182 Guidance;
- 8       The section on conditions would benefit from setting out the expectations of the council in terms of proposed conditions by officers;

- 9 The enforcement section does not appear to encourage dialogue between a complainant and premises prior to seeking a review;
- 10 The list of matters for applicants to consider in relation to the crime prevention objective would benefit from revision as it loses impact from having too many bullets;
- 11 The policy appears to suggest that Cardiff City Council takes a different approach to the use of glassware than the Government;
- 12 The suggestion that frequent use of discounted drinks somehow undermines the licensing objectives in and of themselves cannot be correct for the reasons set out below;
- 13 The prevention of public nuisance section makes no reference to the live Music Act or recorded music deregulation;
- 14 The expansion of the cumulative impact zone gives cause for concern;
- 15 In the 'Report on Community Safety Issues Within the Cardiff City Centre' document, the analysis of crime and disorder and the conclusions drawn from it appear to be at odds. The brief given to the analysts and proper disclosure of the data sources and how it was filtered needs to be included to make sense of what the conclusions.

#### **Point 1.**

**References to any other documents (such as the 'guidance for applicants') need to include details of where they can be found, preferably with a link to the relevant web-page**

Page 11 makes reference to 'The City of Cardiff Council's Licensing Act 2003: Guidance for applicants- New Premises and Variation Applications'. A link to the document needs to be provided.

The section on the Local Health Board (page 18) makes reference to information made available to the licensing authority. Where possible, such information should be made available to applicants to assist in making applications and drafting operating schedules.

Reference is made (page 23) to 'Cardiff Council's Licensing Enforcement Policy' and 'established protocols'. A link to these documents needs to be provided.

References are made at page 29 to Cardiff Business Crime Reduction Partnership, National Pubwatch and Safer Clubbing Guide: Links to all 3 would be useful to applicants.

Reference is made to the 'Council's Events Liaison Panel'. A link or contact details would be of value to applicants.

Reference is made on pages 32 and 41 to the 'traffic light policy'. Links to any supporting documents would be valuable.

Reference to licensing fees is made throughout the document without any link or other means to establishing what the fee is. This would provide useful

All such links could be contained in a useful link page at the back, or as footnotes, so long as readers are notified at the appropriate points where references are made.

#### **Point 2**

**The section dealing with Live Music Act 2012 and deregulation contains some factual errors and does not deal with the recorded music deregulation**

An analysis of the advice given in relation to Live music Act 2012 and Deregulation Act 2015 misses some important points and in the first bullet is incorrect in the hours it suggests unamplified music can take place.

The section misses out the requirement that the live and recorded exemption (bullet 2) is only available during hours that alcohol can be sold.

There is no mention of how the exemptions and deregulations are applied in outside areas of premises licensed to sell alcohol and when conditions do apply (such as in beer gardens shown on plans but not licensed).

### **Point 3**

**The list of potential decisions on review ignores/ misses issuing a warning to the licence holder and would benefit from being re-ordered;**

The list of actions a licensing committee can take on review (page 15) appears to go from the least to most draconian in terms of order with the exception of 'take no further action' which appears at the bottom. We suggest that this should appear at the top, with a new bullet under it stating: 'Issue a formal warning to the premises licence holder'.

### **Point 4**

**The Temporary Event Notice section makes no reference to use of TENs by licensed premises and would benefit from a tightening of the language**

In presenting the purpose of TENs on page 16, there is no reference in the opening paragraph to their use at licensed premises. This is factually incorrect. There is no distinction made (except in relation to what conditions can be added to a TEN) between licensed and non-licensed premises for the purpose of TENs.

### **Point 5**

**The responsible authority list should be complete and role of administrator of an application should always be distinct from the officer making a representation on behalf of a licensing authority**

The list of responsible authorities (page 17) would be of more assistance to applicants if it were a complete list. Where responsible authorities, such as waterways, need only be consulted/ included in specific circumstances, these could be highlighted as such at the bottom of the list.

### **Point 6**

**The role of administrator of an application should always be distinct from the officer making a representation on behalf of a licensing authority**

Local authorities are obliged in law to ensure that not only do all decision making bodies act in a fair and unbiased way, but they are *seen* to be acting in a fair and unbiased way. An applicant whose application was administered by the same person objecting to it could legitimately say that this could lead to bias, in particular where the administering officer is writing the committee report, whether or not they then appear as an objector.

### **Point 7**

**The section on anonymous representations materially differs from that issued in the S182 Guidance**

Page 19 makes reference to anyone wishing to make representations but requiring they remain anonymous to make their representation through their local councillor. This goes further than the S182 Guidance. Paragraphs 9.25 to 9.29 of the March 2015 Guidance suggests other alternatives. There is a chance, in simply suggesting that parties wishing remain anonymous should go through their councillor that they will not be able to make their legitimate

representations in time, either due to absence of their councillor or a reluctance to approach them.

#### **Point 8**

##### **The section on conditions would benefit from setting out the expectations of the council in terms of proposed conditions by officers**

Section 5.2 (page 21) would benefit from having a paragraph setting out the principles the council expect to be taken into account by responsible authorities and other parties when making representations that suggest conditions to be added to an operating schedule. One of the significant frustrations for applicants and their advisers is when responsible authorities make representations to applications which include lists of conditions drawn from their standard representation, irrespective of whether they are appropriate to the application or not. We suggest the following factors should be considered:

- The size, nature and style of operation
- Whether the premises is part of a multiple operator's chain and therefore more likely to have an operating schedule that is tried and tested
- The cumulative effect of conditions in terms of cost and practical implementation
- The likely cost of the condition(s) for the operator
- Whether a simpler or better way of dealing with a perceived problem could be found
- Whether there is an actual risk of undermining an objective, as opposed to a conceivable risk. In the latter case, there is no need for the condition

##### **Imposition of conditions at hearings**

It would also be helpful to establish a principle in the Policy that conditions that have not been discussed by all parties in a hearing, but which are raised as a potential resolution to a point of dispute by a licensing sub-committee in closed session when discussing their determination will be brought back to the parties for consideration and submission prior to any final determination on whether to add them. This will save time and costs, in particular in relation to appeals which are often brought because of conditions have been added by licensing sub-committees without taking into account the views of the relevant parties.

#### **Point 9**

##### **The enforcement section does not appear to encourage dialogue between a complainant and premises prior to seeking a review**

Section 6, page 23 encourages businesses and local residents to seek to review premises licences if they are believed to cause nuisance. It would be in all parties' interests to have sought to engage in dialogue beforehand and the Policy should reflect this. Review should only occur where other options have been exhausted. In the same way applicants coming before a committee having refused to engage in dialogue without good reason are considered by the policy not to have acted properly, the same principle should apply to any other party seeking a review.

#### **Point 10**

##### **The list of matters for applicants to consider in relation to the crime prevention objective would benefit from revision**

Page 30 lists factors operators should take into account when drafting operating schedules.

In relation to CCTV, the Information Commissioner has made it clear that CCTV is often demanded or installed where it shouldn't be and in breach of data protection law. This needs to be reflected in this section.

The list also tacitly suggests that the use of glass can have criminal connotations. It is submitted that this is a public safety issue, not an issue of crime and disorder. When consideration is given to the number of glasses used in Cardiff on any given day and the number of offences where glass is used as a weapon, the issue could almost be dismissed under the de-minimis rule. However, there are rare occasions where a pattern is established in relation to a particular premises and the removal of glassware needs to be considered to prevent crime and disorder. The usual reasons for imposing plastic or non-glass receptacles is for public safety reasons on match days or in particularly busy premises where alcohol is ancillary to entertainment or dancing. To include it in a list of crime prevention measures is disproportionate.

It is questionable whether other bullets included such as restricting alcohol to sales of food or those repeating mandatory conditions (drinks promotions) simply dilute the list. A shorter more considered list, it is submitted, is better than a longer less focussed one.

#### **Point 11**

##### **The policy appears to suggest that Cardiff City Council takes a different approach to the use of glassware than the Government**

The section on drinking vessels, final paragraph (page 31) appears to suggest that the Policy does not agree with the Government policy on risk-based approach to use of glasses rather than a blanket approach. It would be useful if the policy clarified this one way or the other.

#### **Point 12**

##### **The suggestion that frequent use of discounted drinks somehow undermines the licensing objectives in and of themselves cannot be correct**

The opening line on discounting and sales promotions (page 31) suggests that 'frequent use of discounted drinks' has the potential to promote drunkenness and disorder. We suggest that the only factor, as recognised in the Mandatory Conditions is the appropriateness of the promotion. We suggest reference is made to the Mandatory condition and that the reference to frequency of promotions is removed.

#### **Point 13**

##### **The prevention of public nuisance section makes no reference to the live Music Act or recorded music deregulation**

The section on public nuisance (pages 22-36) makes no reference to the Live Music Act, or deregulation of recorded music. It is important insofar as it determines when conditions will have effect or not. In addition, it would probably assist to remind applicants and potentially residents that other legislation, such as Environmental Protection Act offers protection against noise nuisance for residents/ businesses and operators relying on the Live Music Act or deregulation need to be aware that noise abatement notices can be served, as well as 24-hour closures for premises causing a nuisance.

#### **Point 14 The expansion of the cumulative impact zone gives cause for concern**

Whilst we understand the reasons for measures such as cumulative impact policies, we question their effectiveness and in particular the reasons for the expansion of the city centre area.

We question whether the expansion in terms of size of the cumulative impact zone into new areas will actually discourage investment into the city centre. Visitor numbers coming to the city have increased greatly in recent years, which is testament to the operators, police and licensing authority working hard to change the image of the city from as recently as 10 years ago.

We have a concern that expanding the area will put off innovation by creating a 'closed shop' mentality, unintentionally supporting those premises that have licences but do not want to invest in Cardiff City Centre. We fear that it may actually lead to standards decreasing, not because certain premises won't get new licences, but simply because new and exciting concepts are likely to be deterred by what they will consider to be a risky venture.

**Point 15 in the 'Report on Community Safety Issues Within the Cardiff City Centre' document, the analysis of crime and disorder and the conclusions drawn from it appear to be at odds. The brief given to the analysts and proper disclosure of the data sources and how it was filtered needs to be included to make sense of what the conclusions.**

We are concerned that some of the data used in evidence to support the expansion of the cumulative impact zone appears to have come from sources where there is not enough information given to fully understand the conclusions drawn from them.

We also dispute some of the key findings in terms of increases in crime and disorder in the night time economy, where statistically there has actually been a real fall in numbers. It also concerns us that there is an acknowledgement that recording methods for crime and disorder offences have changed in recent years, but no indication that this has been taken into account in the statistics. Indeed, we are given to understand that these changes have lead to increases in figures without any real demonstrable increase in crime and disorder. The general trend has been downward in terms of offences associated with the night time economy and this needs to be acknowledged.

Further there is a lack of correlation between visitor numbers and crimes based on a 'per head' basis. We suspect this is because it would show a significant decrease in crimes per 1000 visitors, which in turn would not support the contention that crime is rising.

**FOR AND ON BEHALF OF TLT LLP**



**GIG**  
CYMRU  
**NHS**  
WALES

Bwrdd Iechyd Prifysgol  
Caerdydd a'r Fro  
Cardiff and Vale  
University Health Board

**Ysbyty'r Eglwys Newydd**  
**Whitchurch Hospital**

Park Road, Whitchurch.  
Cardiff, CF14 7XB

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Cheryl Williams  
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Cardiff & Vale UHB

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08 October 2015

### **Response to City of Cardiff Council: Statement of Licensing Policy**

Cardiff and Vale University Health Board welcome the development of the City of Cardiff Council Statement of Licensing Policy 2016-2021 and are grateful for the opportunity to respond to the draft.

The UHB hopes that you find the responses helpful in progressing development of the policy statement. Please do not hesitate to contact me if you require any further information at this stage.

Yours sincerely,

**Cheryl Williams**  
**Principal Health Promotion Specialist**  
**Cardiff & Vale Public Health Team**

## **Cardiff and Vale University Health Board Response to Statement of Licensing Policy**

Cardiff and Vale University Health Board (UHB) welcome the development of the City of Cardiff Council Statement of Licensing Policy 2016-2021 and are grateful for the opportunity to respond to the draft. The UHB aims to fulfil its function as a Responsible Authority by providing expert knowledge of the harm caused by alcohol and coordinating health evidence to support responses to applications for alcohol licenses. Our aim is to work within the structure of alcohol licensing to help minimise and reduce individual and population level harm resulting from the misuse of alcohol.

The UHB would like to re-emphasise the international evidence base that highlights an undoubted connection between affordability and availability of alcohol and the resulting affect of alcohol related harm on individuals and the population. Locally, the short term impact of this is picked up at UHB services including the Emergency Unit (EU) at the University Hospital Wales, and the Alcohol Treatment Centre (ATC). Longer term impacts of alcohol consumption impact on Secondary Care services across the organisation. We believe that there is opportunity to work with partner Responsible Authorities in the area to reduce the affordability and availability of alcohol, thus minimising and reducing harm that alcohol causes to the population along with the avoidable negative impact on local services.

Professionals from within the UHB and colleagues from Public Health Wales who represent the UHB within its role as a Responsible Authority were consulted on the draft Statement of Licensing Policy, and the following is a collated response from the organisation. The UHB would like to commend Cardiff Council on the draft of the Statement of Licensing Policy and particularly the focus on harm reduction throughout the document. The following comments on specific sections of the Policy are the areas that we wish to draw particular attention to.

### **The role of the Local Health Board (p.18)**

We would like to draw attention to the fact that the UHB does more than hold information that can be used for alcohol licensing. We would like the policy to acknowledge that the UHB *actively monitors alcohol related harm* in order to contribute to the licensing process. We would like the policy to recognise that the UHB actively monitors:

- Emergency Unit attendances
- Hospital admissions
- Last Drink Data

All of this data is used to contribute to the understanding of the effects, levels and patterns of alcohol consumption within the UHB area, and is used to inform responses to alcohol license applications. Examples of events that may trigger reviews include:

#### The prevention of crime and disorder

The UHB may submit a representation citing a large number of patients presenting at the Emergency Unit from assaults within a licensed premise.

### Public safety

The UHB may submit a representation following a trend with last drink data and Emergency Unit data indicating a high number of alcohol poisoning cases coming from a particular premise or from within its near vicinity.

### Prevention of public nuisance

The UHB may support local resident representations on a premises' application for the extension of trading hours. The UHB may submit a representation requesting noise related conditions or object to an extension of hours using evidence of the health impacts that sleep deficit can have on local residents.

### The protection of children from harm

The UHB may submit evidence on the rates of alcohol related domestic abuse towards children in an area, to object to an application for an off-licence to extend its opening hours, based on the cumulative impact this would have on the rates of abuse towards children in the area.

Additionally our clinical academics within the UHB generate new evidence regarding what works to reduce harm related to alcohol. This evidence contributes to the wider evidence base, but crucially, provides evidence to local alcohol licensing decisions. Representations for all future applications for alcohol licenses will be based on up to date and emerging evidence from within this area.

## **Discounting and sales promotions (p.31)**

The UHB fully supports imposing appropriate licence conditions to restrict alcohol discounting and sales promotions.

We believe that conditions should be imposed on applications where it is perceived that the premise will promote excessive and harmful alcohol consumption. This includes promotions such as:

- Happy hours
- Two for one promotions
- Prepaid drinks packages

and any discount and sales promotion that encourages excessive and harmful alcohol consumption.

Additionally, the UHB believes that conditions should be imposed on licenses to prevent sub-companies to be licensed to carry out drinks promotions within licensed premises. Examples of this would include companies running promotions of 'shots' within a premise with an existing licence.

The UHB believes it has an important role to play in discussing the detail of these conditions with partner Responsible Authorities, and would welcome regular discussion on these issues.

### **Drinking vessels (p.31)**

The UHB fully supports imposing appropriate licence conditions for the use of non glass drinking vessels in premises within the city centre and close to large sporting venues.

We believe that serious consideration should be made, to impose appropriate conditions on new licenses within the city centre and close to large sporting venues during major events, and during particularly busy nights throughout the year.

The UHB believes it has an important role to play in discussing the detail of these conditions with partner Responsible Authorities, and would welcome regular discussion on this issue.

### **Cumulative Impact Policies (p.40)**

The UHB fully supports the adoption of Cumulative Impact Policies (CIP) and in particular supports the widening of the Cumulative Impact Area (CIA) to incorporate the whole of the city centre.

The UHB also supports the principles of how the CIP will be applied to the following premise types:

- Ancillary alcohol sales
- Pubs / Members Clubs / Bars / Nightclubs
- Restaurants
- Takeaways / Fast Food Restaurants

However, we believe that the CIP should be applied to new applications of Off-Licenses within the CIA of Cardiff city centre, along with any proposed variations to existing Off-License premises. We believe that this will make a positive contribution to the identified dangers and problems related to pre-loading and street drinking within the city centre area, and contribute to minimising and reducing alcohol related harm.

### **Late Night Levy (P.13)**

The UHB fully supports the option of implementing a Late Night Levy to contribute to Policing and supporting the management of the night time economy. We believe that a Late Night Levy would begin to contribute to the costly impact of alcohol on local services.

### **Petrol / Service Stations (p.10)**

The UHB supports restrictions to alcohol licenses at petrol / service stations.

Even when documentation such as trading figures to demonstrate primary use of the premise are provided, we would like to reiterate the dangers related to availability of alcohol, and the normalisation of alcohol availability.

## **‘Alcohol misuse is already one of the most serious public health challenges in Wales’**

**(Chief Medical Officer for Wales, 2010)**

- Every year, alcohol contributes to around 1000 deaths in Wales<sup>1</sup>.
- 1.5% of all hospital admissions in Wales are alcohol related<sup>1</sup>.
- Trend data show that alcohol related hospital admissions are increasing<sup>1</sup>.
- Alcohol related incidents cost the NHS in Wales between £70 and £85 million per year<sup>2</sup>.
- 44% of adults in Wales report drinking alcohol above the recommended alcohol limits in the previous week and 27% of adults in Wales report that they binge drink<sup>3</sup> – this is likely to be a substantial under-estimate of the true number.
- It is estimated that for every drinker in Wales there is a disparity of a bottle of wine between reported drinking levels and alcohol purchased<sup>4</sup>.
- Alcohol and its misuse is associated with significant health, social and economic costs, to individuals, families, communities, workplaces, organisations and society as a whole.
- As well as potentially causing harm to the individual who is drinking, alcohol consumption can also have an effect on wider society through alcohol-related crime.
- In 2007/8, there were estimated to be around 18,000 incidents of violent crime attributable to alcohol in Wales<sup>1</sup>. This figure is likely to substantially under-estimate the contribution of alcohol to crime.

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<sup>1</sup> Gartner et al (2009) *A profile of alcohol and health in Wales*. Cardiff: Wales Centre for Health. Available at: [http://nww2.nphs.wales.nhs.uk:8080/PubHObservatoryProjDocs.nsf/85c50756737f79ac80256f2700534ea3/0400558233b1c95c802576ea00407a33/\\$FILE/Alcohol%20and%20health%20in%20Wales\\_WebFinal\\_E.pdf](http://nww2.nphs.wales.nhs.uk:8080/PubHObservatoryProjDocs.nsf/85c50756737f79ac80256f2700534ea3/0400558233b1c95c802576ea00407a33/$FILE/Alcohol%20and%20health%20in%20Wales_WebFinal_E.pdf) [Accessed 23<sup>rd</sup> April 2013]

<sup>2</sup> Welsh Assembly Government (WAG) (2008a) cite Coles and Pates (unpublished)

<sup>3</sup> Welsh Government (2012) *Welsh Health Survey: Local authority and Local Health Board results, 2010 and 2011*. Available at: <http://wales.gov.uk/topics/statistics/theme/health/health-survey/results/?lang=en> [Accessed 23<sup>rd</sup> April 2013]

<sup>4</sup> Alcohol Concern (2009) *Off Measure: How we underestimate the amount we drink*. Available at: <http://www.alcoholconcern.org.uk/assets/files/Publications/Off%20Measure%20-%20FINAL.pdf> [Accessed 23<sup>rd</sup> April 2013]



### In Cardiff and Vale...

- Cardiff and Vale has higher levels of alcohol misuse than Wales in general.
- 46% of adults report drinking alcohol above the recommended alcohol limits on at least one day in the previous week<sup>5</sup>.
- Men drink above the guidelines more often than women, with the 45-54 year olds drinking over the guidelines most<sup>6</sup>.
- 28% of adults in Cardiff and the Vale report that they binge drink<sup>5</sup>.
- Binge drinking in Cardiff and Vale is on or above the national average, and is likely to be centred on hotspots such as Cardiff City Centre.
- Alcohol related hospital admissions in Cardiff and Vale, for males and females, are slightly lower than the Wales average<sup>7</sup>, but this trend is rising.
- Alcohol related violent crime is lower in the Vale of Glamorgan than across all-Wales average but, this may be due to under reporting of these crimes.
- Crime in Cardiff is above the national average and while the residences of the offenders are unknown (many may be from other areas) the impact on Cardiff's services is considerable.

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<sup>5</sup> Welsh Government (2012) *Welsh Health Survey: Local authority and Local Health Board results, 2010 and 2011*. Available at: <http://wales.gov.uk/topics/statistics/theme/health/health-survey/results/?lang=en> [Accessed 23rd April 2013]

<sup>6</sup> Welsh Government (2012) *Welsh Health Survey 2011*. Available at: <http://wales.gov.uk/topics/statistics/headlines/health2012/120919/?lang=en> [Accessed 23rd April 2013]

<sup>7</sup> Gartner et al (2009) *A profile of alcohol and health in Wales*. Cardiff: Wales Centre for Health. Available at: [http://nww2.nphs.wales.nhs.uk:8080/PubHObservatoryProjDocs.nsf/85c50756737f79ac80256f2700534ea3/0400558233b1c95c802576ea00407a33/\\$FILE/Alcohol%20and%20health%20in%20Wales\\_WebFinal\\_E.pdf](http://nww2.nphs.wales.nhs.uk:8080/PubHObservatoryProjDocs.nsf/85c50756737f79ac80256f2700534ea3/0400558233b1c95c802576ea00407a33/$FILE/Alcohol%20and%20health%20in%20Wales_WebFinal_E.pdf) [Accessed 23<sup>rd</sup> April 2013]

### Why does licensing matter?

- Opening hours and density of alcohol sales outlets influence alcohol consumption, drinking patterns and damage due to alcohol<sup>8</sup>.
- It has been concluded that restricting the availability of alcohol is an effective way of reducing alcohol related harm.
- The number of alcohol outlets is strongly related to alcohol related hospital admissions<sup>9</sup>.
- There is a significant link between the density of 'pubs and clubs' and numbers of assaults<sup>10</sup> and also to crime rates in general<sup>11</sup>
- Reducing alcohol availability and access is key to preventing alcohol related problems in the community<sup>12</sup>.
- Extensions to opening hours are most often used by problem drinkers to increase their access to alcohol<sup>13</sup>.
- Increasing the density of alcohol outlets increases competition, usually leading to lower prices and increased alcohol consumption<sup>14</sup>.
- Marginalised drinkers are most affected by changes in alcohol availability<sup>14</sup>.

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<sup>8</sup> Popova S et al (2009) Hours and days of sale and density of alcohol outlets: impacts on alcohol consumption and damage: a systematic review. *Alcohol & Alcoholism*. 44, pp. 500 – 16.

<sup>9</sup> Tatlow et al (2000) The relationship between the geographic density of alcohol outlets and alcohol-related hospital admissions in San Diego County. *Journal of Community Health*, 25 (1), pp. 79–88.

<sup>10</sup> Gouvis Roman et al (2008) Alcohol Outlets as Attractors of Violence and Disorder: A Closer look at the Neighbourhood Environment. Available at: [http://www.urban.org/UploadedPDF/411663\\_alcohol\\_outlets.pdf](http://www.urban.org/UploadedPDF/411663_alcohol_outlets.pdf) [Accessed 23rd April 2013].

<sup>11</sup> Gruenewald et al (2006) Regulating Availability: How access to alcohol affects drinking and problems in youth and adults. *The Journal of the National Institute on Alcohol Abuse and Alcoholism*. 24 (2), pp. 258-267. Available at: <http://pubs.niaaa.nih.gov/publications/arh342/248-256.htm> [Accessed 5th June 2013]

<sup>12</sup> Gorman and Horel (2005) Drug 'hot-spots', alcohol availability and violence. *Drug and Alcohol Review*. 24, pp. 507 – 513. Available at: <http://onlinelibrary.wiley.com/doi/10.1080/09595230500292946/abstract> [Accessed 5th June 2013]

<sup>13</sup> McLaughlin et al (1992) and Smith (1986)

<sup>14</sup> Livingston et al (2007) Changing the density of alcohol outlets to reduce alcohol-related problems. *Drug and Alcohol Review*, 26 (5) pp. 557-566.

**Hartrey, Claire**

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**From:** Wynford Ellis Owen [info@welshcouncil.org.uk]  
**Sent:** 13 September 2015 17:06  
**To:** Hartrey, Claire  
**Cc:** carolhardy2013@yahoo.com  
**Subject:** Review of Statement of Licensing Act Policy  
**Follow Up Flag:** Follow up  
**Flag Status:** Red

Dear Claire,

In response to your Review of Statement of Licensing Policy.

The document is detailed and comprehensive, and the highlighted objectives are commendable. Where the document is disappointing is in its cold and legalistic tone, and it doesn't give an objective overview of the effect of alcohol on the consumer. There are moral, social, economic and health issues that are not referred to in the document. The LA would probably argue that such matters are not their direct concern, nor are such matters accommodated within licensing laws. The issue remains to be dealt with – who does ensure that the misuse of alcohol is seen as a collective concern?

The police deals with the events on the street, the courts receive the cases where examples of violence must be punished, and the hospitals and medical centres respond to the physical damage of those who are drunk and injured. The long-term damage is another facet that society needs to confront. Yet the Licensing Authority can stand back and disclaim responsibility. The distillers and brewers would walk away from accepting liability. There needs to be a collective view on the welfare of the whole community, and this document fails to recognize the consequence of the over lenient attitude to the provision of alcohol in society.

One accepts that restaurants and bars would keep an overview of behavioural concerns and would need to maintain certain standards from their staff and managers. They would have limited opening hours.

The clubs seem to be less stringent in their discipline and probably the social problems are heightened in consequence.

The document does not refer to the circumstances where an application would be refused. Would the Authority grant a licence to a grocery store that might be open at 5.00 am or where a shop would offer alcohol after 11.00pm in a residential area?

Outside London, Cardiff is seen as the most attractive location to the south of Birmingham. Drawing alcohol based visitors may offer business to many in Cardiff, but surely the LA must take a broad view of all the alcohol related issues. How many hospital beds are occupied by alcohol related illnesses and how many cases in the Magistrates Courts are alcohol related?

The document may be well written and within the letter of licensing laws, but it falls short of having a caring and protective mind-set of those who live in the communities of our city. We would encourage the relevant committee to revisit the document, especially with regard to the outlets where the customers don't drink on site and to the standards expected in the city centre clubs. The police, hospitals and social workers must have an input into the document, as the people who deal with the consequences on the other side of the street. A discussion with groups such as 'Street Pastors' and 'The Living Room Cardiff' could offer another insight before this document is rubber stamped for another three years.

Yours sincerely,

Wynford

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**LICENSING COMMITTEE: 3 November 2015****Report of the Head of Regulatory Services****REVIEW OF STATEMENT OF GAMBLING LICENSING POLICY****1. Background**

- 1.1 Under the Gambling Act 2005 every Licensing Authority has to publish a Statement of Licensing Policy which sets out the principles that it proposes to apply in exercising its functions under the Act. The statement must be determined for a three year period in consultation with:
- The Chief Officer of Police
  - One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area
  - One or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Gambling Act 2005
- 1.2 A Statement of Gambling Licensing Policy was adopted and published in January 2013. The Gambling Commission has provided guidance to local authorities on what Statements of gambling licensing policies should contain and this has been relied upon in reviewing the existing policy statement.
- 1.3 This report is to request the approval of the Committee of an amended Statement of Gambling Licensing Policy following a review of the policy. A copy of the amended Statement of Gambling Licensing Policy is attached as Appendix A.

**2. Preparation of the Amended Licensing Policy Statement**

- 2.1 Section 349 of the Gambling Act requires a licensing authority to prepare before each successive period of three years, a statement of the principles that they propose to apply in exercising their functions under the Act during that period.
- 2.2 Under Section 154 of the Act the licensing authority (ie the full Council) must approve the policy and may not delegate this to its Licensing Committee.
- 2.3 The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 came into force on 31 March 2006 and set out the requirements on licensing authorities as to the form and publication of the Statement of Gambling Licensing Policy.

- 2.4 Section 25 of the Act requires the Gambling Commission to produce guidance to local authorities on the manner in which they are to exercise their functions under the Act. Licensing Authorities must have regard to this guidance which was last published by the Gambling Commission in September 2015. The guidance has been relied upon extensively in reviewing the Statement of Gambling Licensing Policy.
- 2.5 The responsible authorities and those stakeholders and organisation which are listed in Appendix C of the Draft Policy have been consulted directly on the policy as have all those who hold a licence. A public consultation exercise was carried out requesting views on the existing policy. Details of the responses received are shown in Appendix B of this report.
- 2.6 As a result of the consultation responses, the wording of Section 4.8 has been amended to make the considerations for risk assessments less prescriptive.

### **3. Achievability**

This report contains no equality, personnel or property implications. Implementation of the legislation, if approved, will have personnel and financial implications which will need to be considered at that time.

### **4. Legal Implications**

- 4.1 The Gambling Act 2005 places a statutory requirement on licensing authorities to issue a Statement of Gambling Licensing Policy. The full Council is required to approve the Policy for publication.

### **5. Financial Implications**

- 5.1 This report does not result directly in any additional financial implications. The cost of providing the licensing service is met from income from licence fees and charges which are reviewed annually to ensure the service continues to be provided at no cost to the authority.

### **6. Recommendation**

It is recommended that the Committee endorse the amended Statement of Gambling Licensing Policy and approve it for ratification by the Council.

**Dave Holland**  
**HEAD OF REGULATORY SERVICES**

**22 October 2015**

This report has been prepared in accordance with procedures approved by Corporate Managers.

Background Papers:

1. The Gambling Act 2005 and associated Regulations.
2. Gambling Commission Guidance to Local Authorities.

# City of Cardiff Council

## Statement of Gambling Act Policy

2016-2019



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This Statement of Licensing Principles was approved by Cardiff Council on XXXX

*All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities*

# 1. The Licensing Objectives

In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

This Licensing Authority is aware that, as per Section 153, in making decisions about Premises Licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the licensing objectives and
- in accordance with the authority’s statement of licensing policy

## 1.1 Introduction

This Statement covers the geographical area of Cardiff.

The City of Cardiff Council is the Licensing Authority under the Gambling Act 2005.

Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must be then re-published.

The City of Cardiff Council consulted widely upon this statement before finalising and publishing. A list of those persons consulted is provided below. It should be noted that unsolicited comments were received from other persons but we have not listed all of these.

The Gambling Act requires that the following parties are consulted by licensing authorities:

- The Chief Officer of Police;
- One or more persons who appear to the authority to represent the interests of

- persons carrying on gambling businesses in the authority's area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

A full list of persons this authority consulted is detailed in Appendix C.

Our consultation took place between 21 August 2015 and 08 October 2015 and we followed the HM Government Code of Practice on Consultation (published July 2008), which is available at:

[www.bis.gov.uk/files/file47158.pdf](http://www.bis.gov.uk/files/file47158.pdf)

The full list of comments made and the consideration by the Council of those comments is available by request to: Licensing Service, The City of Cardiff Council, City Hall, Cardiff, CF10 3ND.

The policy was approved at a meeting of the Full Council on and was published via our website on XXXXXXXXXX. Copies were placed in the public libraries of the area as well as being available in the Town Hall.

Should you have any comments as regards this policy statement please send them via e-mail or letter to the following contact:

Licensing Service  
The City of Cardiff Council  
City Hall  
Cardiff  
CF10 3ND  
E-mail: [licensing@cardiff.gov.uk](mailto:licensing@cardiff.gov.uk)

It should be noted that this statement of licensing principles will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

## 1.2 Profile of Cardiff

Cardiff is the capital City of Wales and is continuing to grow faster than any other capital city in Europe. In population terms, it is the largest Local Authority in Wales (340,000) but measures of population belies Cardiff's significance as a regional trading and business centre. The population swells by approximately 70,000 daily with commuters and visitors. Its popularity as a shopping and leisure destination extends way beyond Wales with many visitors not only from the rest of the UK but from overseas.



Cardiff is the seat of government and the commercial, financial and administrative centre of Wales. Cardiff boasts one of the most vibrant city centres in the UK and on a typical weekend, Cardiff's night time economy can attract over 40,000 people and sometimes more than 100,000 when the City's Millennium Stadium hosts international events.

Cardiff Bay is a world class waterfront development and the Millennium Stadium ranks among the world's finest sports stadia hosting major events that demonstrates Cardiff's developing role on the international stage. It's impressive range of cultural, sporting and arts facilities including the National Museum of Wales and the Museum of Welsh Life, St Davids Hall, New Theatre, Millennium Centre and new City Stadium, as well as the International Sports Village.

Such developments have led to a vibrancy and dynamism across the City which presents significant challenge to enforcement services wanting to secure the safety of their local population and visitors.

The Council area is mainly urban, with the city centre (Cathays ward) and Cardiff Bay (Butetown Ward) areas being the main commercial districts. In addition there are 26 local/district centres throughout the city. The rest of the area is predominately residential.

The County is divided into 29 electoral wards; these areas are shown in the map of the County in Appendix A.

There are currently around 80 premises in Cardiff licensed under the Gambling Act 2005.

## 1.3 Declaration

In producing the final statement, this Licensing Authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the statement.

## 1.4 Responsible Authorities

The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

- The need for the body to be responsible for an area covering the whole of the Licensing Authority's area; and
- The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, this authority designates the Local Safeguarding Children Board for this purpose.

The contact details of all the Responsible Authorities under the Gambling Act 2005 are detailed in Appendix B.

## 1.5 Interested parties

Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

*"For the purposes of this Part a person is an interested party in relation to an application for or in respect of a Premises Licence if, in the opinion of the Licensing Authority which issues the licence or to which the applications is made, the person*

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,*
- b) has business interests that might be affected by the authorised activities, or*
- c) represents persons who satisfy paragraph (a) or (b)"*

The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:

Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities at 8.11 to 8.18 It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the

Licensing Service  
City of Cardiff Council  
City Hall  
Cardiff  
CF10 3ND

Tel: 029 2087 1651

Fax: 029 2087 1816

[Licensing@cardiff.gov.uk](mailto:Licensing@cardiff.gov.uk)

## 1.6 Exchange of Information

Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

The principle that this Licensing Authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the

powers provided in the Gambling Act 2005.

Should any protocols be established as regards information exchange with other bodies then they will be made available.

The authority may from time to time exercise its' powers under section 115 of the Crime and Disorder Act 1998 to exchange data and information with the police and other partners to fulfil its' statutory objective of reducing crime in the area.

The authority would wish to make its decision making process as transparent as possible and all representations made to it will be shared with all parties to an application. Freedom of information legislation will be complied with.

Please contact the Licensing Service for further information on our protocols.

## 1.7 Enforcement

Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

The Licensing Authority's principles are that it will be guided by the Gambling Commission's Guidance to local authorities, the Regulators Code and the Council's enforcement policy. It will endeavour to be:

- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

As per the Gambling Commission's Guidance to Licensing Authorities this Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This Licensing Authority has adopted and implemented a risk-based inspection programme, based on;

- The licensing objectives
- Relevant codes of practice

- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this statement of licensing policy

The main enforcement and compliance role for this Licensing Authority in terms of the Gambling Act 2005 is to ensure compliance with the Premises Licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the Licensing Authority but should be notified to the Gambling Commission.

The Licensing Authority will take account of the Gambling Commissions guidance document issued in February 2015 (or any subsequent amendments) 'Approach to Test Purchasing' when considering making test purchases at gambling premises. The council will also follow its own policies and procedures regarding the use of underage test purchasers.

This Licensing Authority also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

## 1.8 Licensing Authority functions

Licensing authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- Issue Provisional Statements
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue Club Machine Permits to Commercial Clubs
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register small society lotteries below prescribed thresholds
- Issue Prize Gaming Permits
- Receive and Endorse Temporary Use Notices
- Receive Occasional Use Notices
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

It should be noted that licensing authorities are not be involved in licensing remote

gambling at all, which is regulated by the Gambling Commission via Operating Licences.

The Licensing Authority recognises that the licensing function is only one means of promoting delivery of the three objectives and should not therefore be seen as a means for solving all problems within the community. The Licensing Authority will therefore continue to work in partnership with neighbouring authorities, South Wales Police, the Community Safety Partnership, local businesses, local people and those involved in child protection to promote the licensing objectives as outlined. In addition, the Licensing Authority recognises its duty under Section 17 of the Crime and Disorder Act 1998, with regard to the prevention of crime and disorder.

## **1.9 Fundamental Rights**

Under the terms of the Act any individual/company may apply for a variety of permissions and have their applications considered on their individual merits. Equally, any Interested Party or Responsible Authority has a right to make relevant representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the Act.

Applicants and those making relevant representations in respect of applications to the Licensing Authority have a right of appeal to the Magistrates Court against the decisions of the Licensing Authority.

## **1.10 Integrating Strategies and Avoiding Duplication**

By consulting widely prior to this Policy Statement being published, the Licensing Authority will take full account of local policies covering crime prevention, culture, transport, planning and tourism as part of an integrated strategy for the Licensing Authority, Police and other agencies. Many of these strategies may not be directly related to the promotion of the three licensing objectives, but may indirectly impact upon them.

When considering any application, the Licensing Authority will avoid duplication with other regulatory regimes so far as possible. Therefore, the Licensing Authority will not attach conditions to a licence unless they are considered necessary, reasonable and proportionate to the use of premises for gambling consistent with the licensing objectives.

## **1.11 Sustainable Development Community Strategy**

The Local Government Act 2000 requires all local authorities to produce a community strategy within the framework of the UK Sustainable Development Strategy – “A better Quality of Life” and relevant regional strategies.

Community strategies provide a focal point for the identification of local issues and aspirations on social inclusion, environmental protection, employment and economic

development.

Local strategic partnerships, typically involving the police, local authorities, local health boards, and representatives from education, business and the voluntary sector organisations, are responsible for the achievement of locally set objectives.

Under the Crime and Disorder Act 1998 local authorities must have regard to the likely effect of the exercise of their functions on, and do all they can to prevent crime and disorder in the area. The Licensing Authority will have particular regard to the likely impact of licensing on related crime and disorder in the County, particularly when considering the location, impact, operation and management of all proposed licence/permit applications, renewals and variations of conditions.

## 2. Premises Licences

### Consideration of applications

#### 2.1 General Principles

Premises Licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

#### 2.2 Definition of “premises”

In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one Premises Licence applying to any place. But a single building could be subject to more than one Premises Licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete Premises Licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission states in the fifth edition of its Guidance to Licensing Authorities that: *“In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate Premises Licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.”*

This Licensing Authority takes particular note of the Gambling Commission’s Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also

preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.

- Entrances to and exits from parts of a building covered by one or more Premises Licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity names on the Premises Licence.

The Guidance also gives a list of factors which the Licensing Authority should be aware of, which may include:

- Do the premises have a separate registration for business rates
- Is the premises’ neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

## 2.3 Appropriate Licence Environment

The Guidance to Local Authorities and the Licence Conditions and Codes of Practice (LCCP) commencing May 2015, set out additional matters that the Licensing Authority should take into account when considering licence applications for Premises Licences.

Guidance section 19, LCCP condition 16 and code 9 prescribe restrictions on gambling activities on premises, previously known as primary gambling activity. The Licensing Authority will consider any application based on the provisions in these codes and guidance.

Where gambling facilities are provided at premises as a supplementary activity to the main purpose of the premises; e.g. motorway service areas and shopping malls, the Licensing Authority will expect the gambling area to be clearly defined to ensure that customers are fully aware that they are making a choice to enter into the gambling premises, and that the premises is adequately supervised at all times.

This authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

The Gambling Commission’s relevant access provisions for each premises type are reproduced below:

### Casinos

- The principal access entrance to the premises must be from a street (as defined at 7.24 of the Guidance)
- No entrance to a casino must be from premises that are used wholly or mainly by

- children and/or young persons
- No customer must be able to enter a casino directly from any other premises which holds a gambling Premises Licence

### **Adult Gaming Centre**

- No customer must be able to access the premises directly from any other licensed gambling premises

### **Betting Shops**

- Access must be from a street (as per para 7.23 Guidance to Licensing Authorities) or from another premises with a betting Premises Licence.
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

### **Tracks**

- No customer should be able to access the premises directly from:
  - a casino
  - an adult gaming centre

### **Bingo Premises**

- No customer must be able to access the premise directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

### **Family Entertainment Centre**

- No customer must be able to access the premises directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

Part 7 of the Gambling Commission’s Guidance to Licensing Authorities contains further guidance on this issue, which this authority will also take into account in its decision-making.

## **2.4 Premises “ready for gambling”**

The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the Licensing Authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

If the construction of a premises is not yet complete, or if they need alteration, or if the

applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

In deciding whether a Premises Licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-

- First, whether the premises ought to be permitted to be used for gambling
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.60-7.67 of the Guidance.

## 2.5 Location

This Licensing Authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the Gambling Commission's Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

## 2.6 Planning

The Gambling Commission Guidance to Licensing Authorities states:

*7.60 – In determining applications the Licensing Authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.*

This authority will not take into account irrelevant matters as per the above guidance. In addition this authority notes the following excerpt from the Guidance:

*7.67 - When dealing with a Premises Licence application for finished buildings, the Licensing*

*Authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the Premises Licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a Premises Licence application. Equally the grant of a gambling Premises Licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.*

## 2.7 Duplication with other regulatory regimes

This Licensing Authority seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

When dealing with a Premises Licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the Premises Licence.

## 2.8 Licensing objectives

Premises Licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this Licensing Authority has considered the Gambling Commission's Guidance to Licensing Authorities and some comments are made below.

**Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This Licensing Authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This Licensing Authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

**Ensuring that gambling is conducted in a fair and open way** - This Licensing Authority has noted that the Gambling Commission states that it generally does not expect licensing

authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. *For Local Authorities with tracks*: There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section– see page 14).

**Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This Licensing Authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The Licensing Authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

This Licensing Authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

As regards the term “vulnerable persons” it is noted that the Gambling Commission does not seek to offer a definition but states that *“it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.”* This Licensing Authority will consider this licensing objective on a case by case basis.

Section 7 of the Gambling Commission Guidance to Local Authorities sets out considerations that an operator must make in order to protect children and young people from accessing gambling premises.

The Licence Conditions and Codes of Practice (LCCP) issued in 2015 prescribe how operators must prevent children from using age restricted gaming or gambling activities, particularly where gaming machines are licensed.

In particular operators must ensure that;

- all staff are trained,
- that all customers are supervised when on gambling premises
- must have procedures for identifying customers who are at risk of gambling related harm.

The Licensing Authority will expect all operators to have policies and procedures in place as required by the LCCP codes on social responsibility to cover all aspects of the code, in particular staff training records and self-exclusion records

Further provisions with regard to self-exclusion and marketing are included in the social responsibility code. The Licensing Authority will take all conditions and codes into account when considering applications or performing enforcement activities.

See section 6 of this policy statement for further details and on the Licensing Authority's requirements in relation to the LCCP.

## 2.9 Bet-Watch

The Licensing Authority will encourage and support local operators to create and maintain an information sharing network to discuss issues of problem gamblers that are identified. This will also be an opportunity for operators to discuss issues with the licensing officers.

## 2.10 Conditions

Any conditions attached to licences will be proportionate and will be:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this Licensing Authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This Licensing Authority will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

This Licensing Authority will also consider specific measures which may be required for buildings which are subject to multiple Premises Licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

These considerations will apply to premises including buildings where multiple Premises Licences are applicable.

This Licensing Authority is aware that tracks may be subject to one or more than one Premises Licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this Licensing Authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

It is noted that there are conditions which the Licensing Authority cannot attach to Premises Licences which are:

- any condition on the Premises Licence which makes it impossible to comply with an Operating Licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated; and
- conditions in relation to stakes, fees, winning or prizes.

## **2.11 Door Supervisors**

The Gambling Commission advises in its Guidance to Licensing Authorities that if a Licensing Authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect.

Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the Guidance, Part 33).

## **2.12 Adult Gaming Centres**

This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

Where gambling facilities are provided at premises as a supplementary activity to the main purpose of the premises; e.g. motorway service areas and shopping malls, the Licensing Authority will expect the gambling area to be clearly defined to ensure that customers are fully aware that they are making a choice to enter into the gambling premises and that the premises is adequately supervised at all times.

This Licensing Authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

## **2.13 (Licensed) Family Entertainment Centres**

This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

This Licensing Authority may consider measures to meet the licensing objectives such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

This Licensing Authority will, as per the Gambling Commission's guidance, refer to the

Commission's website to see any conditions that apply to Operating Licences covering the way in which the area containing the category C machines should be delineated. This Licensing Authority will also make itself aware of any mandatory or default conditions on these Premises Licences, when they have been published.

## 2.14 Casinos

Under the provisions of Section 166 of the Gambling Act 2005 an authority may resolve not to issue casino Premises Licences. The Authority has made no such resolution. The Licensing Committee will consider any petition signed by no less than 50 persons requesting that such a resolution should be made and make a recommendation on the proposal to the full Council for consideration and determination.

**Local Authorities only: Casinos and competitive bidding – Small/Large casinos** - This Licensing Authority is aware that where a Licensing Authority area is enabled to grant a Premises Licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators which will want to run the casino. In such situations the Local Authority will run a 'competition' under Schedule 9 of the Gambling Act 2005. This Licensing Authority will run such a competition in line with any regulations / codes of practice issued under the Gambling Act 2005.

**Licence considerations / conditions** – This Licensing Authority will attach conditions to casino Premises Licences according to the principles set out in the Gambling Commission's Guidance at paragraph 9, bearing in mind the mandatory conditions listed in paragraph 17 of the Guidance, and the Licence Conditions and Codes of Practice published by the Gambling Commission.

## 2.15 Betting Premises

### **Betting Machines**

The Act provides that a machine is not a gaming machine if it is designed or adapted for use to bet on future real events. Betting premises may make available machines that accept bets on live events, such as horseracing, as a substitute for placing a bet over the counter. These "betting machines" are not gaming machines: they merely automate the process, which can be conducted in person and, therefore, do not require regulation as a gaming machine.

This Licensing Authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

## 2.16 Bingo premises

This Licensing Authority notes that the Gambling Commission's Guidance states:

*18.4 Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a Premises Licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new Premises Licence, or multiple licences, for that or those excluded areas.*

This authority also notes the Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

*18.7 Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.*

## 2.17 Tracks

This Licensing Authority is aware that tracks may be subject to one or more than one Premises Licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this Licensing Authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

This authority will therefore expect the Premises Licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

This Licensing Authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry

- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

## 2.18 Gaming machines

Where the applicant holds a pool betting Operating Licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

## 2.19 Betting machines

This Licensing Authority will, as per Part 6 of the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

## 2.20 Applications and plans

The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the Licensing Authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the Licensing Authority to plan future premises inspection activity.

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track Premises Licence holders may erect temporary structures to restrict access to premises.

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not

required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan.

## 2.21 Travelling Fairs

This Licensing Authority is responsible for deciding whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This Licensing Authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## 2.22 Provisional Statements

Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a Premises Licence. There is no need for the applicant to hold an Operating Licence in order to apply for a provisional statement.

Section 204 of the Gambling Act provides for a person to make an application to the Licensing Authority for a provisional statement in respect of premises that he or she:

- expects to be constructed;
- expects to be altered; or
- expects to acquire a right to occupy.

The process for considering an application for a provisional statement is the same as that for a Premises Licence application. The applicant is obliged to give notice of the application in the same way as applying for a Premises Licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

In contrast to the Premises Licence application, the applicant does not have to hold or have applied for an Operating Licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

The holder of a provisional statement may then apply for a Premises Licence once the premises are constructed, altered or acquired. The Licensing Authority will be constrained in the matters it can consider when determining the Premises Licence application, and in terms of representations about Premises Licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

In addition, the authority may refuse the Premises Licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage;
- which in the authority's opinion reflect a change in the operator's circumstances; or
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this Licensing Authority notes that it can discuss any concerns it has with the applicant before making a decision.

## 3. Permits/Temporary and Occasional use Notice

### 3.1 Unlicensed Family Entertainment Centre Gaming Machine Permits (Statement of Principles on Permits - Schedule 10 paragraph 7)

Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the Licensing Authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

The Gambling Act 2005 states that a Licensing Authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance to Licensing Authorities also states: "*In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits...., licensing authorities will want to give weight to child protection issues.*" (24.6)

Guidance also states: "*...An application for a permit may be granted only if the Licensing Authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application....Licensing authorities might wish to consider asking applications to demonstrate:*

- *a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;*
- *that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and*
- *that staff are trained to have a full understanding of the maximum stakes and prizes".* (24.7)

It should be noted that a Licensing Authority cannot attach conditions to this type of permit.

This Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around

the premises. This Licensing Authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

### **3.2 (Alcohol) Licensed premises Gaming Machine Permits - (Schedule 13 paragraph 4(1) Automatic entitlement: 2 machines**

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the Licensing Authority and pay the prescribed fee.

The Licensing Authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the Licensing Authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

#### **Permit: 3 or more machines**

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the Licensing Authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and *“such matters as they think relevant.”*

This Licensing Authority considers that *“such matters”* will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for

organisations such as GamCare.

It is recognised that some alcohol licensed premises may apply for a Premises Licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre Premises Licence.

It should be noted that the Licensing Authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

### 3.3 Prize Gaming Permits

A Prize Gaming Permit is a permit issued by the Authority to authorise the provision of facilities for gaming with prizes on specified premises.

In respect of the issue of Prize Gaming Permits the authority intends to restrict the grant or renewal of such permits to cafes and restaurants or hotels with restaurant facilities where seating facilities are provided for persons to take refreshment of food on the premises and the number of machines to be limited to one in each premises unless the premises is a staff canteen when two machines may be permitted.

The applicant is expected to set out the types of gaming that is intended to be offered and to demonstrate that they understand the limits to stakes and prizes set out in regulations and that the gaming is offered within the law.

The Licensing Authority may not attach conditions to this type of permit.

### 3.4 Club Gaming and Club Machines Permits

Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations.

Members Clubs and Miner's welfare institutes – and also Commercial Clubs – may apply for a Club Machine Permit. A Club Machine Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). NB Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

The club must be conducted 'wholly or mainly' for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs.

The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:

- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young persons;
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Commission or the police.

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure. As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a Club Gaming Permit or Club Machine Permit issued to the applicant in the last ten years has been cancelled."

There are statutory conditions on Club Gaming Permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

### 3.5 Temporary Use Notices

Temporary Use Notices allow the use of premises for gambling where there is no Premises Licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.

A Temporary Use Notice may only be granted to a person or company holding a relevant Operating Licence, i.e. a non-remote casino Operating Licence.

The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007)

state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

This Licensing Authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

## 3.6 Occasional Use Notices

The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This Licensing Authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice. This Licensing Authority will also ensure that no more than 8 OUNs are issued in one calendar year in respect of any venue.

## 3.7 Small Society Lotteries

This Licensing Authority will adopt a risk based approach towards its enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exclusive, could affect the risk status of the operator:

- submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held)
- submission of incomplete or incorrect returns
- breaches of the limits for small society lotteries

Non-commercial gaming is permitted if it takes place at a non-commercial event, either as an incidental or principal activity at the event. Events are non-commercial if no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:

- by, or on behalf of, a charity or for charitable purposes
- to enable participation in, or support of, sporting, athletic or cultural activities.

.Proceeds must not exceed £20,000 for a single draw and aggregate proceeds from lotteries must not exceed £250,000 in any one year.

Charities and community groups should contact this Licensing Authority on **029 20871651** or **licensing@cardiff.gov.uk** to seek further advice.

## 4. Decision making

### 4.1 Administration, Exercise and Delegation of Functions

The powers and duties of the Licensing Authority under the Act may be carried out by the Licensing Committee, by a Sub-Committee or by one or more officers acting under delegated authority.

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.

The following schedule sets out the recommended delegation of functions and decisions by guidance. The Licensing Authority may, nevertheless, refer any matter to the Licensing Committee or Sub-Committee.

The schedule of delegation of licensing functions is attached at Appendix D.

### 4.2 Appeals Procedure

Entitlements to appeal for parties aggrieved by decisions of the Licensing Authority are set out in Sections 206 to 209 of the 2005 Act. Appeals must be made to the Magistrates Court for the area in which the Licensing Authority, which has considered the application, is situated.

An appeal has to be commenced by giving notice of the appeal by the appellant to; Cardiff Magistrates Court within a period of 21 days, beginning with the day on which the appellant was notified by the Licensing Authority of the decision to be appealed against.

On determining an appeal, the Court may:

- Dismiss the appeal;
- Substitute the decision appealed against with any other decision that could have been made by the Licensing Authority;
- Remit the case to the Licensing Authority to dispose of the appeal in accordance with the direction of the Court.
- Make an order about costs.

### **4.3 Giving Reasons for Decisions**

In anticipation of such appeals, the Council will give comprehensive reasons for its decisions. The Licensing Authority will address the extent to which decisions have been made with regard to any relevant codes of practice and guidance issued by the Gambling Commission, reasonably consistent with the licensing objectives and in accordance with this Policy Statement.

### **4.4 Implementing the Determination of The Magistrates' Court**

As soon as the decision of the Magistrates' Court has been notified to all parties, 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 ongoing judicial review). The Act provides for no other appeal against the determination of the Magistrates' Court.

### **4.5 Complaints against Licensed Premises**

The Licensing Authority will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance, complainants are encouraged to raise the complaint directly with the licence holder or business concerned to seek a local resolution.

Where an interested party has made either a valid representation about licensed premises or a valid application for a licence to be reviewed, the Licensing Authority may initially arrange a conciliation meeting to address and clarify the issues of concern.

This process will not override the right of any interested party to ask that the Licensing and Gambling Sub-Committee consider their valid objections, or for any licence holder to decline to participate in a conciliation meeting.

### **4.6 Reviews**

Requests for a review can be made by Interested Parties or Responsible Authorities. However, it is for the Licensing Authority to decide whether the review is to be carried out based upon any relevant codes of practice and guidance issued by the Gambling Commission, reasonably consistent with the licensing objectives and in accordance with this Policy Statement.

The request for the review will also be subject to the consideration by the Licensing Authority as to whether it is frivolous, vexatious, or whether it will not cause this Licensing

Authority to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

The Licensing Authority can also initiate a review of a particular Premises Licence, or a particular class of Premises Licence on the basis of any reason, which it thinks is appropriate.

Once a valid application for a review has been received by the Licensing Authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the Licensing Authority, who will publish notice of the application within 7 days of receipt.

The Licensing Authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

The purpose of the review will be to determine whether the Licensing Authority should take any action in relation to the licence. If action is justified, the options open to the Licensing Authority are:-

- add, remove or amend a licence condition imposed by the Licensing Authority;
- exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
- suspend the Premises Licence for a period not exceeding three months; and
- revoke the Premises Licence.

In determining what action, if any, should be taken following a review, the Licensing Authority must have regard to the principles set out in Section 153 of the Act, as well as any relevant representations.

In particular, the Licensing Authority may also initiate a review of a Premises Licence on the grounds that a Premises Licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

Once the review has been completed, the Licensing Authority must, as soon as possible, notify its decision to:

- the licence holder;
- the applicant for review (if any);
- the Commission;
- any person who made representations;
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs.

## 4.7 Licensing Conditions and Codes of Practice 2015 (LCCP)

The Gambling Commission released an LCCP in February 2015 with a commencement date of May 2015. The code strengthened the social responsibility code (SR) requirements. Details regarding the LCCP and SR code can be accessed via the Gambling Commission website at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

The code requires operators;

- To supervise customers effectively on gambling premises and identify customers who are at risk of gambling related harm.
- With effect from April 2016 to have in place schemes to allow customers to self-exclude themselves from all operators of a similar type in the area where they live and work.
- To have a range of measures with regard to marketing to ensure social responsibility that are transparent and not misleading.
- With effect from April 2016 to produce a risk assessment on individual premises, and have policies and procedures and control measures in place to mitigate local risks to the licensing objectives.

## 4.8 Risk Assessments - Betting Premises

Such risk assessments are required from new applicants, and from existing premises licensees seeking to vary a licence. The code requires all operators of; Casino's, AGC's, Bingo Premises, FEC's, Betting shops and remote betting intermediaries to assess local risks to the licensing objectives, and to have policies, procedures and control measures in place to mitigate those risks.

Operators are required by the SR code to make the risk assessment available to licensing authorities when an application is submitted either for new Premises Licence or variation of a Premises Licence, or otherwise on request, and this will form part of the Licensing Authority's inspection regime and may be requested when officers are investigating complaints.

The code requires the Licensing Authority to set out matters they expect the operator to take account of in the risk assessment in its statement of policy and this Licensing Authority would recommend that the following matters are considered by operators when making their risk assessment.

- Information held by the licensee regarding self-exclusions and incidences of underage gambling,

- Gaming trends that may reflect benefit payments
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends.
- Urban setting such as proximity to schools, commercial environment, factors affecting footfall,
- Range of facilities in proximity to the licensed premises such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities
- Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities, etc.

The Licensing Authority would recommend that the following matters are considered by operators when making their risk assessment.

Matters relating to children and young persons, including;

- Institutions, places or areas where presence of children and young persons should be expected such as schools, youth clubs, parks, playgrounds and entertainment venues such as bowling allies, cinemas etc.
- Any premises where children congregate including bus stops, café's, shops, and any other place where children are attracted,
- Areas that are prone to issues of youths participating in anti social behaviour, including such activities as graffiti/tagging, underage drinking, etc.
- Recorded incidents of attempted underage gambling

Matters relating to vulnerable adults, including;

- Information held by the licensee regarding self-exclusions and incidences of underage gambling,
- Gaming trends that may mirror days for financial payments such as pay days or benefit payments
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends.
- Proximity of premises which may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctor's surgeries, council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate, etc.

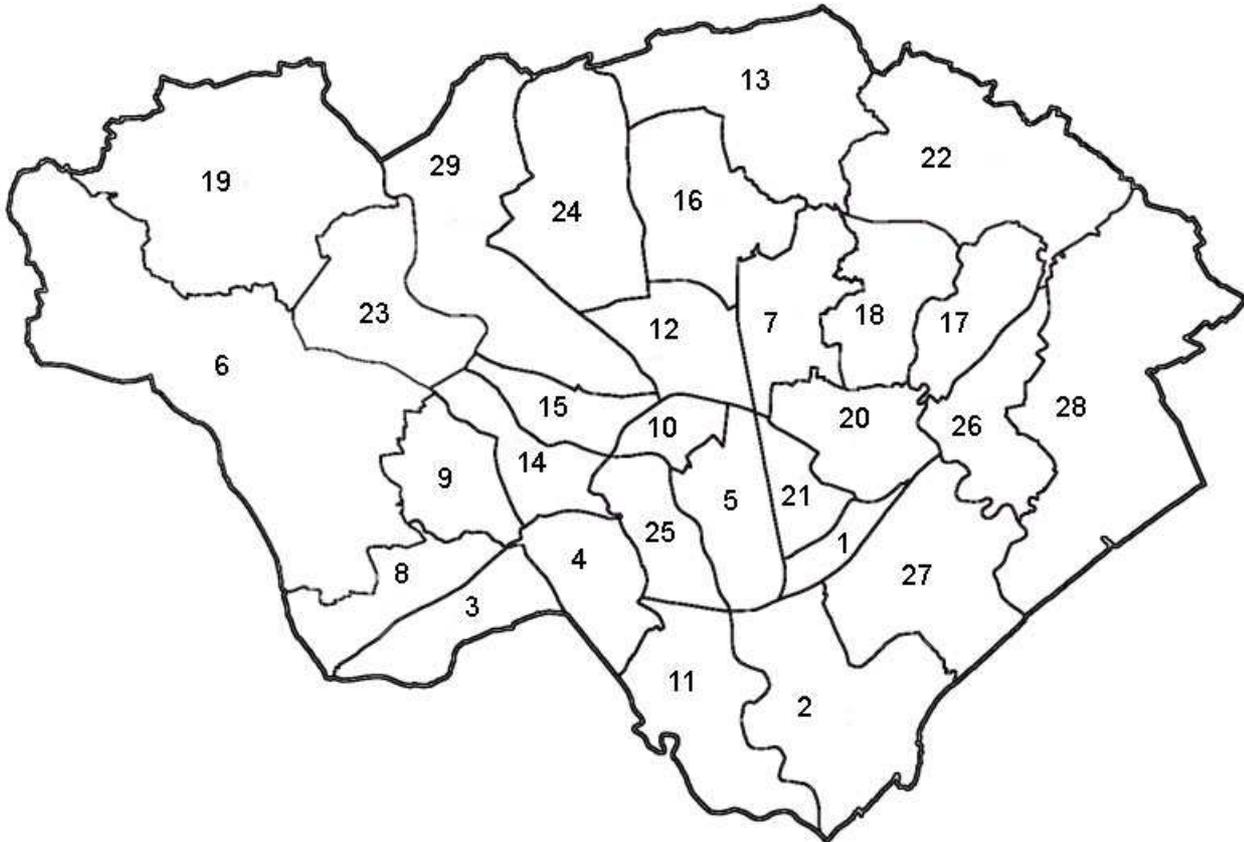
Other issues that may be considered could include:

Matters of faith, including all religious or faith denominations including proximity to churches, mosques, temples or any other place of worship.

This list is not exhaustive and other factors not in this list that are identified must be taken into consideration.

## 5. Appendices

### Appendix A: Map of Cardiff



- |                         |                                  |
|-------------------------|----------------------------------|
| 1. Adamsdown            | 16. Llanishen                    |
| 2. Butetown             | 17. Llanrumney                   |
| 3. Caerau               | 18. Pentwyn                      |
| 4. Canton               | 19. Pentyrch                     |
| 5. Cathays              | 20. Penylan                      |
| 6. Creigiau & St Fagans | 21. Plasnewydd                   |
| 7. Cyncoed              | 22. Pontprennau & Old St Mellons |
| 8. Ely                  | 23. Radyr & Morganstown          |
| 9. Fairwater            | 24. Rhiwbina                     |
| 10. Gabalfa             | 25. Riverside                    |
| 11. Grangetown          | 26. Rumney                       |
| 12. Heath               | 27. Splott                       |
| 13. Lisvane             | 28. Trowbridge                   |
| 14. Llandaff            | 29. Whitchurch & Tongwynlais     |
| 15. Llandaff North      |                                  |

## Appendix B - Responsible Authorities : Contact Details

Consultation with all Responsible Authorities is encouraged prior to the submission of the application. Where copies of applications have to be submitted to the Chief Officer of Police and/or the Responsible Authorities dependant on licence application type the following addresses should to be used:

<p>Group Leader (Licensing) Licensing The City of Cardiff Council City Hall Cardiff CF10 3ND 029 20871651 licensing@cardiff.gov.uk</p>	<p>The Chief Officer of Police South Wales Police Licensing Department, Cardiff Bay Police Station, Eastern B.C.U James Street Cardiff CF10 5EW</p>
<p>The Gambling Commission Victoria Square House Victoria Square, Birmingham. B2 4BP 0121 230 6500</p>	<p>The Chief Fire Officer South Wales Fire and Rescue Service Forest View Business Park, Llantrisant, Pontyclun CF72 8LX 01443 232000</p>
<p>Operational Manager (Neighbourhood Services) Pollution Control The City of Cardiff Council City Hall, Cardiff. CF10 3ND 029 20871856 or 20871675 Noiseandairpollution@cardiff.gov.uk</p>	<p>The Operational Manager Development Management The City of Cardiff Council County Hall, Cardiff. CF10 4UW 029 20871135 development@cardiff.gov.uk</p>
<p>The Operational Manager Children's Services Child Protection Unit Trowbridge Family Centre Greenway Road Trowbridge Cardiff CF3 1QS 029 20774642</p>	<p>Her Majesty's Commissioners of Customs and Excise, Government Buildings Ty Glas Llanishen Cardiff. CF14 5FP 029 2032 5003</p>

<p>The Operational Manager (Commercial Services) (<a href="#">Health and Safety</a>)  City of Cardiff Council  City Hall  Cardiff. CF10 3ND  029 2087 2054  <a href="mailto:Health&amp;SafetyEnforcement@cardiff.gov.uk">Health&amp;SafetyEnforcement@cardiff.gov.uk</a>  (Premises where health &amp; safety is enforced by the City of Cardiff Council)</p>	<p>The Operational Manager for Wales  Health and Safety Executive  Government Buildings  Ty Glas, Llanishen  Cardiff. CF14 5SH  029 20263000  (Premises where health &amp; safety is enforced by HSE)</p>
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## Appendix C - List of Organisations Consulted Directly

- The Chief Officer of Police;
- The Fire Authority;
- Representatives of the holders of various licences for premises within the County who will be affected by this Policy;
- Bodies representing businesses and residents in the Cardiff;
- Departments (including Responsible Authorities) within the Council with an interest in the licensing of gambling;
- Local Safeguarding Children Board;
- Elected Members
- Community Councils;
- Other organisations as appear to be affected by licensing matters covered by this Statement;
- H.M. Revenue and Customs.

## Appendix D - Schedule of Delegation of Licensing Functions and Decisions

Matters to be dealt with	Full Council	Licensing Sub-Committee	Officers
Three year Gambling Policy	x		
Policy not to permit casinos	x		
Fee Setting – when appropriate (Fee Setting for Premises Licence be delegated to the Licensing and Regulatory Committee,		x	
Application for Premises Licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn/authorised to dispense with a hearing if all parties are in agreeance/authorised to assess if a representation is valid.
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn/authorised to dispense with a hearing if all parties are in agreeance/authorised to assess if a representation is valid.
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representation has been received from the Commission

Matters to be dealt with	Full Council	Licensing Sub-Committee	Officers
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn/authorised to dispense with a hearing if all parties are in agreeance/authorised to assess if a representation is valid.
Review of a Premises Licence		x	
Revocation of a Premises Licence for failure to pay annual licence fee			x
Application for Club Gaming/Club Machine Permits		Where objections have been made (and not withdrawn)	Where no representations received/representations have been withdrawn/authorised to dispense with a hearing if all parties are in agreeance/authorised to assess if a representation is valid.
Cancellation of Club Gaming/Club Machine Permits		x	
Applications for other permits		Where objections have been made and not withdrawn	Where no representations received/representations have been withdrawn/authorised to dispense with a hearing if all parties are in agreeance/authorised to assess if a representation is valid.

Matters to be dealt with	Full Council	Licensing Sub-Committee	Officers
Cancellation of licensed premises Gaming Machine Permits		x	Authorised to cancel a permit, with the holder having the right to a hearing at the Sub-Committee.
Consideration of temporary use notice			Consideration/authorised to dispense with a hearing if all parties are in agreement/authorised to assess if objection is valid.
Decision to give a counter notice to a temporary use notice		x	
Small Society Lotteries		x	Registration, Refusal and revocation of a lottery registration with the applicant/holder having the right to a hearing at the Sub-Committee.

Group Leader (Licensing)  
City of Cardiff Council  
Licensing Section  
Room 203  
City Hall  
Cathays Park  
Cardiff  
CF10 3ND

7<sup>th</sup> October 2015

Dear Sir,

## **Consultation on Cardiff Council's Statement of Principles – Gambling Act 2005**

Coral Racing Limited is most grateful to be given the opportunity to respond to this consultation exercise. Coral was one of the first national bookmakers to be licensed under the Betting and Gaming Act of 1960, and so has been operating the length and breadth of the UK for over 50 years. Its premises comprise locations in the inner city, on the high street, in suburbs and in rural areas, and in areas of both high and low deprivation. It now operates 1850 betting offices across Great Britain, which comprise about 20% of all licensed betting offices. It is, therefore, a highly experienced operator.

Coral Racing Limited are broadly supportive of the document. It again notes that the Board when considering applications are still required to 'aim to permit gambling' where this is 'reasonably consistent with the licensing objectives'. We kindly point out that it is possibly suitable to include that the decisions made by following the guidance, should not take into account any moral objections to gambling either.

Coral Racing Limited recognise the requirement to supply risk assessments (requirement is from 6<sup>th</sup> April 2016) with future applications and variations following the consultation completion (Section 4.8 within your Draft Statement).

Whilst each case will correctly be judged on its merits, by highlighting locations within section 40.8; notably

- Urban setting such as proximity to schools, commercial environment, factors affecting footfall
- Range of facilities in proximity to the licensed premises such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities
- Institutions, places or areas where presence of children and young persons should be expected such as schools, youth clubs, parks, playgrounds and entertainment venues such as bowling allies, cinemas etc.
- Any premises where children congregate including bus stops, café's, shops, and any other place where children are attracted

infers that a licensed betting office in such locations may not be appropriate. If there is any evidence that problem gambling is taking place in such locations, Coral are not aware of it. Additionally, Coral knows of no evidence that the location of a licensed betting office within the proximity of schools or similar locations mentioned in the statement causes harm to the licensing objectives or causes any greater risk of ensuring the licensing objectives not being met.



**Coral Racing Limited**  
One Stratford Place, Montfichet Road, London E20 1EJ  
**Registered Office:** New Castle House, Castle Boulevard, Nottingham NG7 1FT  
Registered in England No. 541600  
Tel: 020 3288 7000 Fax: 020 3288 7050

Coral knows of no evidence that children coming from schools are gaining access to betting offices. Coral's general experience, in common with other bookmakers, is that children are not interested in betting, and in any case the Think 21 policy operated by Coral is adequate to ensure that under-age gambling does not occur in their premises. There are very many examples of betting offices sited immediately next to schools and colleges and no evidence whatsoever that they cause problems.

The reason for Coral's caution against making such perceptions, which we anticipate is similar to that of the other main bookmakers, is that it already operates systems which ensure that the licensing objectives are strongly promoted across its estate.

For example:

- Coral benefits from an operating licence granted by the national regulator, the Gambling Commission. Therefore, its corporate systems for the promotion of the licensing objectives have been approved by the Commission, which continues to exercise vigilance in this regard through inspections and examination of regulatory returns.
- Coral is subject to the Licence Conditions and Codes of Practice, which are effectively the national code of operation to ensure that the licensing objectives are promoted.
- It carries out health and safety risk assessments pursuant to its legal obligations. These assessments are shortly to be extended so that formal compliance assessments are conducted.
- It conducts risk assessments in relation to Exposure to Violence, Aggression and Conflict (EVAC assessments).
- It operates the assessment principles of the Safe Bet Alliance, the national code for safe premises. It was one of the architects of the code.
- It operates the ABB's Code for Responsible Gambling, and again was one of the architects of that code.
- It operates an extensive compliance manual, upon which all staff members are trained. Copies are available for your inspection if required.
- It contributes to the Responsible Gambling Trust, which seems to promote responsible gambling who in-turn contribute to GamCare, the national problem gambling charity.

Coral's experience is that, through all it does, it achieves an exemplary degree of compliance, and attracts negligible evidence of regulatory harm. Through the additional local risk assessment to be introduced with future premises licence applications from April 2016, Coral believe that these should be a) to assess specific risks to the licensing objectives in the local area, and b) to assess whether control measures going beyond standard control measures are needed. In other words, there should be no requirement to list specific locations or at least, if they are listed, confirm that the Council knows of no link between such locations and a licensed betting office.

Notwithstanding this, such locations if necessary would automatically be included with the operators risk assessment submitted when the application is considered.

If we can provide any further information, we would be pleased to do so.

Yours faithfully,



John Liddle  
Director of Development – Coral Retail



City of Cardiff Council  
Group Leader (Licensing)  
Licensing Section  
Room 203  
City Hall  
Cathays Park  
Cardiff  
CF10 3ND

**Please ask for:** Richard Taylor  
**Direct Tel:** 01482 590216  
**Email:** rjt@gosschalks.co.uk  
**Our ref:** RJT / LHK / 097505.00004  
#GS391940  
**Your ref:**  
**Date:** 29 September 2015

Dear Sir/Madam,

**Re: Gambling Act 2005 Policy Statement Consultation**

We act for the Association of British Bookmakers (ABB) and have received instructions to respond on behalf of our client to the current consultation on the Council's review of its gambling policy statement.

The ABB represents over 80% of the high street betting market. Its members include large national operators such as William Hill, Ladbrokes, Coral and Paddy Power, as well as almost 100 smaller independent bookmakers.

This response will explain the ABB approach to partnership working with local authorities, it will detail its views on the implementation of the new LCCP requirements, from April 2016, relating to operators' local area risk assessments and their impact on the licensing regime and will then make specific comment with regard to any statement(s) of concern/that are welcomed in your draft policy.

The ABB is concerned to ensure that any changes are not implemented in such a way as to fundamentally change the premises licence regime through undermining the "aim to permit" principle contained within s153 Gambling Act 2005.

The current regime already adequately offers key protections for communities and already provides a clear process (including putting the public on notice) for representations/objections to premises licence applications. The recent planning law changes effective since April 2015 have also already increased the ability of local authorities to consider applications for new premises, as all new betting shops must now apply for planning permission.

It is important that any consideration of the draft policy and its implementation at a local level is put into context. There has recently been press coverage suggesting that there has been a proliferation of betting offices and a rise in problem gambling rates. This is factually incorrect.

Over recent years betting shop numbers have been relatively stable at around 9,000 nationally, but more recently a trend of overall downwards decline can be seen. The latest Gambling Commission industry statistics show that numbers as at 31 Mar 2015 were 8,958 - a decline of 179 from the previous year, when there were 9,137 recorded as at 31 March 2014.

As far as problem gambling is concerned, successive prevalence surveys and health surveys reveal that problem gambling rates in the UK are stable (0.6%) and possibly falling.

### **Working in partnership with local authorities**

The ABB is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and we welcome the opportunity to respond to this consultation.

There are a number of examples of the ABB working closely and successfully in partnership with local authorities.

### **LGA – ABB Betting Partnership Framework**

In January 2015 the ABB signed a partnership agreement with the Local Government Association (LGA). This was developed over a period of months by a specially formed Betting Commission consisting of councillors and betting shop firms and established a framework designed to encourage more joint working between councils and the industry.

Launching the document Cllr Tony Page, LGA Licensing spokesman, said it demonstrated the *“...desire on both sides to increase joint-working in order to try and use existing powers to tackle local concerns, whatever they might be.”*

The framework built on earlier examples of joint working between councils and the industry, for example the Ealing Southall Betwatch scheme and Medway Responsible Gambling Partnership.

In Ealing, the Southall Betwatch was set up to address concerns about crime and disorder linked to betting shops in the borough. As a result, crime within gambling premises reduced by 50 per cent alongside falls in public order and criminal damage offences.

In December last year, the Medway Responsible Gambling Partnership was launched by Medway Council and the ABB. The first of its kind in Britain, the voluntary agreement allows anyone who is concerned they are developing a problem with their gambling to exclude themselves from all betting shops in the area.

The initiative also saw the industry working together with representatives of Kent Police and with the Medway Community Safety Partnership to develop a Reporting of Crime Protocol that is helpful in informing both the industry, police and other interested parties about levels of crime and the best way to deal with any crime in a way that is proportionate and effective.

Lessons learnt from the initial self-exclusion trial in Medway have been incorporated into a second trial in Glasgow city centre, launched in July this year with the support of Glasgow City Council, which it is hoped will form the basis of a national scheme to be rolled out in time for the LCCP deadline for such a scheme by April 2016.

Jane Chitty, Medway Council's Portfolio Holder for Planning, Economic Growth & Regulation, said: *"The Council has implemented measures that work at a local level but I am pleased to note that the joint work we are doing here in Medway is going to help the development of a national scheme."*

Describing the project, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, Cllr Paul Rooney said:

*"This project breaks new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator."*

### **Primary Authority Partnerships in place between the ABB and local authorities**

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities.

These Partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the Partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015.

By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.

### **Local area risk assessments**

With effect from 6<sup>th</sup> April 2016, under new Gambling Commission LCCP provisions, operators are required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated.

Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy and local area profile in their risk assessment, and these must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or a new premises licence.

The ABB is concerned that overly onerous requirements on operators to review their local risk assessments with unnecessary frequency could be damaging. As set out in the LCCP a review

should only be required in response to significant local or premises change. In the ABB's view this should be where evidence can be provided to demonstrate that the change could impact the premises' ability to uphold the three licensing objectives.

Although ABB members will be implementing risk assessment at a local premises level, we do not believe that it is for the licensing authority to prescribe the form of that risk assessment. We believe that to do so would be against better regulation principles. Instead operators should be allowed to gear their risk assessments to their own operational processes informed by Statements of Principles and the local area profile.

The ABB supports the requirement as set out in the LCCP, as this will help sustain a transparent and open dialogue between operators and councils. The ABB is also committed to working pro-actively with local authorities to help drive the development of best practice in this area.

### **Local Area Profiles – Need for an evidence based approach**

It is important that any risks identified in the local area profile are supported by substantive evidence. Where risks are unsubstantiated there is a danger that the regulatory burden will be disproportionate. This may be the case where local authorities include perceived rather than evidenced risks in their local area profiles.

This would distort the "aim to permit" principle set out in the Gambling Act 2005 by moving the burden of proof onto operators. Under the Act, it is incumbent on licensing authorities to provide evidence as to any risks to the licensing objectives, and not on the operator to provide evidence as to how they may mitigate any potential risk.

A reversal of this would represent a significant increase in the resource required for operators to be compliant whilst failing to offer a clear route by which improvements in protections against gambling related harm can be made.

We would also request that where a local area profile is produced by the licensing authority that this be made clearly available within the body of the licensing policy statement, where it will be easily accessible by the operator and also available for consultation whenever the policy statement is reviewed.

### **Concerns around increases in the regulatory burden on operators**

Any increase in the regulatory burden would severely impact on our members at a time when overall shop numbers are in decline, and operators are continuing to respond to and absorb significant recent regulatory change. This includes the increase to 25% of MGD, changes to staking over £50 on gaming machines, and planning use class changes which require all new betting shops in England to apply for planning permission.

Moving away from an evidence based approach would lead to substantial variation between licensing authorities and increase regulatory compliance costs for our members. This is of particular concern for smaller operators, who do not have the same resources to be able to put

into monitoring differences across all licensing authorities and whose businesses are less able to absorb increases in costs, putting them at risk of closure.

Such variation would in our opinion also weaken the overall standard of regulation at a local level by preventing the easy development of standard or best practice across different local authorities.

### **Employing additional licence conditions**

The ABB believes that additional conditions should only be imposed in exceptional circumstances where there are clear reasons for doing so - in light of the fact that there are already mandatory and default conditions attached to any premises licence. The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statements as to the need for evidence.

This would further increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities.

### **Specific Policy Comments**

#### **General Principles**

This part of the policy starts with a statement that the licensing authority is able to exclude default conditions and also attach others where it is believed to be appropriate. The reference to the imposition of conditions “where it is believed to be appropriate” should be amended to state that additional conditions would be attached where there is evidence that the mandatory and default conditions need to be supplemented.

#### **2.5 Location**

Paragraph (iv) within part 2 deals with location. The final two sentences of this paragraph cause the ABB concern. Any policy that a specific area is an area where gambling premises should not be located may be unlawful. This paragraph appears to implement a cumulative impact type policy as exists within the licensing regime under Licensing Act 2003. Such a policy is contrary to the overriding principles of “aim to permit” contained within s153 Gambling Act 2005. Similarly, the reversal of the burden of proof in the final sentence that requires the applicant to demonstrate why an application should be granted is contrary to that principle. These two sentences should be removed and replaced with the reiteration of the principle earlier in the policy that each case will be determined on its own merits.

#### **2.8 Licensing Objectives**

In the part of the policy that deals with the licensing objective of preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime, there is a statement that the authority is aware of the distinction between disorder and

nuisance. The policy would be assisted by a statement that the Gambling Commission has intended disorder to mean activity that is more serious and disruptive than mere nuisance.

## 2.10 Conditions

Thereafter the policy deals with conditions. The ABB welcomes the fact that any conditions to be attached to licences will be proportionate, relevant, directly related to the premises and fair and reasonable. The policy would be assisted by a greater explanation of when conditions can be imposed. It should acknowledge that Gambling Act 2005 premises licences are already subject to mandatory and default conditions and the starting point for consideration of an application is that the application will be granted without the need to supplement those conditions. It is only when there is evidence of a specific risk to the licensing objectives that the licensing authority should consider the imposition of additional conditions.

The policy indicates that the licensing authority may consider the imposition of conditions if there is a “perceived need.” The licensing authority is reminded that if additional conditions are to be imposed then there needs to be evidence that the mandatory and default conditions need to be supplemented. Conditions should be imposed on the basis of evidence rather than “perceived need”.

## 4.8 Risk Assessment

The section relating to risk assessments causes the ABB some concern. The Social Responsibility Code Provision 10.1.1 requires that “licensees must assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments licensees must take into account relevant matters identified in the licensing authority’s statement of licensing policy.” The requirement, therefore, is to take into account relevant risks to the licensing objectives. Against this backdrop, it is difficult to ascertain how “gaming trends that may reflect benefit payments” can relate to the licensing objectives unless it is the authority’s determination that those in receipt of benefits are automatically vulnerable. We doubt that this is the case. Similarly, the proximity to other gambling outlets, banks, post offices, refreshment and entertainment facilities or known problems in the area caused by street drinking, youths participating in anti-social behaviour or drug dealing cannot be relevant for the purposes of an assessment as to whether the operation of gambling would be consistent with the licensing objectives. It is accepted from the outset that proximity to schools and other places frequented by children will be addressed in the local area risk assessment but the policy should perhaps acknowledge that betting premises are adult only environments and policies and procedures have been developed over the last 50 years to ensure that those who cannot or should not bet do not do so. We respectfully submit that the policy should be redrafted to remove these irrelevant criteria.

Similarly, issues of anti-social behaviour such as graffiti/tagging and underage drinking cannot be relevant issues nor indeed can gaming trends that may mirror days for financial payments. Finally, there is a statement that matters of faith could be considered as relevant. This is directly contrary to the Gambling Commission’s statement (acknowledged earlier in the licensing authority’s policy)

that moral and ethical objections are not relevant for the purposes of a Gambling Act application and in the circumstances, this statement should be removed from the policy.

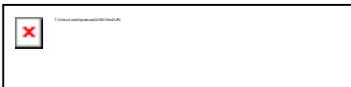
## Conclusion

The industry fully supports the development of proportionate and evidenced based regulation, and is committed to minimising the harmful effects of gambling. The ABB is continuing to work closely with the Gambling Commission and the government to further evaluate and build on the measures put in place under the ABB Code for Responsible Gambling, which is mandatory for all our members.

ABB and its members are committed to working closely with both the Gambling Commission and local authorities to continually drive up standards in regulatory compliance in support of the three licensing objectives: to keep crime out of gambling, ensure that gambling is conducted in a fair and open way, and to protect the vulnerable.

Indeed, as set out, we already do this successfully in partnership with local authorities now. This includes through the ABB Code for Responsible Gambling, which is mandatory for all our members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff. We would encourage local authorities to engage with us as we continue to develop both these codes of practice which are in direct support of the licensing objectives.

Yours faithfully,



**GOSSCHALKS**

Dear Council Leader,

**Re: Submission from the Campaign for Fairer Gambling for the review of the Gambling Act 2005 Statement of Principles 2016/19**

As leader of the council, you will know that Licensing Authorities are required under the Gambling Act 2005 (the Act) to publish a statement of the principles which they propose to apply when exercising their functions in respect of gambling activity within their borough.

Under the Act, Licensing Authorities are required to consult those who represent the interests of persons who are likely to be affected by the exercise of the authority's functions. The Campaign for Fairer Gambling <<http://www.fairergambling.org>> in conjunction with its more focused Stop the FOBTs campaign <<http://www.stopthefobts.org>> has prepared this consultation submission for the consideration of all Local Authority licensing committees with particular regard to dealing with the contentious issue of betting shops and Fixed Odds Betting Terminals (FOBTs/B2 classified gaming machines).

We would appreciate if you could share the important contents of this mailing with your Chief Licensing Officer.

Under the Act, Licensed Betting Offices (LBOs) are allowed a maximum of four B2 category gaming machines offering game content defined as B2 with stakes up to £100 per spin, B3 with stakes up to £2 per spin and category C with stakes up to £1 per spin. Also, the bookmakers have merged two game categories (B2 and B3), so in betting shops you can play a low stake £2 capped slot game that suddenly introduces the player to £10, £20, £30 plus stakes per spin.

Despite increasing evidence of the destructive social impact of high speed, high stake casino gaming in betting shops at stakes up to £100 per spin, the previous coalition government and the current Conservative government have failed to take either decisive or effective action to curb FOBTs.

The recent government response to 93 Councils led by Newham <<http://www.bbc.co.uk/news/uk-33552719>> calling for the stakes on FOBTs to be cut to £2 per spin laid the blame for the issue of proliferation of betting shops in town centres and consequently FOBTs, at the door of licencing authorities. Marcus Jones MP, Minister for Local Government, wrote:

"It is perhaps an uncomfortable reality that every one of the betting shops that collectively have given rise to the concern at the heart of the submission relies on a premises licence granted by the local authority itself".

He goes on to advise councils of their existing powers under the licensing process, which many local authorities already recognise as limited in scope.

However, he points to "few" local authorities having so far "made effective use of a provision of the Act that we see as being absolutely critical in managing the local gambling landscape". With this statement he is referring to the three year review of local gambling policy now under way across England, Scotland and Wales by local authorities such as yours.

In his letter to Newham, Marcus Jones MP, criticises councils for drafting "generic" and "template" based statements and that the Gambling Commission "will be placing much greater emphasis on the importance of the statements".

The Campaign for Fairer Gambling has prepared this submission for consideration as part of your review, taking into account the Minister's advice and focusing on the most prominent issue of contention for licensing authorities – licensed betting offices and the Fixed Odds Betting Terminals they operate.

**Enforcement**

The main enforcement and compliance role for a licensing authority in terms of the Act is to ensure compliance with the premises licences and other permissions which it authorises. One strategic methodology to measure compliance is to commission test purchasing [of premises and staff employed on those premises to transact gambling.](http://www.gamblingcommission.gov.uk/pdf/approach-to-test-purchasing---england-and-wales-only.pdf)

The Gambling Commission (the Commission) notes that “it is the responsibility of operators to manage the risks to the licensing objectives that their activities may present”. Licensing authorities are rightly empowered to undertake test purchasing to ensure measures are being implemented effectively. Under guidance from the Commission, test purchasing to evaluate the effectiveness of measures in place on licensed premises concerning self-exclusion, under age controls, anti-money laundering policies and procedures are within the remit of a licensing authority.

However, in the period 2013/2014 across the whole of England, Scotland and Wales, of the two most highly represented licensed premises in high street locations – licensed betting offices (LBO) and adult gaming centres (AGC) - just 825 instances of test purchasing were recorded as being carried out by licensing authorities. To put this in context 599 (6%), of the 9,137 betting shops (to March 2014) and 226 (14%) of the 1,618 AGCs were subject to test purchasing by licensing authorities. Only 37 Councils carried out test purchasing last year.

In most cases, test purchasing focuses on the “protection of the vulnerable” licensing objective and consists of tests for under age access to gambling on licensed premises. However, the Commission is clear that the scope of test purchasing should include the effectiveness of self-exclusion procedures and anti-money laundering controls as well as under age controls. Money laundering in particular has been repeatedly highlighted as a particular area of concern around FOBTs both low level [and more highly-organised incidents](http://www.theguardian.com/uk-news/2013/nov/08/gambling-machines-drug-money-laundering-bookies) [that revealed serious weaknesses in operator controls.](http://www.theguardian.com/society/2013/oct/07/bookmaker-coral-gambling-commission-money-lauderer)

### **Premise Licence Conditions**

The Minister for Local Government, in his negative response to the Newham-led call for stakes on FOBTs to be cut to £2 per spin, said: “The licensing process gives authorities considerable scope to attach conditions to licences where that is necessary to achieve the licensing objectives”.

The tenth betting shop to open in London’s China Town was subject to attached conditions by the Licensing Authority following concerns from the local community and representations from the Police. They included:

- A. Seating provided for use by customers whilst playing FOBTs must be secured to the floor – this is viewed as anticipating aggressive behaviour [from FOBT players who suffer large losses](http://www.lancashiretelegraph.co.uk/news/12954333.ALL_BETS_OFF_Blackburn_man_banned_from_very_bookies_in_the_country_after_smashing_up_gaming_machines_in_anger/)
- B. a comprehensive CCTV system covering internal and external frontage with immediate availability to the police must be fitted
- C. an incident log of all incidents on the premises must be kept
- D. minimum 11.5 mm thickness security glass must be fitted to the service area
- E. a “behind the counter” attack alarm must be fitted and each member of staff must be issued with and required to carry on their person a personal fob attack alarm
- F. maglocks fitted to entrance and exit points and even toilet doors.

G. a minimum of two staff to be present post 8 pm in the evening.

Whilst these measures have some merit in addressing the potential incidents that now occur in betting shops, they are indicative of an escalation in anti-social behaviour as a consequence of gambling activity in these licensed premises. In the first nine months of 2014, Police call outs to betting shops were already up by over 20% on the previous year.

The one condition that Licencing Authorities seem hesitant to impose and, when they do - as per Westminster - is done in a relatively lack lustre manner, is requiring an adequate number of staff on the premises. The number of people employed in the betting sector has fallen by 9,700 since 2008. The industry now staffs most LBOs with just one person. This is particularly risky for staff and undermines industry claims to be promoting "responsible gambling" and "player protection measures" when they absolve responsibility for their premises to one person, generally young and female, working for not much more than minimum wage levels.

No other gambling sector employs lone staffing as a standard policy. It is perceived as irresponsible to leave licensed premises, on which gambling is transacted, under the management and operation of one person. It is within the remit of licencing authorities to impose minimum staffing levels as a condition attached to LBO premises licences.

Locally determined conditions are recommended by the Commission who says: "Where there are specific, evidenced risks or problems associated with a particular locality, or specific premises or class of premises, a licencing authority will be able to attach individual conditions to address this. That will be a matter for them in the light of local circumstances."

However, unlike the conditions attached to the new Soho betting shop that deal with issues that predominantly occur inside the premises, often disturbances occur outside the premises, causing a nuisance for other businesses or residential occupiers. Acts of vandalism against betting premises, youths gathering outside and anti-social behaviour upon leaving betting shops are common cause for concern and complaint. However, Licencing Authorities are unable deal with these issues under their licensing responsibilities. As the Commission notes: "Unlike the Licensing Act, the Gambling Act does not include, as a specific licencing objective, the prevention of public nuisance. Any nuisance associated with gambling premises should be tackled under other relevant legislation." Hence the imposition of conditions to deal with problems emanating from betting shops but occurring outside of the premises is limited in scope.

It is estimated over 100 betting shops per week suffer attacks on FOBTs <<http://www.theguardian.com/business/2013/nov/11/ladbrokes-accused-child-gamblers>> with very few instances being reported to the Police. These are criminal acts of vandalism always occurring as a consequence of heavy cash losses from FOBT usage. As Licencing Authorities are responsible for gambling activity that takes place on the premises it is perfectly warranted for a condition to be attached to individual or all licensed premises under the licencing authorities' remit, for the recording and reporting of all such incidents. This would not be considered a regulatory burden and is in keeping with the LA responsibility of keeping crime out of gambling.

Despite the Minister for Local Government pointing to conditions as providing "considerable scope", in the area of greatest concern, that of high stake, high speed FOBTs, a Licencing Authority has no control or powers. Section 172(10) of the Act provides that conditions may not relate to gaming machine categories, numbers, or method of operation and section 171 prevents an authority imposing conditions in relation to stakes, fees, winnings or prizes.

Section 181 of the Act however contains an express power for licencing authorities to restrict the number of betting machines, their nature and circumstances in which they are made available for, by attaching a licence condition to a betting premises licence. These are not defined under the act as FOBTs. Section 181 of the Act refers to these machines as "accepting bets on real events" and betting operators now refer to them as Self Service Betting Terminals (SSBTs). Like the introduction of FOBTs, no controls over numbers

per premises have been agreed and it is left to Licencing Authorities, if they see fit, to control their numbers under guidance pertaining to floor space, service counter positions and ability of staff to monitor their use.

There are now estimated to be in excess of 5,000 SSBTs sited in betting shops and this is increasing each month. As with FOBTs, SSBTs are contributing to the further erosion of jobs in betting shops (down 9,700 since 2008) with one operator, Trafalgar Leisure, providing five SSBTs and four FOBTs at each of its licensed premises but they did not offer any human facing over-the-counter betting facilities.

The Gambling Commission lost in their attempt to declare these betting premises as providing “insufficient facilities for betting” and the consequence is that a betting shop will still be a betting shop even if it is used for no other purpose than making machines available for use on premises.

It is essential that Licensing Authorities have particular concern to the development of SSBTs in betting premises and in particular the content made available on what have been deemed “betting machines” and use their powers under section 181 of the Act to control and monitor their proliferation.

### **Closing note**

It is clear to Councils and Councillors that their ability to deal with and curb the proliferation of betting shops in town centres and high streets, as well as controlling the quantity of FOBTs available is severely restricted under the 2005 Gambling Act. Despite the Minister for Local Government’s view that licencing authorities are not making sufficient use of existing powers.

It is proposed to give Scotland the power to vary the number of FOBTs in new betting premises and, subject to amendments in the Scotland Bill, this could be extended as a retrospective power. No such power for Licensing Authorities in England and Wales is proposed just a continual reference to “existing powers”.

The view of the Campaign for Fairer Gambling is that the power to vary the number of FOBTs should be devolved to all Local Authorities and their Licensing Committees as is proposed for Scotland. However, it is not the quantity of machines that essentially creates the problem as can be seen from the latest Gambling Commission statistics.

#### Sector/Machines

Terminals

Yield (millions)

Yield Share

#### Betting Shops/B2

34,874

£1,613.60

68%

#### Bingo B3/4/C/D

52,506

£292.24

12%

Casino B1/2/3

2,925

£166.26

7%

AGC B3/4/C/D

50,530

£306.09

13%

Totals

140,835

£2,378.19

Figures from the Gambling Commission Industry Statistics to September 2014

All gaming machines other than B2/FOBTs are capped at £2 and under per spin. It is the capacity for large losses that is facilitated by such a high staking capacity (£1 to £100 rather than 25 pence up to £2 as on most other gaming machines) that is the core of the problem regarding the B2 casino content.

As part of your Council's gambling policy over the next three years, we recommend you contain a statement supporting further regulatory action against FOBTs, with greater powers of control devolved to councils.

We urge all councils to support Newham in their action under the Sustainable Communities Act calling for the stakes on FOBTs to be brought in line with all other high street gaming machines at £2 per spin.

If you would like further information, please visit [www.stopthefobts.org](http://www.stopthefobts.org) <<http://www.stopthefobts.org>> or contact us at [info@stopthefobts.org](mailto:info@stopthefobts.org) <<mailto:info@stopthefobts.org>> to discuss in more detail.

Yours sincerely,

Derek Webb

Adrian Parkinson

Matt Zarb-Cousin

The Campaign for Fairer Gambling

[www.fairergambling.org](http://www.fairergambling.org) <<http://www.fairergambling.org>> / [www.stopthefobts.org](http://www.stopthefobts.org) <<http://www.stopthefobts.org>>

**LICENSING COMMITTEE: 3<sup>rd</sup> November 2015****Report of the Head of Shared Regulatory Services****AUTHORISATION OF OFFICERS AND DELEGATIONS****1. Delegated Authority to Officers.**

- 1.1 The Council Constitution identifies the Licensing Committee as having responsibility for the Licensing Act 2003 and the Gambling Act 2005. As a result of the establishment of the Shared Regulatory Service there is a need to update and consolidate officer authorisations and delegations.
- 1.2 In the interests of effective performance it is proposed to delegate the responsibility for authorising officers to administer the requirements of the Licensing Act 2003 and Gambling Act 2005, and the instituting of legal proceedings under those Acts to the Assistant Director, City Operations and to the Head of Shared Regulatory Services.
- 1.3 It is proposed that, where appropriate, the aforementioned officers be authorised to approve and refuse Temporary Event Notices; to issue, refuse, suspend Licences, registrations, certificates, permits and notices, to institute legal proceedings, to implement the relevant provisions in respect of offences or other requirements; pursuant to any of the rules, regulations and/or Orders made under the Licensing Act 2003 and the Gambling Act 2005 as amended.

**2. Achievability**

- 2.1 The recommendations can be achieved. These authorisations and appointments enable the officers to undertake their statutory duties.

**3. Legal Implications**

- 3.1 The authorisations and appointments proposed will ensure that the aforementioned officers have an appropriate authorisation to carry out the relevant regulatory functions.

**4. Financial Implications.**

- 4.1 The allocation of appropriate delegated authority will enable officers to continue to provide the service within the existing budget.

**5. Recommendations**

- 5.1 It is recommended that the Committee exercise its delegated authority to authorise the Assistant Director, City Operations, and the Head of Shared Regulatory Services to act under, and to authorise officers to administer, the requirements of the Licensing Act 2003 and Gambling Act 2005 as identified in paragraph 1.3 above and to institute any necessary legal proceedings.

**Dave Holland**  
**Head of Shared Regulatory Services**

**26<sup>th</sup> October 2015**

This report has been prepared in accordance with procedures approved by the Corporate Managers.

Background papers: None