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## AGENDA

Committee	LICENSING COMMITTEE
Date and Time of Meeting	TUESDAY, 1 SEPTEMBER 2020, 10.00 AM
Venue	REMOTE MEETING VIA MS TEAMS
Membership	Councillor Mackie (Chair) Councillors Sattar, Asghar Ali, Bowen-Thomson, Derbyshire, Ford, Goddard, Jacobsen, Kelloway, Lancaster, Dianne Rees and Wood

### 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 3 - 4)*

To approve as a correct record the minutes of the meeting held on 3 September 2019

### 4 Review of Statement of Licensing Policy *(Pages 5 - 108)*

### 5 Urgent Items (if any)

**Davina Fiore**  
**Director Governance & Legal Services**  
Date: Wednesday, 26 August 2020  
Contact: Graham Porter,  
02920 873401, g.porter@cardiff.gov.uk

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## LICENSING COMMITTEE

3 SEPTEMBER 2019

Present: Councillor Mackie(Chairperson)  
Councillors Sattar, Goddard, Lancaster and Wood

### 10 : APOLOGIES FOR ABSENCE

Apologies were received from Councillors Ashgar Ali, Derbyshire, Ford and Jacobsen

### 11 : APPOINTMENT OF CHAIR, DEPUTY CHAIR AND COMMITTEE MEMBERSHIP

The Committee noted that Council on 23 May 2019 appointed Norma Mackie as Chair and Councillor Abdul Sattar as Deputy Chair of the Committee.

The following Members were appointed:

Councillors Ashgar Ali, Bowen-Thompson, Derbyshire, Ford, Goddard, Jacobsen, Kelloway, Lancaster and Wood.

### 12 : TERMS OF REFERENCE

The Committee's Terms of Reference were noted.

### 13 : DECLARATIONS OF INTEREST

No declarations of interest were received.

### 14 : MINUTES

The minutes of the meeting held on 6 November 2018 were approved by the Committee as a correct record and were signed by the Chairperson.

### 15 : REVIEW OF LICENSING ACT POLICY

The Statement of Licensing Policy (SLP) is reviewed on a 5-year basis. The SLP was last reviewed in 2016 and is due to be reviewed in January 2022. However, the Police and Crime Act 2017 introduced Cumulative Impact Assessments (CIAs) in April 2018. CIAs should be published separately and are summarised in the SLP. Home Office guidance requires that CIAs are reviewed every 3 years. It was therefore necessary to review the SLP and publish a separate CIA.

The Committee received a report and Members were asked to consider approving the draft SLP and CIA for wider consultation with the consultees listed in the report. A number of minor administrative changes were also made to the SLP mainly in relation to changes to de-regulated entertainment, the introduction of 'right to work' checks and the introduction of the Home Office as a responsible authority.

In terms of the CIA, Members were advised that an extensive review of the current policy was conducted by South Wales Police. The review concluded that there is still large amounts of crime and disorder throughout the city centre area which is linked to the presence of licensed premises. Evidence suggested that licensable activities do contribute to crime and disorder issues. In addition to the statistical data that formed part of the evidence basis, the review of the policy also included a review of video evidence that demonstrated the problems in the City Centre that can be attributed to licensable activities. It was proposed that there be no change in the area or application of the current cumulative impact policy.

The Committee were given an opportunity to view a selection of the video evidence considered during the review process.

RESOLVED – That the Committee approve the draft Statement of Licensing Policy and Cumulative Impact Assessment for consultation with those bodies listed in paragraph 1.2 of the report.

16 : URGENT ITEMS (IF ANY)

No urgent items were received.

17 : DATE OF NEXT MEETING

The date of the next meeting is to be confirmed.

The meeting terminated at 10.25 am

**CITY OF CARDIFF COUNCIL  
CYNGOR DINAS CAERDYDD**

**Agenda No.**

**LICENSING COMMITTEE: 1 September 2020**

**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.
- 1.3 The SLP was last revised in 2016 and is due to be renewed in January 2022. However the Policing and Crime Act 2017 introduced 'Cumulative impact assessments (CIAs)' into the Licensing Act 2003, with commencement from April 2018. The CIA should be published as a separate document, but is summarised in the Council's Statement of licensing policy.
- 1.4 The revised Home Office Guidance issued under Section 182 of the Licensing Act requires that CIAs are reviewed every 3 years. Due to these changes it is necessary to review the Council's current Statement of Licensing Act Policy (SLP) and publish a separate CIA.
- 1.5 At its meeting of 3 September 2019 the Licensing Committee resolved to approve the draft SLP and CIA 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 and CIA was published for public comment during the period 4 November 2019 to 24 December 2019 for members of the public, trade and businesses to make observations on the revised version.
- 2.2 The revised Statement of Licensing Policy and Cumulative Impact Assessment has been amended to reflect the views of consultees and is attached as Appendix A and Appendix B. Details of the comments received and amendments made as a result of the consultation exercise are contained in Appendix C.

## **3. Achievability**

- 3.1 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**

**10 August 2020**

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

### 2020-2025



Shared  
Regulatory  
Services

Gwasanaethau  
Rheoliadol  
a Rennir



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# 1

## Introduction

~~The City of Cardiff Council~~[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 [54<sup>th</sup>](#) Statement of Licensing Policy produced by ~~the City of Cardiff Council~~[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~~ 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~~XXXXXX 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 (354,000) 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-Principality Stadium](#) hosts international events.

Cardiff Bay is a world class waterfront development and the [PrincipalityMillennium 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

# The Licensing Application Process

## 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~~[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   | • Deregulation Act 2015                                    |
| • Licensing Act 2003 (Description of Entertainment)(Amendment) Order 2013 | • 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)
- Amplified live music or recorded music performed between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
- Amplified live music or recorded music performed between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Provision of entertainment facilities
- Plays and dance – no licence is required for performances between 08:00 and 23:00 on any day for audiences up to 500 people
- Films: no licence is required for ‘not-for-profit’ film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Entertainment at Travelling circuses (excluding films, boxing or wrestling)
- Incidental films (where the film is incidental to another activity which is not a description of regulated entertainment)
- Indoor sporting events before an audience of up to 1000 persons between 08:00 and 23:00 on any day
- Greco-Roman and freestyle wrestling before an audience of up to 1000 persons between 08:00 and 23:00 on any day
- 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

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~~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.

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 as applied for 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. [Individuals applying for a premises licence must also provide documentation \(as listed on the application form\) to demonstrate entitlement to work in the UK.](#)
- 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 thea valid~~ 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~~[Cardiff Council](#)'s website.

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

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

Full details of Licensing Act fees can be found on the Council's website:  
<https://www.cardiff.gov.uk/ENG/Business/Licences-and-permits/Entertainment-and-alcohol->

[licences/Documents/Alcohol%20and%20entertainment%20licence%20fees%20and%20charges.pdf](#)

### **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 administering 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](#) 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;
- [Be entitled to work in the UK. Documented evidence will be required \(see application form for further details\).](#)
- 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 remains valid unless it is surrendered, suspended, revoked or declared forfeit by the court. The licence will lapse if the individual ceases to be entitled to work in the UK.](#)

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](#) **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.

[Cardiff Council has a discretionary power under the Policing and Crime Act 2017 to suspend or revoke a personal licence, when it becomes aware that a personal licence holder has been convicted of a relevant offence, foreign offence or immigration penalty.](#)

### 3.3 Temporary Event Notices (TENS) 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.

[It should be noted that working days do not include the date the TEN was given, the first day of the event, weekends or bank holidays.](#)

### 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~~ [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](tel:02920872054) [0300 123 6696](tel:03001236696).

## 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); and-
- Home Office Immigration Enforcement (on behalf of the Secretary of State)

## 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 ~~4.3 Local Health Board~~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~~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~~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~~Cardiff Council that they will use information from the UHB and wider sources including 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 **Home Office**

Since 6<sup>th</sup> April 2017 the Home Office Immigration Enforcement (on behalf of the Secretary of State) has become a responsible authority under the Licensing Act 2003. The Home Office is concerned with the prevention of illegal and broader immigration offences so will exercise its powers in respect of the crime and disorder licensing objective.

### 4.4 **4.5 Other Persons representations**

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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 4.6 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. Representations will also be rejected if they do not relate directly to the application, for example; where a variation application is submitted the representation must relate to the change being requested.

Whether another premises is needed or not, or the potential that house prices or traffic could be effected is not a relevant representation and therefore cannot be considered by the Licensing Authority.

It should also be noted that any evidence submitted in support of a representation could be deemed irrelevant if it cannot be linked positively to the particular premises.

## 4.6 4.7 Anonymous representations and petitions

~~The Licensing Authority cannot accept anonymous representation.~~ Full details of all representations including the name and address of the person making the representation 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.

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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
- Compliance with General Data Protection Regulations (GDPR)

When a variation application is submitted it is expected that any conditions offered by the applicant or requested by Responsible Authorities or other persons should be tailored to the applicant's proposals i.e. the change.

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## 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

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## 6

## Enforcement, Agency Integration and other relevant legislation

### 6.1 Enforcement and Agency Integration

~~The City of Cardiff Council~~[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.

[Since April 2017, the Home Office Immigration Enforcement have become a responsible authority under the 2003 Act, and individuals applying for a personal licence or premises licence must demonstrate that they are entitled to work in the UK.](#)

[The Licensing Authority will work with Immigration Enforcement Officers to ensure compliance with the relevant legislation concerning the prevention of illegal working and the promotion of the Licensing Objectives.](#)

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. [Prior to application for a Review the Licensing Authority would encourage dialogue between all parties to establish whether a satisfactory resolution could be met.](#)

Where enforcement action is taken it will be in accordance with the principles of ~~the City of Cardiff Council~~[Cardiff Council's Licensing the Shared Regulatory Services'](#) Enforcement Policy [which is available on the Shared Regulatory Services Website.](#) 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

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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:-

- [Shared Regulatory Services' 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](#)
- [Equality making the difference in Cardiff everyone matters – Cardiff's Strategic Equality Plan](#)

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## 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.

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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~~ 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.

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## 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 Designated 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 repetitious.

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.

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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 –[such systems should be fully compliant with data protection legislation. See the Information Commissioner's Office website for further details: -www.ico.org.uk](#)
- 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](#) ~~Cardiff Council~~ has implemented [a Public Space Protection Order \(PSPO\)](#) ~~(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 under a PSPO 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. Consideration should be given to the use of non-glass vessels particularly on 'major event' days when there is an increased capacity in the city. 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.

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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

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- 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~~[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

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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 [and the separate published 'Cumulative Impact Assessment' document](#).

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~~ 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 Policy Area (CIPA)'s defined boundary, and where those representations raise a material impact on the CIPA, 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.

**Cumulative Impact Assessment (CIA)** Cardiff Council has published a CIA to assist in limiting the number of certain licence applications granted in the city centre. The CIA can viewed in Annex A of this Policy.  
The Licensing Authority will review the Cumulative Impact Policy periodically (at least every 3 years) with the Police and other relevant authorities to assess whether it is needed any longer or needs amending.

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

## Cumulative Impact Assessment - Summary

Cumulative Impact Assessments were introduced at Section 5A of the Act by the Police and Crime Act 2017, with effect from 6 April 2018. This provides provision for licensing authorities to publish a document, cumulative impact assessment, stating that the licensing authority considers that a number of relevant authorisations in respect of premises in one or more parts of its area, described in the assessment, is such that it is likely that it would be inconsistent with the authority's duty under the Act to grant any further relevant authorisations in respect of premises in that part or those parts.

Relevant authorisations means:

- premises licence
- club premises certificate

As required by the Act the Council has reviewed the City Centre cumulative impact area. The Council has published its first cumulative impact assessment (CIA) in relation to Cardiff City Centre. As required by the Act the Council formally consulted on the assessment.

## Summary of City Centre CIA

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.

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.

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

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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 Policy Area (CIPA)'s defined boundary, and where those representations raise a material impact on the CIPA, 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.

### Application:

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 Policy Area (CIPA)'s defined boundary, and where those representations raise a material impact on the CIPA, 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.

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.

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.

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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.

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## 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.

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## 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

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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.

**Table 1**

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



**Table 2**

Premises Type	Criteria
<b>Ancillary Alcohol Sales</b>	<p>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.</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>
<b>Takeaways/Fast food outlets</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>Pubs/Bars/Nightclubs</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

## 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

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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	Penarth Road (part of)	Quay Street

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

Saunders Road  
St Mary Street  
The Friary  
Trinity Street  
Wesley Lane  
Wharton Place  
Womanby 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](#) ~~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.

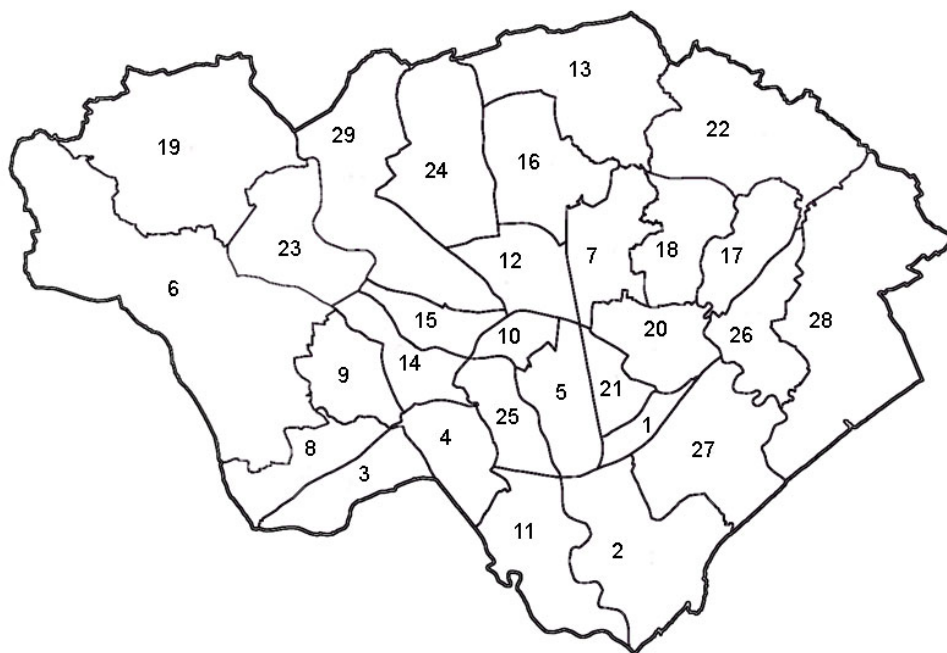
## Appendix B - Responsible Authorities Contact Details

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><del>The Group Leader</del><u>Team Manager</u> (Licensing) Licensing <del>City of</del> 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><u>Fiona Kinghorn</u> <u>Executive Director of Public Health</u> <u>2nd Floor</u> <u>Woodland House</u> <u>Maes-Y-Coed Road</u> <u>Llanishen</u> <u>Cardiff CF14 4HH</u></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>	<p><u>Home Office (Immigration Enforcement)</u> <u>Alcohol Licensing Team</u> <u>Lunar House</u> <u>40 Wellesley Road</u> <u>Croydon</u> <u>CR9 2BY</u></p> <p><u><a href="mailto:Alcohol@homeoffice.gsi.gov.uk">Alcohol@homeoffice.gsi.gov.uk</a></u> <u>Home Office (Immigration Enforcement)</u> <u>Alcohol Licensing Team</u> <u>Lunar House</u> <u>40 Wellesley Road</u> <u>Croydon</u> <u>CR9 2BY</u></p> <p><u><a href="mailto:Alcohol@homeoffice.gsi.gov.uk">Alcohol@homeoffice.gsi.gov.uk</a></u></p>

## Appendix C: Map of City of Cardiff



1. Adamsdown
2. Butetown
3. Caerau
4. Canton
5. Cathays
6. Creigiau & St Fagans
7. Cyncoed
8. Ely
9. Fairwater
10. Gabalfa
11. Grangetown
12. Heath
13. Lisvane
14. Llandaff
15. Llandaff North

16. Llanishen
17. Llanrumney
18. Pentwyn
19. Pentyrch
20. Penylan
21. Plasnewydd
22. Pontprennau & Old St Mellons

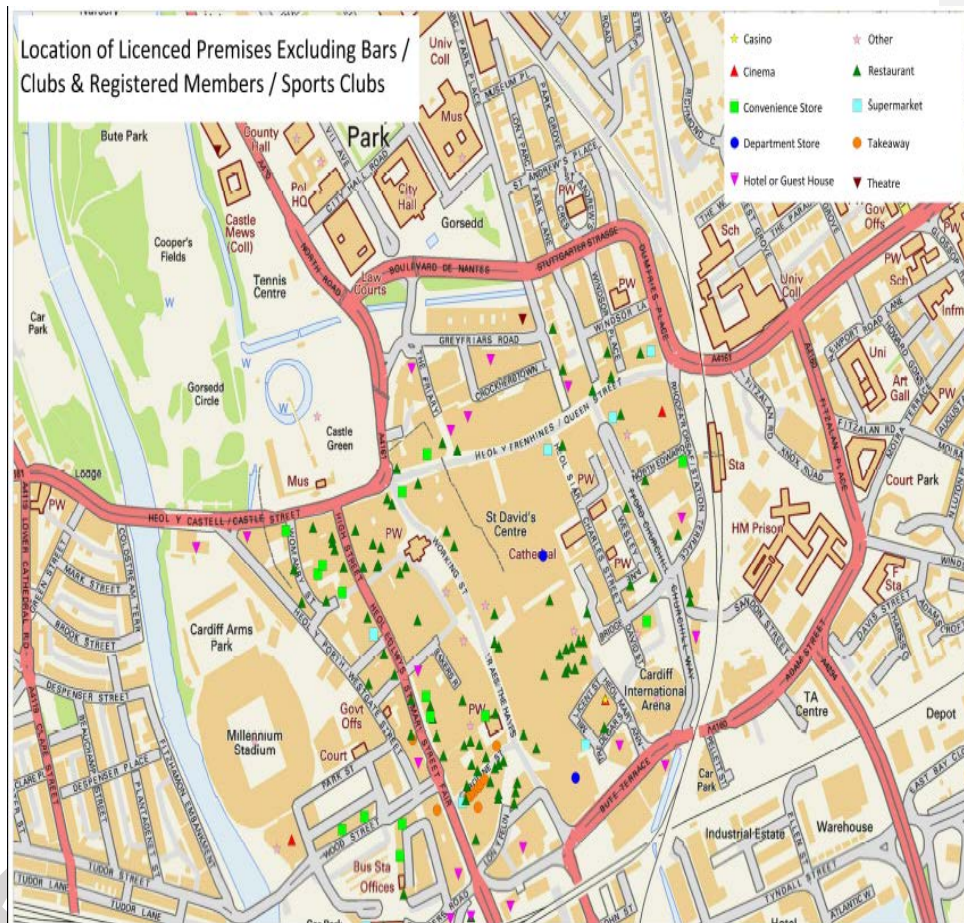
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- |
- 23. Radyr & Morganstown
  - 24. Rhiwbina
  - 25. Riverside
  - 26. Rumney
  - 27. Splott
  - 28. Trowbridge
  - 29. Whitchurch & Tongwynlais

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## Appendix D







# **Cardiff Council Cumulative Impact Assessment: Cardiff City Centre**

**Reviewed: 2020**

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• <b>Appendix B –Local Health Board comparison</b>	
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# Cardiff Council Cumulative Impact Assessment: Cardiff City Centre

## 1. 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 over 40 million. People are drawn to the City Centre for its numerous shops, bars, restaurants and entertainment venues including the Principality Stadium, all of which are situated in a small walkable area. The City Centre has an extremely high density of licensed premises with over 300 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 Principality Stadium such as the 6 Nations Rugby matches and concerts, 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 CIPA 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 of the Council's Statement of Licensing Act Policy.

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.

## 2. 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.

## 3. 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 from the 'Report on Community Safety Issues With Cardiff City Centre During the Night Time Economy 2018/19' (Detailed in **Appendix A**) collected to assist the formulation of this policy indicates that premises in the City Centre that 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 over the last 8 years, it has actually increased in the City Centre by 3.3% The main hotspot times for crime in the City Centre is Friday and Saturday evening until the early hours (4am/5am) 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:

- The latest taxi demand survey (conducted 2016) indicates that the peak passenger demand for taxis on weekends shifted to one hour later to 03:00 in 2016 compared with 02:00 in 2013; 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. 1389 offences of 'violence against a person' were recorded for the City Centre. The peak period for these incidents are between 21:00 and 05:00 Friday into Saturday, and between 17:00 and 06:00 Saturday into Sunday.
- Queen Street was also recorded as the 'top reporting location' for referrals to the Emergency Unit (EU) or Alcohol Treatment Centre (ATC) following an alcohol related incident. Further details can be found in the Summary of Local Health Board EU/ATC data in **Appendix B**.
- Recent increases in the amount 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 40 complaints a year from residents in the City Centre regarding noise from licensed premises, the majority of which were concerned with amplified music from pubs, bars and nightclubs. Details of Pollution Control complaint numbers are detailed in **Appendix C**.
- Of the all the noise complaints received by Pollution Control in relation to licensed premises in the City Centre, the majority of complaints were in Westgate Street and High Street in 2017 and in St Mary Street in 2016.
- 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.
- A South Wales Police review of policing the night time economy in the city centre (See Appendix F) also details the high levels of crime associated with the night time economy. There were 7,046 occurrences recorded for 2017 between the hours of 18:00 and 06:00, with the highest recorded occurrence type being 'violence against the person', followed by 'theft & handling', and 'concern for safety'.

The Licensing Authority is also concerned that the presence of large numbers of licensed premises makes the City Centre attractive to 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 18:00 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 The Hayes.

## 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.

Data shown in **Appendix D** details 60 incidents relating to the sale of alcohol taking place at 7 off licences in the city centre over a 7 month period between April – November 2018. These incidents all take place before 23:00. The majority of incidents relate to shoplifting (all of which relate to alcohol), but there are also incidents of assault, fear or provocation of violence, and harassment.

The South Wales Police review of policing the night time economy in the city centre (See **Appendix F**) identifies street drinking in Cardiff city centre as an emerging challenge, this will continue to put an increased demand on police resources.

There is also extensive Police body-cam footage of street drinkers in the city centre which demonstrates the problems faced by South Wales Police in tackling this issue at various times of the day.



## 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, around 5% were reported from fast food outlets that were not licensed to sell alcohol. This is however a reduction of 43% compared with reporting from fast food restaurants in 2014.

The police data in Appendix E details a total of 57 incidents occurring in 4 licensed takeaways in the city centre between April 2018 and November 2018. All of these incidents take place during the hours of 23:00 to 05:00, which is the time period that requires late night refreshment to be licensed. include assault, concern for safety, theft, and drunk and disorderly.

The South Wales Police review of policing the night time economy in the city centre (detailed in Appendix A) also makes reference to the high levels of incidents relating to violence, ASB and concern for safety recorded from Late Night refreshment premises on Queen Street and St Mary Street.

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. 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 considers that the number of premises licences and/or club premises certificates in Cardiff City Centre is such that it is likely that granting further licences would be inconsistent with the authority's duty to promote the licensing objectives.

The Licensing Authority has received satisfactory evidence (detailed in the separate annexes) 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.

In addition to the data, South Wales Police have also provided an overview of the crime/disorder in Cardiff City Centre's night-time economy (detailed in Appendix F) and numerous video footage clips demonstrating problems caused by licensable activities.

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 below.

## 4. Application of the Policy

Having regard to the Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003, 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.

This document should be read in conjunction with Cardiff Council's Statement of Licensing Act Policy 2018-2023.

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 Policy Area (CIPA)'s defined boundary, and where those representations raise a material impact on the CIPA, 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:-

- At the time of publication of this Policy, there are proposals to introduce a Public Space Protection Order under the Anti-social Behaviour, Crime and Policing Act 2014 in Cardiff. The Order provides the Police with the power to require a person in the designated area not to drink alcohol or 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.
- For Cardiff (Cardiff Business Improvement District) – a business-led, not for profit organisation with the goal of improving the City Centre. Initiatives include provision of Street Ambassadors, Cardiff Night Marshals, schemes aimed at reducing homelessness.
- Cardiff Against Business Crime –A Business Crime Reduction Partnership with the aim of reducing business related crime through partnership working with various partners including the Licensees Forum, South Wales Police, City of Cardiff Council, For Cardiff, St David's Shopping Centre etc.
- Cardiff Community Alcohol Partnership (CAP) is a partnership of many organisations working together to reduce the harm from alcohol in the 18-25 year old age group in Cardiff, including students. It focuses primarily on the city centre, and areas of primary student residences (Cathays, Plasnewydd and Gabalfa).
- The Alcohol Group is a subgroup of the Area Planning Board (APB) and is a wider partnership group which aims to improve the population's relationship with alcohol and reduce the negative effects of consumption in Cardiff and the Vale of Glamorgan.
- Cardiff and Vale UHB's Emergency Unit (EU) is establishing a dedicated Alcohol Brief Intervention (ABI) service within the department, offering ABIs to patients who have been identified (via routine screening using AUDIT-C for all EU patients) as drinking harmful or hazardous levels. This will increase the identification of and support for patients drinking over the guidelines.
- Street Pastors, who are trained volunteers from local churches, who patrol Cardiff city centre from 10pm to 4am each Friday and Saturday night to care for, listen to and help people who are out on the streets.

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>
City Centre	No CIP (Green)	CIP applies (Red)	CIP only applies if the application is outside the 'Core Hours' or the applicant is unwilling to adopt the 'Additional Measures' (Amber)	CIP applies (Red)	CIP only applies if the application is outside the 'Core Hours' (Amber)

**Table 2**

Premises Type	Criteria
<b>Ancillary Alcohol Sales</b>	<p>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.</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>
<b>Takeaways/Fast food outlets</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>Pubs/Bars/Nightclubs</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>Off-Licences</b>	<p><b>Premises that supply alcohol primarily for the consumption off the premises</b></p> <p>This includes convenience stores and supermarkets.</p> <p><b><u>Core Hours:</u></b></p> <p>Sale of alcohol: 07:00 -21:00</p>
<b>Restaurants</b>	<p><b>Premises which primarily supply substantial table meals for consumption on the premises and dining is the main activity for customers.</b></p> <p>The Policy will not apply to restaurants if the core hours and additional measures form part of the operating schedule</p> <p>Fast food premises and takeaways are <b><u>not</u></b> considered as ‘restaurants’ for the purpose of this Policy.</p> <p><b><u>Core Hours:</u></b></p> <p>Sale of alcohol</p> <p>09:00 – 01:00</p> <p><b><u>Additional Measures:</u></b></p> <p>At least 70% of the public space is occupied by tables and chairs</p> <p>All meals are consumed at tables with non disposable crockery</p> <p>The sale of alcohol for consumption on the premises is ancillary to the taking of a substantial table meal</p> <p>There is no self-seating; customers are shown to their table by staff.</p> <p>All food is served by waiter/waitress service, with the only exception of buffet-style restaurants.</p>



## MAP 1: City Centre CIA Area



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

Bakers Row

Boulevard de Nantes

Canal Street

Cathedral Walk

Barrack Lane

Bridge Street

Caroline Street

Central Square

Barry Lane

Bute Terrace

Castle Street

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	Penarth Road (part of)	Quay Street
Queen Street	Saunders Road	Scott road
St John Street	St Mary Street	Station Terrace
Stuttgarter Strasse	The Friary	The Hayes
Tredegar Street	Trinity Street	Union Street
Victoria Place	Wesley Lane	Westgate Street
Wharton Street	Wharton Place	Windsor Place
Windsor Lane	Womanby Street	Wood Street
Working Street		

## Draft Licensing Act Policy Consultation Responses

Date	Source	Details of Representation	Response	Details of Amendment
12.11.2019	Building Control, Cardiff Council	No adverse comments from a Building Control perspective.	N/A	N/A
19.12.2019	Matthew Phipps, TLT Solicitors	<p><b>Point 1. Prevention of Crime and Disorder.</b></p> <p>The prevention of crime and disorder is a major pillar of licensing legislation and one of two objectives, along with prevention of public nuisance, that drives the majority of representations to applications and reviews. However, we have become increasingly concerned that licensed premises are sometimes being unfairly held to a higher standard when it comes to prevention of crime and disorder than other public premises. Because premises undertaking licensable activities require a licence, this is often used to drive premises licence holders to accept conditions on their licence that have associated costs other premises would not be required to meet. Because breaches of condition can lead to prosecution or review of the licence, such conditions force costs onto premises that often can play a part in perfectly good businesses folding. Bricks and mortar businesses are already under severe financial pressures from minimum wage, rates and other levies, so these costs that may appear small when imposed can be the tipping point as to whether a business can survive or not. For instance, the approximate cost for hiring two door supervisors for four hours on a Friday and Saturday night alone per annum is around £14,000.</p> <p>It would we believe assist if the policy could expressly set out what it expects in terms of evidence from police or other officers when bringing a review or objecting to a premises licence. When Police present evidence of crime and disorder in relation to licensed premises, they will often include references to any crime that is associated not just with the premises in terms of its operation as licensed premises but generally. For instance, the Police will often include reference to all calls where those calls have referenced the premises as a local landmark which can include anything from criminal activity from people who have not been customers of the premises, offences in relation to taxis or queues, or general disturbance and noise nuisance where it cannot be said to be relevant to the premises.</p> <p>Premises licence holders can also often find reference to offences that are not relevant to the licensing objectives themselves.</p> <p>We feel it is important that the council recognise this in their policy.</p>	<p>Agree to include that evidence submitted in support of representations should be specific.</p> <p>ft</p>	Policy amended to include that it is expected by the Licensing Authority that any evidence submitted in support of representations should be specific.

	<p><u>We propose that the policy states that the council's expectation is that evidence brought by the police or other responsible authorities/ other persons relating to the prevention of crime and disorder licensing objective will directly relate to the licensable activities being provided within or immediately without the premises themselves.</u></p> <p><b>Point 2. Prevention of Public Nuisance</b></p> <p>The prevention of public nuisance licensing objective is to be widely interpreted. The S182 Statutory Guidance requires this. However, we often come across conditions on premises licences that reference 'nuisance', rather than 'public nuisance'. This sets a significantly higher barrier-one that was not intended by the Licensing Legislation. It should be recognised in the policy that this goes beyond that which was intended by Parliament.</p> <p><u>We propose that the policy reflects the need for public nuisance to be demonstrated and for conditions relating to nuisance to relate to public nuisance rather than any wider definition. In particular, we suggest that expressly stating that private nuisance is not a licensing objective would assist in all parties understanding what is and is not the remit of licensing legislation.</u></p> <p><b>Point 3. Protection of children from harm</b></p> <p>Since the current policy came into force, a mandatory condition has been added to all premises licences permitting sales of alcohol requiring the premises licence holder to implement a policy to prevent underage sales of alcohol and for the DPS to implement that policy.</p> <p>We note that some responsible authorities request 'Challenge 25' as a condition. Many premises (especially multiple operators) operate Challenge 21 policies throughout their estates and have training and signage prepared for this. To change it can be expensive and/ or time consuming. Absent any failings by the premises or business it's difficult to understand the legitimacy of any such request / obligation.</p> <p><u>We propose that the policy states that if an applicant expresses a preference for a particular 'challenge policy', be it 'Challenge 21 or Challenge 25', this should not be objected to unless there is good reason, backed by evidence, to do so.</u></p> <p><b>Point 4. Cumulative Impact</b></p> <p>Cumulative impact has been brought onto a statutory footing since the current policy was last revised. In particular the law requires licensing authorities to undertake cumulative impact assessments ('CIA's') once every three years.</p>	<p>Disagree.</p> <p>The intention is not to go into too much intricate detail as it risks confusing matters. Representations in any case will only be accepted if they are 'relevant'.</p> <p>Disagree.</p> <p>Each application to be judged on its own merits which the policy already reflects.</p> <p>Disagree.</p> <p>It is considered that the Licensing Authority has received satisfactory evidence demonstrating</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p>
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		<p>We note that your cumulative impact policy section references cumulative impact assessments ('CIA's') . We believe that in light of the new assessments, the policy areas should be more thoroughly reviewed. A long list of incidents and issues within a large city centre location is not to our mind sufficient to allow the conclusion that the whole of the city centre is so saturated by licensed premises that applications for new licences should be presumed to be refused.</p> <p>We understand that there are occasions where CIA's provide a valuable tool to licensing authorities in regulating the night time economy. However, our experience is that they can also be an impediment to businesses and the development of a thriving economy. We have represented a number of potential operators who have wanted to open premises who have decided not to go ahead once the likely consequences of the policy are explained to them. This has included innovative small business operators looking to open their first premises, as well as more established operators. The effect can be that premises in the city centre remain boarded up when they could be otherwise occupied and benefiting the city as a whole.</p> <p>For this reason, cumulative impact unintentionally penalises operators considering smaller more novel applications (simply because of the prohibitive cost), perhaps resulting in them looking to take their ideas elsewhere and thereby wasting a chance to develop a more rounded and vibrant economy in those areas of the city.</p> <p>And if applications proceed they are more often than not by well-funded national operators, who can fund the legal hurdles that the policy imposes, perhaps inadvertently undermining the Councils stated aim of introducing a diverse range of premises within the city centre. Put another way, such policies also promote ubiquity and stagnation as the only operators willing to take on the risk and outlay of applying in cumulative impact zones are larger established chains with the financial backing to fight for a licence. On occasion, operators will accept licences, or have licences imposed upon them, that prove to be unworkable, simply to be able to have the chance to trade. This again promotes a kind of ubiquity.</p> <p>Officers adopting a risk adverse, worst case scenario approach to new innovative applications, invites committees to impose conditions that generate an unnecessarily burdensome licence, based not on the principles that the legislation purports to advocate.</p> <p>Given the plight of the casual dining market in recent times, evidenced by the spate of closures across Cardiff from local and national operators alike, this is an issue that needs to be taken seriously. It can be forcefully argued that they failed in part because their offers were unable to adapt as the market developed around them, because the conditions on their licence prohibited it and</p>	<p>that the cumulative impact of licensed premises selling alcohol and providing late night refreshment in the City Centre (see map) is undermining the promotion of the licensing objectives; prevention of crime and disorder, prevention of public nuisance and public safety.</p> <p>The evidence and CIA will however continue to be reviewed every three years and where necessary changes will be made.</p>	
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	<p>the chances of varying the licenses to allow for change was restricted by licensing policy and the use of CIzs in particular.</p> <p><u>We propose that the CIz in Cardiff is re-evaluated in line with the council planning and other strategies to ensure that there is no conflict. Where necessary, we suggest that the CIz is reduced in remit and size, so that only areas genuinely in need of restriction have the CIA imposed upon them.</u></p> <p><b>Point 5. Licensing and planning</b></p> <p>We have dealt with our proposal that the policy references and encourages integrated thinking between all city strategies and policies above.</p> <p>We would also urge you to clarify in your policy that where conditions are stipulated on a planning permission, such as restriction on hours or activities, these do not need to be repeated in the premises licence without good reason to do so. Often conditions relating to extract systems, closing times of external areas, deliveries of goods or collection of waste appear on both permissions and on occasion they do not even mirror each other. This leads to additional and unnecessary expense for licence holders should such conditions need to be amended. Again, this is an unnecessary burden for premises struggling to stay afloat and needing to deal with these matters quickly and cost effectively.</p> <p><u>We propose that the policy explicitly states that where conditions on planning permissions regulate matters relevant to one or more of the licensing objectives, such conditions would not be expected to be duplicated on premises licences</u></p> <p><b>Point 6. Enforcement</b></p> <p><u>We propose the policy specifically references the Regulator's Code and provides a link to it.</u> This is useful for all parties to licensing matters and recognises the important role that businesses play in local communities.</p> <p><b>Point 7. Conditions</b></p> <p>A separate concern in relation to having a significant number of conditions on a premises licence is that it leads to breaches of the licence without any evidence that the breach undermines any particular licensing objective. This is raised at hearings as a failure by a premises licence holder in situations where if the condition were not there, there would be no actual undermining of any licensing objective. Breaches of conditions are, in and of themselves, an offence under Section 136 of the Licensing Act and on summary conviction can lead to an</p>	<p>Disagree, however the Licensing Authority recognises that the licensing process should not be a re-run of the planning process as there are different considerations. This is already addressed in the policy.</p> <p>Agree.</p> <p>Disagree.</p>	<p>N/A</p> <p>Policy amended to include reference to the Regulator's code.</p> <p>N/A</p>
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		<p>unlimited fine and/or up to 6 months in prison. It is important that this distinction is recognised in the policy. We propose that the policy states: <u>'Where breaches of condition occur and the breach does not materially undermine a licensing objective, this is a matter for the Courts and not for the licensing committee. The Licensing committee can and must only interest themselves in matters where there has been a material undermining of the licensing objectives.'</u> This can happen irrespective of conditions being on the licence. We would suggest that this distinction is made in your policy as it will re-enforce the message both for responsible authorities and for operators who hold premises licences in your area.</p> <p><b>Point 8.</b></p> <p>We have also seen a rise in conditions being requested and imposed upon premises licences by responsible authorities, irrespective of the nature of the application being made. The case of Taylor v Manchester City Council makes is clear that any conditions imposed on a premises licence when it is varied, must relate to that application itself and should not stray into other areas that are not part of the application. Tidying up a licence, refreshing a licence condition because the one on the face of the licence now is not the wording that would be used were this a new application is illegitimate and arguably unlawful. It is important again that this is referenced in policy in order to prevent unnecessary hearings and often additional expense to applicants seeking to make simple changes to their licence but are then held to ransom by responsible authorities who know that operators are unlikely to challenge their right to impose such conditions where the cost would be send the matter to a hearing. <u>We propose that the policy states: 'Where an applicant applies for a variation to their licence, the licensing committee will expect responsible authorities to limit representations to the detail of the application itself and tailor any proposed conditions accordingly.'</u></p> <p>For the reasons stated above, we submit that the imposition of large numbers of conditions, as the primary mechanism to help address the policy considerations attaching to Cumulative Impact particularly, on a premises licence is inappropriate. Premises licences form one part of a significant number of regulatory requirements that must be observed by publicans and this is often forgotten by regulators who often only think in terms of their one area of expertise. Policies that set out an expectation of long operating schedules or worse, require officers to object to applications unless the applicant applies the standard/expected/often demanded conditions, place an unnecessary burden on operators without necessarily helping to promote the licensing objectives.</p>	<p>condition then they can apply to vary their licence at any time.</p> <p>Agree to include that representations and any proposed conditions in relation to variation applications should be limited to the applicant's proposals.</p>	<p>Policy amended to include that where a variation application is submitted it is expected that representations and any proposed conditions should only relate to the applicant's proposals i.e. the change.</p>
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		<p><b>Point 9. On and Off-Sales</b></p> <p>Recently we have become aware that the definition of on and off-sales has caused some confusion. In particular there appears to be confusion around whether an off-licence is required for customers to take drinks outside of a premises, for instance onto the pavement, and consume their drinks there.</p> <p>We contend that such a sale is an on-sale. If one considers the nature of the offence of selling alcohol without the appropriate licence, it is clear that the intention is that the person making the sale is the one who would be charged with the offence, rather than, say, the purchaser. Therefore, in selling a drink in an open container for immediate consumption, it cannot be argued that the publican has made anything other than an on-sale. It is inconceivable that the law intended that should this person step outside the premises, or indeed take that drink away with him, that this would somehow transform that on-sale to an off-sale. The terms 'on' and 'off' sales originate from the Licensing Act 1964. Analysis of the legislation (by reference to off-sales) demonstrates that all off-sales had to be intended to be sold for consumption away from not only the licensed premises but any land associated with that premises or land immediately adjoining it for them to be considered an off sale. The intention was to ensure that in a situation where a seller makes an on-sale, that on-sale does not become an off-sale simply by means of it being consumed in the immediate environment of the premises, such as an unlicensed garden or on the pavement outside the pub.</p> <p>As such, we feel that this needs to be clarified in the policy. We propose the following statement is adopted:</p> <p><u>"On and off-sales are defined by reference to the intention of the seller at the time of sale. A sale in an open container for immediate consumption at the premises is an on-sale. This extends to where the person who has purchased the drink at the bar and then consumes it either in a pub garden or on the pavement immediately outside the premises. An off-sale is a sale designed for consumption away from the premises and its immediate environs. This will usually be in a sealed container such as a bottle or can and the seller when selling that drink had no intention for the purchaser to remain at the premises to consume it".</u></p> <p><b>Point 10. GDPR</b></p> <p>We note that the policy does not make reference to the GDPR. One of the most significant changes in recent times has been the change to data protection legislation introduced via GDPR. Whilst the obvious effects of this regulatory change relate to protecting personal data held on behalf of individuals, such as social media, mailing lists, email data bases and various other forms of storage</p>	<p>Disagree.</p> <p>Off-sales are when alcohol is taken away from the 'licensed premises' which is defined by the plan accompanying the licence/certificate.</p>	<p>N/A</p>
		<p>We note that the policy does not make reference to the GDPR. One of the most significant changes in recent times has been the change to data protection legislation introduced via GDPR. Whilst the obvious effects of this regulatory change relate to protecting personal data held on behalf of individuals, such as social media, mailing lists, email data bases and various other forms of storage</p>	<p>Disagree in that the policy advises that any CCTV systems should be fully compliant with data protection legislation. Agree</p>	<p>Policy amended to include that all conditions should comply with data protection legislation along with any evidence submitted to the local authority.</p>



		<p>of someone else's data, there are other effects that need to be reflected in licensing policy.</p> <p>For instance, the requirement for CCTV at a premises licence is not only expensive to install, but we question the value of such systems in terms of crime prevention and detection, especially in smaller restaurants and event spaces. However, it is now commonplace, if not automatic, for police to demand CCTV in almost all premises and to insist upon complicated and demanding CCTV conditions to be added to premises licences. In addition, operators of CCTV systems have to consider the GDPR implications. In particular, anyone who stores data, including CCTV footage of individuals, which is classed as data for the purposes of GDPR, must be responsible for its safe collection, storage, usage and disposal. Handing over CCTV footage to Police officers in the active investigation of a criminal offence, such as a fight, would obviously be a legitimate reason for providing data. However, a condition with a general requirement to hand over CCTV at the behest of a licensing officer or police officer arguably breaches GDPR, were it to be enforced. This means that there are numerous CCTV conditions on licences that would likely, were one to try and enforce them as they are written, cause an operator to breach GDPR. But if the licence holder falls back on GDPR they are equally likely to find themselves in an enforcement dialogue with officers, potentially in violation of the GDPR.</p> <p>Similarly, club scan conditions need to be thought about in terms of GDPR and the obligations of the data holder. For instance, the time for which any data is stored and the purpose for storing that data needs to be made clear to people handing over their data. Again conditions that require such data to be handed over at the behest of an officer other than in investigating a criminal offence would in all likelihood breach GDPR.</p> <p>Storage of details about customers, CCTV, Door staff sign in books even lavatory checks for months even years seem contrary to GDPR minimisation principles and are frankly difficult to understand from a licensing objectives perspective, but notwithstanding that they are still the subject of officer request and or conditions imposed by the authority.</p> <p>We feel therefore that this need to be addressed in the policy in order to ensure that conditions are updated to ensure compliance and that CCTV in particular is not being universally required where there is no real and pressing need for it.</p> <p><u>We propose that GDPR is expressly dealt with in the policy to ensure that all parties understand that any conditions need to comply with GDPR and any evidence submitted to the local authority to be included in the public documents must likewise comply.</u></p>	<p>that the policy could go further and advise that consideration should also be given to complying with data protection legislation when formulating conditions in support of a representation or an application.</p> <p>In relation to the comment about evidence to be included in the public document being compliant with GDPR – the local authority will not publish anything that breaches GDPR.</p>	
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		<p><b>Point 12. Large scale events</b></p> <p>Cardiff is blessed with significant green spaces in its various parks and gardens. These have increasingly</p>	<p>Disagree.</p>	<p>N/A</p>

	<p>been the subject of premises licence applications to permit, amongst other matters, large music based concerts or events.</p> <p>There is an opportunity here, which the current draft of the licensing policy, respectfully, misses, to set out the basis on which the authority expect applications to be made. A number of licensing authorities now provide detail about the dialogue and discussions that they anticipate premises licence holders and/or applicants undertaking prior to events with larger capacities. Whilst there may not be any necessity for there to be extensive commentary about the framework for, say events attracting 500 people or fewer, if events are to attract a capacity of some thousand(s) it would undoubtedly be helpful to residents, officers and applicants to clearly identify a model approach to applications of this sort.</p> <p>Particular licensing policies, such as the Mendip Authority which is home to the Glastonbury Music and Arts Festival have extensive commentary about how they believe the framework under which these applications should be made and considered as well as the basis on which the events could and should be conducted.</p> <p>The proposed paragraph 3.4 provides little or no direction save for a steer toward early dialogue and we would suggest that more could and should be done here.</p> <p><b>Point 13. Making representations 4.6.</b></p> <p>Whilst the text here is all perfectly legitimate and technically correct we would respectfully suggest that enlarging these paragraphs to explain to residents how they could and should serve representations to set out not just what the licensing objectives, are but to contextualise the objectives and to explain, perhaps what issues are not of legitimate concern, (house prices etc.) would enhance the value that the licensing policy offers.</p> <p><b>Point 14. Conditions. 5.2</b></p> <p>Some of the responsible authorities request conditions that are if not standard and certainly reasonably generic and/or common place. We can think of little or no matters in the last 3 years in which we have been involved where the police have not requested a comprehensive “all singing, all dancing” CCTV system.</p> <p>Increasingly the we note that even for premises that do not sell alcohol, conditions are requested obliging mobile security officer cameras to be worn by SIA registered door staff.</p>	<p>The policy advises applicants of the Events Liaison Panel and recommends that applicants get in contact at the earliest opportunity so the event can be considered by the panel. There is no set time scales however it is recommended that applicants contact the relevant departments and authorities as early as possible; this is already reflected in the policy.</p> <p>Agree.</p> <p>Disagree.</p> <p>The paragraph already states that conditions should be tailored to individual premises and it goes on to detail considerations for responsible authorities when</p>	<p>Policy amended to include examples of what cannot be taken into consideration.</p> <p>Formatting also amended to make text stand out.</p> <p>N/A</p>
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	<p>Any reading of the Information Commissioner guidance and advice would make it clear, we suggest, that CCTV is not meant to be a standard practice common to all licensed premises irrespective of their perceived risk, customer profile, engagement with alcohol etc.</p> <p>We would respectfully suggest that paragraph 5.2 would be significantly enhanced by precisely setting out the basis on which the authority considers it to be appropriate legitimate reasonable and balanced for such conditions to be attached.</p> <p>And we would further invite the policy to remind responsible authorities of the onerous nature of some their requirements.</p> <p>Whilst of course it is true that licence holders and applicants need not necessarily accept the proposals from the responsible authorities, it is undoubtedly the case that smaller less well-resourced owner operator applicants, often feel pressurised into accepting the (we would respectfully suggest disproportionate and inappropriate) representations from officers.</p> <p>Not only are owner operators unlikely to want to challenge the police and others there is almost inevitably a significant financial burden in not accepting representing and proceeding to a contested licensing hearing, over and above any, quite natural, anxieties associated with challenging robust officers in the first place.</p> <p>Whilst it is perfectly understood that the licensing policy will in significant part set out what is and is not acceptable from a licence holder or applicant perspective, this paragraph offers an opportunity to remind officers of their responsibilities, the national guidance and the framework under which Cardiff will come to consider their proposals.</p> <p>Whilst we welcome the developed policy (page 26 of 68), particularly the sense that prior to the service of an application for review, a dialogue is to be encouraged, the phrase <i>“to establish whether a satisfactory resolution could be met”</i> could perhaps be developed and/or improved. We would respectfully suggest that an open and transparent enforcement protocol, one that encourages enforcement officers to clearly set out their concerns, that offers licence holders the opportunity to improve, that offers licence holders the opportunity to evidence that improvement and one which gives them sufficient time and space in order to show change of procedures and approaches have been successful, could and should be the articulated point here. Reference to the Regulator's code- including a link to it (<a href="https://www.gov.uk/government/publications/regulators-code">https://www.gov.uk/government/publications/regulators-code</a>)- should also be considered.</p>	<p>drafting conditions i.e. costs.</p> <p>Agree to include reference to the current enforcement policy and provide link to where it can be found.</p> <p>Regulator's code is already referenced in the policy – agree to include link.</p>	<p>Policy amended to include reference to the current enforcement policy and provide link to it.</p> <p>Link provided to the Regulator's code.</p>
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		<p><b>Point 16. Prevention of Crime and Disorder. 7.4a</b></p> <p>Whilst the policy goes out of its way to identify the licence holder's CCTV system should be “fully compliant with data protection legislation policy” might the policy (see above) remind officers that both their requests and the wording attaching to conditions and the basis under which licensees are compelled to provide CCTV to officers, could and should itself be data protection compliant.</p>	<p>Agree as above</p>	<p>Policy amended to include that consideration should be given to the fact that conditions should comply with data protection legislation.</p>
		<p><b>Point 17. Drinking vessels</b></p> <p>We do not understand the sentence “<i>consideration should be given to the use of glass vessels particularly on “major event” days when there is an increased capacity in the city</i>”.</p> <p>It has always been our understanding that on major event days there is a requirement for polycarbonates imposed across the city. Whilst there are some premises, predominantly restaurant premises, where glassware would be perfectly legitimate and appropriate it strikes us as being a very significant departure from the historic position for there to be a push toward glass on these significant days. (Respectfully we suspect this is a typo).</p>	<p>The sentence is asking for consideration in using glass vessels on event days not requesting that they are used. Policy to be re-worded for clarity.</p>	<p>Sentence re-worded for clarity.</p>
		<p><b>Point 18. Traffic light system</b></p> <p>The traffic light system whilst applauded by many other authorities and commentators relies almost entirely on a transparent understanding of how and where a premises falls within the various categorisations. The policy sets out at paragraph 3 that “points are allocated as set out below”. But for the last 5 years of the policy, and seemingly with no apparent change in this proposal, the points are <b>not</b> set out below.</p> <p>And it is undoubtedly a significant concern for licence holders and their advisers that access to the points allocation and the categorisation of event that might cause</p>	<p>Agree, the point system is not included.</p>	<p>Request sent to South Wales Police for the points system to be detailed.</p>

	<p>a premises to move between the categories is entirely within the gift of the South Wales Police Licensing Team.</p> <p>Whilst of course it is not possible to comment upon the points allocated to particular events (because it is not contained within the policy), a number of licensees feel aggrieved by the way in which points are apportioned for particular events. The detection or detention of criminals, even pro-active dialogue with the police is not always, (ever?) a positive point in a premises' favour. Work needs to be undertaken to ensure that negative points are fairly attributed to events where management and the premises have let themselves down and positive points need to be fairly awarded to those premises making a positive contribution to the promotion of the licensing objectives. The mere existence of a crime should not, in and of itself be a negative.</p> <p><b>Point 19. Prevention of public nuisance. 7.4c</b></p> <p>The suggestion that the terminal hour for external areas that are in close proximity to residential properties should not exceed 2100 hours is without merit.</p> <p>Some premises will have been in existence and in operation for many years. Since 2007, (smoking ban) licensed premises have experienced much greater occupation of their outside areas than was historically the case. New residential development in proximity to established licensed premises could not and should not be used as a stick to beat the premises with, the point about Agent of Change is made above.</p> <p>And prescribed specific hours determined by officers, absent any individual considerations as to the merits of the proposition or premises, directly contradict both the Guidance and statement of licensing policy.</p> <p>This proposal could and should be reworded, perhaps, to indicate that the authority will need to be persuaded of the particular merits of a proposition beyond, say, 9pm. That should equally be done in the context of understanding that for some, perhaps public house type operations, a 9pm finish on the use of their external areas would likely cause the premises to fail and close quite quickly. It cannot be the intention of the policy nor the legislation to seek to generically restrict premises, absent any considerations of the specific merits or prejudices in such circumstances.</p> <p><b>Point 20. Cumulative impact policy 8</b></p> <p>The categorisation of premises that the authority use as a central tool to help determine applications within the cumulative impact area is, we would respectfully suggest, fundamentally flawed. To seek to position all licensed</p>	<p>Disagree, the policy states that it is "suggested" that the terminal hour for external areas that are in close proximity to residential properties do not exceed 21:00 hours. This is not a mandatory requirement and each application will be judged on its own merits – The policy already reflects this.</p> <p>Disagree.</p> <p>The policy does not exclude certain types of premises and is</p>	<p>N/A</p> <p>N/A.</p>
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23.12.2019	Carl Ryan	<p>Having been a licensee in Cardiff for more than fifteen years, and with the experience of many licensing applications, I strongly believe the evidence which formulates the policy is unreliable and non-specific. I really cannot stress enough, I think the evidence needs to be properly checked and verified for accuracy, so as not to undermine the policy.</p> <p>For instance, Last Drink Data and information from A&amp;E or the Alcohol Treatment Centre cannot be deemed reliable as it is usually collected from people that are intoxicated. Even if taken at face value, there is nothing in the stats to suggest that the person has become intoxicated at a particular premises, or indeed any premises at all. An individual could have been pre-drinking at home, got refused entry at one premises in town, and that would lead to a black mark against that venue.</p> <p>It is difficult to link crime and disorder on the public highway to a particular licensed premises or specific type of licenced premises due to the vast amount of variables. Furthermore, from past experience the 'crime' statistics provided by the police <b>include allegations and many occurrences do not lead to conviction</b>. I believe this is a crucial point because if you were to only factor in convicted crimes, the picture would be a lot different.</p> <p>Although a workable policy in theory the application of the Traffic Light System seems lacking. The policy states that "points are allocated as set out below" and in actual fact there is no further information, leading to a lack of transparency and an inability to question the application of points. The allocation of points is dependent upon data</p>	<p>Disagree.</p> <p>It should be noted that the health data is not used on its own but is used to corroborate the evidence from the Police data. The data gathered is from A&amp;E and the use of A&amp;E data along with Police data has been nationally recognised as a way of reducing violence within the night time economy.</p> <p>It is considered that the Licensing Authority has received satisfactory evidence demonstrating that the cumulative impact of licensed premises selling alcohol and</p>	N/A.



		<p>collated , again as discussed above can be open to variables and therefore unnecessarily punitive.</p> <p>If the evidence behind the CIP as it stands were to be challenged legally I feel it could bring the whole policy into question.</p>	<p>providing late night refreshment in the City Centre (see map) is undermining the promotion of the licensing objectives; prevention of crime and disorder, prevention of public nuisance and public safety.</p> <p>The evidence and CIA will however continue to be reviewed every three years and where necessary changes will be made.</p>	
23.12.2019	Fiona Kinghorn, Director of Public Health	<p><b>Point 1.</b> Role and Function of Responsible Authorities</p> <p>The UHB is pleased to see that, as with the previous version of the policy, an explanation is given to the role of the UHB as a Responsible Authority. We would recommend a slight amendment to the below text (addition in bold) to inform the reader we consider the wider data when considering licence application.</p> <p>"The UHB have advised the Cardiff Council that they will use <b>information from the UHB and wider sources</b> including 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 representations where appropriate."</p> <p><b>Point 2.</b> Alcohol Harm.</p> <p>Whilst alcohol harm and public health are not licensing objectives, it is important to recognise the impact on individuals and the wider community of alcohol use and misuse.</p> <p>Welsh Government's Substance Misuse Delivery Plan 2019-2022 prioritises the prevention of harm and states that:  <i>"Substance misuse can cause a multitude of harms, both to the individual and to those who have direct or indirect or indirect contact with the person who is using substances, such as family members or society as a whole. These harms may consist of the deterioration of physical and mental health and consequent premature death, lack of employment, excessive gambling, loss of housing, the breakdown of family relationships, and adverse consequences on the wider community concerning criminal activity and anti-social behaviour."</i></p> <p>Excessive alcohol consumption is directly associated with a large number of health issues including high blood pressure, stroke, liver disease, cancers, pancreatitis and dementia. In Cardiff and the Vale UHB geography, the percentage of the population</p>	<p>Agree.</p> <p>Comments noted.</p>	<p>Amendment made.</p> <p>N/A.</p>



		<p>drinking above the recommended alcohol guidelines is the highest in Wales at 21.8% (Wales average 19.1%, National Survey for Wales 16/17-18/19).</p> <p>The data we hold as an organisation from our Emergency Unit (EU) and Alcohol Treatment Centre shows the resources needed to manage the impact of the excess alcohol drinking and subsequent violence and injury. Alcohol specific admissions in 2017/18 for Cardiff were 428 per 100,000 people. Alcohol specific deaths overall in Wales have risen significantly since 2001. This equates to around 1 in 20 of all deaths.</p> <p><b>Point 3.</b> Contact Details.</p> <p>These are currently out of date, please replace.</p> <p><b>Point 4.</b> Cumulative Impact Policy.</p> <p>Please consider adding in details of partnership groups and initiatives which contribute to providing a safe environment. They are listed below, and fit within the 'Consideration of Wider Initiatives and Partnership Working' section on pages 9 and 10:</p> <ul style="list-style-type: none"> <li>Cardiff Community Alcohol Partnership (CAP) is a partnership of many organisations working together to reduce the harm from alcohol in the 18-25 year old age group in Cardiff, including students. It focuses primarily on the city centre, and areas of primary student residences (Cathays, Plasnewydd and Gabalfa).</li> <li>The Alcohol Group is a subgroup of the Area Planning Board (APB) and is a wider partnership group which aims to improve the population's relationship with alcohol and reduce the negative effects of consumption in Cardiff and the Vale of Glamorgan.</li> <li>Cardiff and Vale UHB's Emergency Unit (EU) is establishing a dedicated Alcohol Brief Intervention (ABI) service within the department, offering ABIs to patients who have been identified (via routine screening using AUDIT-C for all EU patients) as drinking harmful or hazardous levels. This will increase the identification of and support for patients drinking over the guidelines.</li> </ul> <p>You may also wish to include the work of the Street Pastors, who are trained volunteers from local churches, who patrol Cardiff city centre from 10pm to 4am each Friday and Saturday night to care for, listen to and help people who are out on the streets.</p>	<p>Agree</p> <p>Agree.</p>	<p>Contact details updated.</p> <p>Policy updated to include these initiatives.</p>
26.12.2019	Nick Newman on behalf of Cardiff Licensees Forum	<p><u>I think that all the 'surveys' referred to within the draft statement can be considered subject to 'interpretation' and I see little, if any referral to the huge increase in anti-social behaviour and so-called low-level crime carried out by 'street-dwellers' who seem to act, for the most part, with total impunity to what we should consider the norms of civilised society</u></p> <p>These 'major event days' also see increased levels of crime and disorder and hospital/ATC admissions in the City Centre <u>Relative to?</u></p> <p>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.</p>	<p>It is considered that the evidence received supports the negative cumulative impact licensed premises have on the licensing objectives within the city centre (see map).</p>	N/A.

		<p>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 (<u>These data should also be considered in the context of similar-sized towns and cities as with the Home Office 'Quanta' data wherein Cardiff consistently performs better than others</u>) .</p> <p>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</p> <p><u>Have to take issue with the wide-ranging use of phrases such as</u> "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" – <u>again, it seems to me, there is a lack of context (numbers of visitors, performance of other cities etc)</u></p> <p>Pub/bars/nightclubs Data from the 'Report on Community Safety Issues With Cardiff City Centre During the Night Time Economy 2018/19' (Detailed in Appendix A) collected to assist the formulation of this policy indicates that premises in the City Centre that 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 over the last 8 years , it has actually increased in the City Centre by 3.3% The main hotspot times for crime in the City Centre is Friday and Saturday evening until the early hours (4am/5am) 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. <u>I would like to see the extent to which low-level, but nonetheless seriously distressing crime and disorder on the streets is caused by those hanging around doorways and in the streets. They are there throughout the day and night – abusing workers and visitors going about their lawful business and causing a mess which, if anyone else did the same, would lead to (likely) arrest and prosecution. Yet council workers and others seem unable to deal with the detritus left by a seemingly 'untouchable' clique'</u></p> <p>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. <u>It seems that 'relatively' may be used by the draft report to point-up a negative about the night-time economy – however I don't see it being used in some of the contexts I have highlighted above</u></p>		
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