

Meeting of:	Statutory Licensing Committee
Date of Meeting:	Tuesday, 15 June 2021
Relevant Scrutiny Committee:	Homes and Safe Communities
Report Title:	Licensing Act 2003 Review of Statement of Licensing Policy 2021-2026
Purpose of Report:	To report back on a statutory consultation process
Report Owner:	Director of Environment and Housing
Responsible Officer:	Director of Environment and Housing
Elected Member and Officer Consultation:	Not applicable
Policy Framework:	The adoption of a Statement of Licensing Policy is a Council function
<p>Executive Summary:</p> <ul style="list-style-type: none"> • To report back on the consultation responses to the draft Statement of Licensing Policy • To seek approval to refer approval of the Policy via Cabinet to Council on 26 July 2021 	

Recommendations

- 1.1** Committee approves the amendments to be made to the Draft Statement of Licensing Policy as follows:
- 1.2** To insert a paragraph in Section 17 as follows to recognise the South Wales Police Traffic Light System as a method on which representations or reviews are submitted:
- 1.3** "An example of a recognised early warning system is the Traffic Light System operated by South Wales Police. Any information supplied to the licensing authority as part of representations or a review process will be considered in light of the broad principles set out in the Shared Regulatory Services Enforcement Policy of Proportionate, Accountable, Consistent, Transparent, and Targeted. If such an enforcement tool is used, the licensing authority will expect to receive information on how the points system was allocated, the interaction with the licensee, what interventions had already been carried out, and the risk to the licensing objectives which underpin the representations/review submitted".
- 1.4** To substitute the word "should" by "must" in Section 14 in the following paragraph
- 1.5** "Operators of premises of this type must consider measures to prevent crime and disorder on, or emanating from, their premises."
- 1.6** Committee approves that the Statement of Licensing Policy is referred for comment to Cabinet on 5 July and referred on to Council for approval on 26 July 2021.

Reasons for Recommendations

- 1.7** To ensure that the Council, as licensing authority fulfils its duty under the Licensing Act 2003.
- 1.8** The licensing authority must, when undertaking its functions, have regard to the four licensing objectives:

The prevention of crime and disorder

Public safety

The prevention of public nuisance

The protection of children from harm

1. Background

- 1.1** At the meeting held on 9 March 2021, the Committee received a report identifying that the Council must review and republish its Statement of Licensing

Policy for the next five year period 2021-2026. This Policy underpins the functions of the local authority as the licensing authority for premises offering the sale of alcohol, regulated entertainment, late night refreshment and for the issue of personal licences and occasional permissions.

- 1.2 The Committee was advised that it was necessary to carry out a consultation prior to referring the matter to full Council to seek approval to adopt the Policy for the next five year period.

2. Key Issues for Consideration

- 2.1 The consultation period ran from 17 March 2021 to 26 May 2021. Notice of the consultation was sent to the statutory agencies referred to in the Licensing Act 2003, Town and Community Councils, Vale of Glamorgan Councillors, Chamber of Trade contacts, and was published on the Council's website. A copy of the draft Statement of Licensing Policy is attached at Appendix A.
- 2.2 Replies were received from:
- 2.3 Public Health Wales who responded as follows: "Thank you for informing us of the above consultation and your plans to potentially have a further review next year when the impact of Covid can be better assessed. We would be happy to contribute to this later review and provide up to date data from the Health Board at this time for information".
- 2.4 South Wales Fire and Rescue Service responded as follows: "Thank you very much for sending a copy of the Statement of Licensing Policy for the Vale of Glamorgan. I can confirm that South Wales Fire & Rescue Service have no comments to add."
- 2.5 Welsh St Donats CC responded with thanks but no comments.
- 2.6 The South Wales Police responded as follows: "Thank you for taking the time in speaking with me today, With regards to our earlier conversation having viewed the Vale of Glamorgan Council Licensing proposed Statement of Licensing Policy – I note that there is no mention of the traffic light system that South Wales Police use to address alcohol related crime and disorder at licensed premises. Please find below link to Cardiff Statement of Licensing Policy for your perusal page 35 lists 'Traffic Light system'. [Statement of Licensing Policy 2020 - 2025 \(cardiff.gov.uk\)](https://www.cardiff.gov.uk/Statement-of-Licensing-Policy-2020-2025)"
- 2.7 Response: Traffic Light System
- 2.8 The Traffic Light System is an enforcement tool promoted by South Wales Police. It is currently in operation in Cardiff City Centre. The information published within Cardiff Council's Statement of Licensing Policy is as follows:

- 2.9** "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.
- 2.10** 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.
- 2.11** 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.
- 2.12** 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.
- 2.13** 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"
- 2.14** The Traffic Light System referred to above follows the principles of sharing data and intelligence on which to base decision making, analysis and risk and as such can be endorsed as an example of one of the tools available to the Responsible Authorities to promote the licensing objectives.
- 2.15** As with all enforcement strategies, any information supplied to licensees or to the licensing authority should follow the broad principles (as set out in the Shared Regulatory Services Enforcement Policy) of being, Proportionate, Accountable, Consistent, Transparent, and Targeted.
- 2.16** As such the licensing authority will expect evidence submitted within representations or review applications to provide information on how the points system was allocated, the interaction with the licensee, what interventions had already been carried out, together with the risk to the licensing objectives which form the basis of the representations/review.

2.17 Committee is therefore requested to approve the following insertion into the draft Policy:

2.18 "The licensing authority considers that it is good practice for Responsible Authorities to give licence holders early warning of problems, with a view to securing improvements informally.

2.19 Insert:

2.20 "An example of a recognised early warning system is the Traffic Light System operated by South Wales Police. Any information supplied to the licensing authority as part of representations or a review process will be considered in light of the broad principles set out in the Shared Regulatory Services Enforcement Policy of Proportionate, Accountable, Consistent, Transparent, and Targeted. If such an enforcement tool is used, the licensing authority will expect to receive information on how the points system was allocated, the interaction with the licensee, what interventions had already been carried out, and the risk to the licensing objectives which underpin the representations/review submitted".

2.21 Cllr Gerwyn Thomas: Llantwit Major Town Council responded that:

2.22 "Certain residents of Llantwit Major are experiencing Anti-Social Behaviour in the area surrounding the **** and it seems that this would not affect the license because the ASB is not on the premises.

2.23 Having read the Licensing Policy, Sect 14 refers to prevention of "crime and disorder on or emanating from their premises", but says only that operators "should consider" measures to prevent these.

In these times of minimal policing, I propose that the forthcoming review considers more robust wording; a regulation that would make it the responsibility of operators to actively manage the prevention of ASB when it is evident that it emanates from their premises. I understand the difficulty in town centres, but more remote premises could be easily identified."

2.24 Response: Anti social behaviour emanating from premises.

2.25 Reference to the individual premises has been removed and will be referred to the Enforcement Team and South Wales Police for action.

2.26 Before adopting any changes, the Statement of Licensing Policy must have regard to the statutory Guidance issued to the licensing authority. This Guidance is issued under Section 182 of the Licensing Act 2003 and is published by the Home Office. The Guidance is relevant to the licensing authority, licence holders, statutory agencies and other stakeholders.

- 2.27** All premises must operate to promote the licensing objectives referred to in Section 1.8 above. In terms of anti-social behaviour it is clear that there must be a causal link between the premises and "crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises" (Section 1.5 of the Guidance)." In addition, the Guidance requires that the "statement of policy should also make clear that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned." Finally, Section 2.21 of the Guidance provides that:
- 2.28** "Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right."
- 2.29** All premises go through a process of submitting an operating schedule of how they intend to promote the licensing objectives, and if the Responsible Authorities do not feel that the measures are robust enough, they will recommend conditions to be added to the licence. In terms of the request to make the Policy more robust the specific Guidance to the licensing authority is as follows:
- 2.30** Section 8.44: "For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. "
- 2.31** The word "should" is used in this Section of the guidance but Committee may wish to substitute this with the word "must" in order to emphasis the responsibilities of the premises licence holder.
- 2.32** Approval of the Statement of Licensing Policy is a Council function and this report contains proposals for referring the Policy through Cabinet and Council on 26 July 2021 for final approval in line with the statutory requirements. A further review will be initiated, as outlined in the previous report once the impact of the Covid-19 Pandemic has eased and trends in licensed premises can be assessed more equitably.

3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?

- 3.1** This report has been screened for evidence of the Five Ways of Working and how it may contribute to our Well-being Objectives.
- 3.2** Prevention and collaboration: the purpose of this regulatory function is to protect the public and ensure businesses comply with licence terms and conditions. The Statement of Licensing Policy follows the principles of working in partnership to deliver the licensing objectives.

4. Resources and Legal Considerations

Financial

- 4.1** None for the authority. The cost of consultation will be met from existing budget.

Employment

- 4.2** None

Legal (Including Equalities)

- 4.3** The requirement to publish a Statement of Licensing Policy and to undertake reviews and consultation is set out in Section 5 of the Licensing Act 2003.
- 4.4** Each licensing authority must in respect of each five year period—
- (a) determine its policy with respect to the exercise of its licensing functions, and
 - (b) publish a statement of that policy .. before the beginning of the period.
- (3) Before determining its policy for a five year period, a licensing authority must consult—
- (a) the chief officer of police for the licensing authority's area,
 - (b) the fire and rescue authority for that area,
- each .. Local Health Board for an area any part of which is in the licensing authority's area,
- (c) such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority,
 - (d) such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,
 - (e) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
 - (f) such other persons as the licensing authority considers to be representative of businesses and residents in its area.
- (4) During each five year period, a licensing authority must keep its policy in respect of that period under review and make such revisions to it, at such times, as it considers appropriate.
- (5) Subsection (3) applies in relation to any revision of an authority's policy as it applies in relation to the original determination of that policy.
- (6) Where revisions are made, the licensing authority must publish a statement of the revisions or the revised licensing statement.
- Without prejudice to subsection (4), a licensing authority may replace its policy in respect of a period, with effect from any date during that period, by—

- (a) determining its policy with respect to the exercise of its licensing functions in respect of a period of five years beginning with that date, and
- (b) publishing a statement of that policy before that date.
- (6B) Subsection (3) applies in relation to any determination under subsection (6A) as it applies in relation to a determination under subsection (1).
- (6C) A licensing statement must specify the five year period to which it relates.
- (6D) In determining or revising its policy, a licensing authority must have regard to any cumulative impact assessments published by it under section 5A.
- (6E) A licensing statement must—
 - (a) summarise any cumulative impact assessments published by the licensing authority under section 5A, and
 - (b) explain how the licensing authority has discharged its duty under subsection (6D).

- 4.5** The exercise and delegation of functions is set out in Section 7 of the Act and establishes that the publication of a Statement of Licensing Policy is a function that cannot be delegated and must therefore be determined by Council.

5. Background Papers

None



THE VALE OF GLAMORGAN STATEMENT OF LICENSING POLICY
2021-2026

DRAFT

Approved:
A Welsh Language version of this policy is available
Proposed amendments in red

Foreword

The Covid-19 pandemic has had an unprecedented impact on all our lives. Our working lives and leisure time have changed dramatically. Many of our hospitality venues have closed for periods during 2020 or have faced the challenge of adapting their premises and services to the new safety measures needed to protect customers and staff. The Vale of Glamorgan Council would normally review its Statement of Licensing Policy during 2021; this involves undertaking a consultation with the trade, other stakeholders and the public.

However, premises have been closed in the main since December 2020, or have only been able to offer takeaway services. It is likely that restrictions will remain in place for a significant period in 2021. The Council therefore does not have new evidence of any major concerns or trends which would warrant the introduction of new policies within this Statement.

When reviewing and consulting on the Statement of Licensing Policy the fundamental issues remain the same. The Council, as the Licensing Authority must promote the four Licensing Objectives:

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

The public has raised some concerns about licensed premises during lockdown, but many of these relate to the behaviour of customers congregating in outside areas such as parks or pedestrianised areas. This is outside the scope of the Statement of Licensing Policy and the licensed premises themselves. These matters can be addressed through other Council powers such as Public Spaces Protection Orders or via legislation introduced in response to the Covid pandemic.

To date, a minority of licensed premises has failed to comply with Coronavirus regulations but these have been dealt with through Improvement and Compliance Notices or Fixed Penalty Notices. It has not been necessary to consider more formal sanctions for individual premises under the Licensing Act 2003 but compliance will be monitored by the Council and Police Joint Enforcement Teams. The Council does reserve the right to act in respect of a Premises Licence though the Review procedures contained in the Licensing Act 2003 and this option is available where behaviours linked to a Licensed Premise gives concern around the promotion of the Licensing objectives.

Residents, businesses and visitors to the Vale of Glamorgan Council area deserve to have a wide choice of high quality and well managed entertainment and cultural venues operating within a safe, orderly and attractive environment. The Council recognises the role of responsibly operated businesses which support the local economy.

The Licensing Authority is under a legal duty to review the Statement of Licensing Policy every five years. The proposal is therefore to consult on the basis of renewing

the current Statement of Policy in 2021 (subject to updating references to legislation etc., and considering any consultation responses received) and initiating a further review again when the Authority and its partner agencies will hopefully be in a better position to look at evidence of new trends or issues affecting the licensing objectives. Other changes referenced in the Statement of Licensing Policy as a result of the pandemic reflect the movement of Licensing Hearings to online meetings, rather than in person. This will continue for as long as the public health imperative and guidance remains to limit the number of in person interactions.

As in previous editions it is intended that this Statement of Licensing Policy will aid applicants, residents, local businesses, statutory consultees and the Council's Statutory Licensing Committee to understand what is expected of applicants in terms of making applications and setting out any locally based policies or requirements. It also sets out the starting point for decision-making.

February 2021

DRAFT

CONTENTS

SECTION	PAGE
Foreword	2
Introduction	4
Area profile and map	5-6
Purpose and scope of the licensing policy	7
Consultation	8
Duration and review of policy	8
Licensing process	8
Premises licences and club premises certificates	9
Representations	10
Decision making	11
Granting of authorisations	11
Delegation of functions to Committees	11
Conditions	12
Temporary Event Notices	12
Types of premises	12
Operation of premises	15
Children and Safeguarding	16
Other matters	17
Reviews	18
Appeals	18
Integrating strategies and equality statement	19
Disclaimer	20

1. INTRODUCTION

Residents, businesses and visitors to the Vale of Glamorgan Council area deserve to have a wide choice of high quality and well managed entertainment and cultural venues operating within a safe, orderly and attractive environment. The Council also wishes to support responsibly operated businesses and the local economy. This policy sets out the framework which supports the themes within the Vale of Glamorgan Council Corporate Plan for 2020-2025.

The Vale of Glamorgan Council is the local licensing authority (“the licensing authority”) with responsibility for licensed premises under the Licensing Act 2003. This Statement of Licensing Policy sets out the policies the licensing authority will apply when making decisions on licensing applications and reviews. This policy has been prepared in accordance with the Licensing Act 2003 having regard to the Statutory Guidance issued under section 182 of the Act. The Statutory Guidance document is available at:

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

This Statement of Licensing Policy will be kept under review and published in line with Section 5 of the Licensing Act 2003.

To avoid duplication and to ensure that information is up to date, applicants, residents and other persons, members of the public and responsible authorities will be directed to <https://www.gov.uk/guidance/beer-licensing> for information on the licensing processes.

In discharging its licensing functions, the licensing authority will promote the licensing objectives which are as follows:

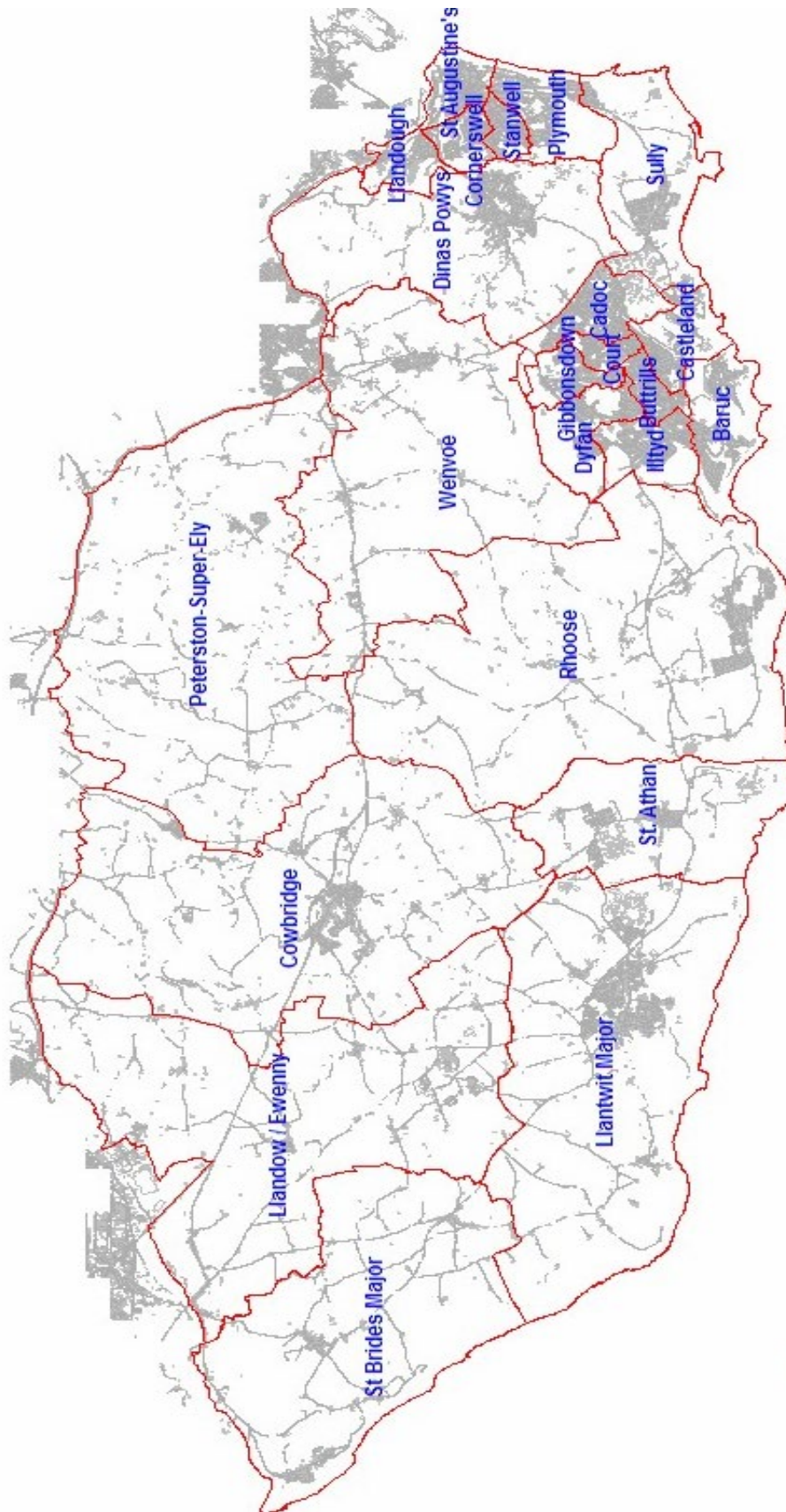
- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and,
- The protection of children from harm.

Each of the above objectives has equal importance.

2. AREA PROFILE

The Vale of Glamorgan is Wales' most southern Authority. There are four Town Councils and twenty two Community Councils in the area. It covers 33,097 hectares (331 square miles) with 53 kilometres of coastline. The council area has a population of **128,000*** (2011 Census data). The main towns are Barry, Penarth, Llantwit Major, Dinas Powys and Cowbridge. Barry is the Vale's administrative centre, a seaside resort and a port. Cardiff Airport is located three miles west of Barry.

DRAFT



© Crown copyright. All rights reserved. The Vale of Glamorgan Council Licence No. 100023424 2006.
 © Hawlfraint y Goron. Cedwir pob hawl. Cyngor Bro Morgannwg rhif trwydded 100023424 2006.

The Council has published the Corporate Plan for the period **2020-2025** which sets out the Council Vision for the area: The **well-being outcomes** are:

- An inclusive and safe Vale
- An environmentally responsible and prosperous Vale
- An aspirational and culturally vibrant Vale
- An active and healthy Vale

The four well-being objectives are:

- To work with and for our communities
- To support learning, employment and sustainable economic growth
- To support people at home and in their community
- To respect, enhance and enjoy our environment

The licensing objectives set out above support these key themes.

3. PURPOSE AND SCOPE OF THE LICENSING POLICY

The Licensing Act 2003 requires licensing authorities to publish a 'Statement of Licensing Policy' every five years, which sets out how they intend to exercise their functions under the Act. The policy sets out a general approach to making licensing decisions. Each application will be considered on its own individual merits. The discretion of the licensing authority in relation to applications will only be engaged following the receipt of relevant representations as set out in the Act.

The policy covers regulating licensable activities on licensed premises, by qualifying clubs and at temporary events. Nothing in this policy will prevent a person applying for a variety of permissions under the Act.

The policy covers the following licensable activities:

- Retail sale of alcohol
- Supply of alcohol by, or on behalf of, a club
- Provision of regulated entertainment
- Provision of late night refreshment

The Licensing authority must also have regard to this Statement of Licensing Policy and any revisions to the guidance issued by the Secretary of State. However this does not mean that decisions and policy will be followed to the letter in every case. The licensing authority may depart from the policy having properly taken into account all the circumstances of a case.

The Licensing Act 2003 also supports a number of other key aims and purposes which are vitally important and should be principal aims for everyone involved in licensing work and will therefore be integral to the Policy. They include;

- Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises.

- Giving the Police and Licensing Authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems.
- Recognising the important role that pubs and other licensed premises play in our local communities by minimizing the regulatory burden on business, encouraging innovation and supporting responsible premises.
- Encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may impact upon them.

4. CONSULTATION

In accordance with Section 5 of the Act and prior to the publication of this policy the licensing authority consulted with;

Chief Officer of Police for the area
 Fire Authority
 Responsible Authorities
 Representatives of local licence holders
 Representatives of clubs
 Representatives of Personal Licence Holders
 Representatives of businesses
 Town and Community Councils
 Vale of Glamorgan Councillors
 Public Consultation via the Vale of Glamorgan website

5. DURATION AND REVIEW OF POLICY

This Policy takes effect on 2021 and will remain in force for a period of not more than five years. The authority is likely to review the policy again in 2022 to establish any ongoing impact of Covid-19 on the hospitality sector and licensing objectives and any further changes in legislation.

This Statement of Licensing Policy was prepared by the Team Manager Licensing Shared Regulatory Services on behalf of the Vale of Glamorgan Council and was approved by the Vale of Glamorgan Council at their meeting held on 2021

6. LICENSING PROCESS

Applications

There are four types of authorisation issued under the Licensing Act 2003, they are;

Premises Licences
 Club Premises Certificates
 Temporary Event Notices

Personal Licences

The procedure and documentation required for the various applications is prescribed by the Act and Regulations, and further advice on how to make an application, can be found on the Council's website at: http://www.valeofglamorgan.gov.uk/en/working/business_support/licensing_service/licensing_service.aspx.

An application or notice for licensing purposes will be accepted as being lawfully made only where it contains all of the required details specified by the Act and/or regulations. The licensing authority will, however, exercise appropriate discretion and not reject applications where they contain minor or factual errors which can easily be rectified.

To avoid unnecessary representations being made in respect of an application, applicants are advised to complete all relevant parts of an application form. Some parts of the form are mandatory and where matters have been considered, but are deemed not to be relevant to the application, it is suggested that, for the avoidance of doubt, the particular section is marked "not applicable".

The grant of an application does not obviate the need for the applicant to satisfy the requirements of any other regulatory regime or statutory requirement.

7. PREMISES LICENCES AND CLUB PREMISES CERTIFICATES

It is recognised that licensed premises vary considerably in terms of character, size, occupancy, location, clientele etc. Venues may offer alcohol, regulated entertainment or late night refreshment or any combination of these activities. There is, therefore, no definitive list of control measures that should be introduced by all premises. Licensed premises will be assessed according to the activities they provide and the individual risks of each premises' activities. **Applicants should therefore not cut and paste from previous applications.**

In accordance with the statutory guidance, whilst applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. The authority encourages liaison between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.

It is for the applicant to explain within their application how the Licensing Objectives will be promoted and how any potential negative impact from the operation of the premises will be reduced. Any proposals should be included in the Operating Schedule and should be clear, meaningful, achievable and enforceable.

The operating schedule should focus on the direct impact of the activities taking place on the licensed premises.

Applicants should avoid the inclusion of conditions that are already regulated by other legislation, e.g. Fire Regulations, Health and Safety at Work etc.

8. REPRESENTATIONS

There is a prescribed period during which the licensing authority can receive a written representation. The authority will accept representations submitted in an electronic format providing it is possible to identify the person submitting the representations.

In the interests of transparency and fairness, the licensing authority will normally make the details of persons making representations available as part of the hearing process unless the person expressly withholds permission to do so, or, there are exceptional and compelling reasons why this is necessary.

The licensing authority will only consider representations that relate to the impact of licensable activities carried on from premises on the licensing objectives.

The licensing authority will require a responsible authority or other person to produce evidence support their representations.

Further details on how the licensing authority uses information gathered during the licensing process can be found in the Licensing Privacy Notice available at www.valeofglamorgan.gov.uk

'Relevant representations' can include positive, supportive representations. Advice for anyone wishing to make representations is available on the Vale of Glamorgan website and can be provided in hard copy upon request.

Individuals or groups may request a representative to make representations on their behalf, for example a legal representative, friend, Member of Parliament, Member of the National Assembly for Wales or Town and Community Councillor. Licensing authority Members are bound by the Member Code of Conduct when participating in the licensing process.

Responsible Authorities are advised that in order to be considered relevant, representations to impose conditions on licences must not duplicate existing legislation, and should be tailored to the size, style, characteristics and activities taking place at the premises concerned. Standard conditions will not be imposed and therefore all representations should be proportionate and properly recognise the difference between venues.

The authority encourages and supports mediation between parties but reminds applicants that they are under no obligation to agree to representations made by a responsible authority and may ask for a Licensing Sub-Committee to determine the application. In accordance with the statutory guidance, the licensing authority will be alert to any attempts to impose conditions where there

is no evidence of a problem at the premises and, if there is any doubt, will discuss this with the relevant parties.

Local Health Board Responsible Authority

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 (Redundant paragraph)

In the Vale of Glamorgan the Local Health Board function is undertaken by Cardiff and Vale University Health Board (UHB). The Vale of Glamorgan Council as Licensing Authority recognises that although public health is not a licensing objective, the UHB holds valuable information relevant to the licensing 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 has advised the Vale of Glamorgan Council that examples of circumstances in which they 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 UHB has advised the Vale of Glamorgan Council that they will use information from the Alcohol Treatment Centre and Emergency Department to monitor and inform the Licensing Authority of any activity that is causing concern and use the information to make representations where appropriate.

9. DECISION MAKING

The licensing authority strives to provide an efficient and cost effective service to all parties involved in the licensing process. With the exception of the approval and review of this policy, decisions on Licensing Act 2003 matters will normally be taken in accordance with the approved scheme of delegation and

the recommendations for delegation set out in the Section 182 guidance issued to licensing authorities.

10. GRANTING OF AUTHORISATIONS

If no relevant representations are received then the authorisation will be issued automatically with, in the case of a premises licence or club premises certificate, such conditions as are mandatory or are consistent with the operating schedule accompanying the application.

11. DELEGATION OF FUNCTIONS TO COMMITTEES

The powers of the Vale of Glamorgan Council under the Licensing Act 2003 will be carried out by the Statutory Licensing Committee. Most functions will be carried out by a Licensing Act Sub Committee of three Members, or by one or more Licensing Officers acting under delegated authority.

Members will conduct meetings in accordance with the Licensing Act 2003 Procedures for Sub Committee Hearings. **The authority may undertake remote hearings and all parties will receive instructions and guidance on how to participate.**

After a hearing, having regard to the application and the representations made, the licensing authority may impose or amend conditions as it sees fit, or restrict the hours or the licensable activities permitted on the premises. Conditions will be attached to such an extent as the licensing authority considers appropriate for the promotion of the licensing objectives.

12. CONDITIONS

The licensing authority cannot impose conditions upon its own volition. Conditions will only be attached in three circumstances and these are as follows:

- 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.
- When considered appropriate, reasonable, and proportionate after relevant representations have been received and not withdrawn.

Conditions will be worded so that they are clear, meaningful and enforceable. Conditions that appear in the applicant's operating schedule may be re-worded to meet this requirement.

13. TEMPORARY EVENT NOTICES

Information regarding the use of Temporary Events Notices can be found on the Vale of Glamorgan Council website.

Applicants are advised to take care to complete the forms properly. Notices will not be rejected on the basis of minor administrative errors.

Applicants are encouraged to serve Temporary Events Notices in good time and the licensing authority's recommendation is a minimum of 21 days but not more than 6 months before the event.

Apart from long established events like the Vale of Glamorgan Show, the use of multiple TENs simultaneously on a single site will be scrutinised closely to ensure there has been no attempt to circumvent the requirement for a Premises Licence.

14. TYPES OF PREMISES

The licensing authority recognises that types of premises covered by Premises Licences vary hugely. The same licensing regime applies to all these premises, regardless of the licensable activity provided, location, hours of operation and customers. From a licensing authority perspective, however, there are variations in the nature and scale of the risks posed by different types of premises, and their likely impact on the licensing objectives.

Pubs, Bars and Clubs

The licensing authority acknowledges that licensed premises, especially those that are predominantly used for the consumption of alcohol and offering late night/early morning entertainment, can present significant challenges in relation to crime and disorder. The Authority expects the licensing trade to fully co-operate and play its part in minimising crime and disorder.

Licence Holders and Designated Premises Supervisors will be required to demonstrate commitment to manage premises in a safe and responsible manner.

Operators of premises of this type should consider measures to prevent crime and disorder on, or emanating from, their premises. The following are examples of control measures that may need to be addressed;

- Effective and responsible management of the premises
- Training and supervision of staff
- The internal layout and the location of various pieces of equipment within premises, including the position of cash registers, gaming machines etc.
- The provision, location and suitability of any CCTV and the need for the Police and Local Authority to have access to any recordings
- The use of plastic or similar non-glass drinking vessels
- The adequacy of staffing levels to maintain a safe environment
- Management policy and action in relation to people who become intoxicated or disorderly
- Participation in Pubwatch or other similar schemes
- The controls in place to prevent the use or supply of illegal drugs, including entry policies and any search procedures

- The policy/procedure in respect of age verification and preventing sales of alcohol to persons who are under age

Hotels

It is generally accepted that hotels will require permission to make sales of alcohol to residential guests for 24 hours.

Off Licences

In determining applications for shops, stores and supermarkets, the licensing authority will consider the individual merits of the case, but such premises will normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless relevant representations are received that there are good reasons, based on the promotion of the licensing objectives, for restricting these hours.

Some shops and supermarkets selling alcohol have been a focus for anti-social behaviour, disorder and disturbance. This can be caused by street drinkers and underage drinkers who try to obtain, or have obtained, alcohol from such premises. Due to these concerns the licensing authority will consider seriously any representations made by Responsible Authorities and other persons in relation to the effects of granting such licences on the immediate vicinity of the premises.

Community Premises

Many community premises within the Vale of Glamorgan Council hold Premises Licences to allow regulated entertainment. A number also have permission for the sale of alcohol without the mandatory condition requiring a DPS. When considering applications under these provisions the Licensing authority will take into account the following matters;

- Whether the premises constitutes a community premises
- Whether appropriate arrangements are in place for the supervision of the sale of alcohol on the premises by the management committee

Community premises are likely to include, church halls, chapel halls, village halls, parish halls, community centres and other similar buildings. Where it is not clear the Licensing authority will consider whether a premise constitutes a community premises on a case by case basis.

The Council may require additional information to ensure that the management committee is formally constituted and accountable.

It is expected that the management committee will have in place appropriate arrangements to ensure compliance with the requirements of the Licensing Act 2003 when the premises are hired out to a third party, i.e. hiring agreement.

Events on Council Land

The Vale of Glamorgan Council wishes to encourage cultural and community events in the county and is aware of the Guidance around the licensing of public open spaces. In accordance with the provisions of the Licensing Act 2003, the Council has made applications and been granted premises licences for areas of public land.

Persons or organisations wishing to carry on a licensable activity on licensed public land are not required to obtain a Premises Licence or give a Temporary Events Notice themselves, but do need the permission of the Council to put on the event. This can help facilitate events that do require a Premises Licence, but which would be impractical to arrange, and gives the Council a degree of control over the running of the event.

Organisations or individuals wishing to run an event on public land should, in the first instance contact the Events Officer of the Vale of Glamorgan Council.

Premises offering late night refreshment

It is recognised that takeaway premises open late at night and can be associated with disorder as persons under the influence of alcohol having left late night venues congregate there. Operators will be expected to identify steps they can take to reduce nuisance and to include them in their Operating Schedule. The authority has not adopted specific policies in relation to takeaways or the disapplication of the Licensing Act 2003 to such premises.

Petrol and Service Stations

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

The licensing authority, however, accepts that many retail outlets attached to petrol or service stations serve a dual purpose acting as a local shop as well as selling fuel. Applications for licences for premises of this type should be accompanied by trading figures for a minimum period of one month to demonstrate the primary use of the business is not as a garage.

15. OPERATION OF PREMISES

The Premises Licence Holder will be expected to ensure that the Designated Premises Supervisor (DPS) has experience commensurate with the size, capacity, nature and style of the premises and licensable activities to be provided.

Within all licensed premises, whether or not alcohol is to be sold, the licensing authority will expect there to be proper management arrangements in place which will ensure that there is an appropriate number of responsible, trained

persons at the premises to enable compliance with all statutory duties and the terms and conditions of the Premises Licence.

Where licences contain inherited outdated, unachievable or inappropriate conditions it is recommended that Premises Licence Holders submit the appropriate application to vary the licence to remove these conditions.

External Areas

The provision of seating areas outside premises in beer gardens or on the pavement can enhance the attractiveness of a venue, but operators of licensed premises should ensure, so far as possible, that customers do not cause a nuisance or disorder outside the premises and that measures to ensure the safety of customers and prevention of nuisance are in place. Where appropriate, Door Supervisors have an important role in managing customers, not only on the doors but also in the immediate area of their premises.

Licensees should also be aware of the possibility of breakages of drinking glasses and glass bottles in outside areas. Consideration should be given to the use of toughened or 'plastic' drinking vessels and other management controls to avoid or lessen the likelihood of broken glass in these areas.

The Licensing authority will be mindful of the development of external areas to licensed premises, and will consider imposing conditions to improve the management of the outside area or prohibiting or restricting the use of these areas in order to promote the public nuisance objective.

16. CHILDREN AND SAFEGUARDING

Applicants will be expected to include in their Operating Schedule a statement of the measures that they will take to protect children from harm which includes moral, psychological and physical harm as well as the protection of children from exposure to strong language, sexual expletives and gambling.

When addressing the issue of protecting children from harm, applicants must demonstrate that those factors that may particularly impact on children have been considered. These include;

- Where entertainment or services of an adult or sexual nature are provided
- Where the premises have a reputation for underage drinking
- Where there has been a known association with illegal drug use
- Where there is a strong element of gambling on the premises
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided e.g. not food led

The licensing authority recognises the great variety of premises for which licences may be sought. Access by children to all types of premises will not be limited unless it is considered necessary to do so in order to protect them from harm in any way. Access is at the discretion of the premises licence holder and is neither encouraged nor discouraged by the policy except where:-

- There have been convictions for underage drinking or the premises have a reputation for underage drinking.
- The premises have a known association with drug taking or drug dealing
- Gambling takes place on the premises
- Entertainment of an “adult” or “sexual” nature takes place

Following the receipt of relevant representations the licensing authority reserves the right to take all necessary steps to prevent harm to children by: -

- Limiting the hours when children will be permitted in the premises
- Stating a minimum age (below 18)
- Limiting or prohibiting access where certain activities are taking place
- Permitting access only when accompanied by an adult
- Such other conditions or restrictions as may be necessary to achieve the licensing objectives.

A complete ban on children entering licensed premises is rarely likely to be necessary. Nothing within this policy makes it a requirement that children must be admitted to any premises. This is a matter left to the discretion of the management of the premises.

The licensing authority recognises the Vale of Glamorgan Council Director of Social Services Directorate as being competent to advise the Authority on matters relating to the protection of children from harm in relation to this Policy.

Should a premise be giving film exhibitions the applicant may wish to address in their operating schedule arrangements for restricting children from viewing age restricted films. It should also be noted that in relation to such premises a mandatory condition will be applied requiring that access will be restricted to only those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification, or in specific cases, the local authority.

The Licensing Authority supports those premises that choose to participate in any proof of age scheme such as “Challenge 25 or 21” or “No ID, No Sale” as it promotes the licensing objectives.

Proxy Sales

Adequate procedures must be in place to ensure that all members of staff working at the premises are routinely trained and regularly reminded of their responsibilities in relation to the proxy sale of alcohol, and shall ensure that all reasonable steps are implemented to prevent adults purchasing alcohol for those underage.

17. OTHER MATTERS

Enforcement and Compliance

Where enforcement action is taken it will be in accordance with the principles of the authority's enforcement policy. Inspections regimes will be based on a risk assessment of premises in relation to the licensing objectives. Inspections will often be in response to a complaint or the reporting of an issue, but all premises may be subject to inspection at intervals.

The licensing authority considers that it is good practice for Responsible Authorities to give licence holders early warning of problems, with a view to securing improvements informally.

Where an initial warning fails to secure a resolution to a problem at a licensed premises, the licensing authority and Responsible Authorities will use a stepped approach and may engage the Licence Holder in a voluntarily agreed 'Action Plan' for improvement.

Where there is a failure to respond to such warnings, it is likely that a request for a Review will be submitted. However, where there are very serious issues, Responsible Authorities may submit a Review application without warning.

Cumulative impact /Early Morning Restriction Orders

None of the towns within Vale of Glamorgan Council have an area with an excessive number of licensed premises in close proximity, therefore, it is not envisaged that a cumulative impact policy will be introduced within the authority in the foreseeable future.

18. REVIEWS

Reviews of premises licences represent a key protection for the local community in respect of problems which may arise during the term of a premises licence. Any person and responsible authority has the right to make representations in respect of an application or seek a review of a licence or certificate within the provisions of the Act. Each case will be dealt with on its merits.

The licensing authority considers that it is good practice for responsible authorities to give licence holders early warning of problems and of the need to improve.

Individuals or groups may request a representative to make representations on their behalf, for example a legal representative, friend, Member of Parliament, Member of the National Assembly for Wales or Town and Community Councillor. Licensing authority Members are bound by the Member Code of Conduct when participating in the licensing process.

In the interests of transparency and fairness, the licensing authority will normally make personal details of residents and other parties available as part

of the hearing process unless the person withholds permission or there are exceptional and compelling reasons why this is necessary. Each case will be determined on its merits in consultation with the person concerned.

19. APPEALS

In the case of a premises licence, an appeal should be made to the magistrates' court for the area, **Cardiff and the Vale Magistrates' Court**.

Entitlements to appeal for parties aggrieved by decisions of the licensing authority are set out in Schedule 5 to the Licensing Act 2003.

Details of other forms of redress can be accessed on the licensing pages at www.valeofglamorgan.gov.uk

Officers of the Licensing Authority will make the decision as to whether a representation or objection is **relevant, frivolous, vexatious or repetitious**.

Prescribed fees are published on www.homeoffice.gov.uk. Further information is also published on the Council's website at www.valeofglamorgan.gov.uk

20. INTEGRATING STRATEGIES AND EQUALITY STATEMENT

The Vale of Glamorgan's Statement of Licensing Policy, so far as is possible, is not intended to duplicate existing legislative and regulatory regimes that already place obligations on employers and operators e.g. The Health and Safety at Work Act 1974, The Environmental Protection Act 1990, Disability Discrimination Legislation, and The Regulatory Reform (Fire Safety) Order 2005.

Where a councillor who is a Member of the Licensing Committee is making or has made a representation regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision-making process affecting the licence in question.

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way that is incompatible with a Convention right. The licensing authority will have particular regard to the following relevant provisions of the European Convention on Human Rights:

- Article 6 that in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law
- Article 8 that everyone has the right to respect for his/her home and private life

- Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his or her possessions.

The licensing authority through this Policy and the Vale of Glamorgan Council's Racial Equality Policy Statement, recognises that the Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000 places a legal obligation on the Licensing Authority to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of differing racial groups.

Under Section 17 of the Crime and Disorder Act 1998 local authorities must have regard to the likely effect of the exercise of their functions on, and do all they can to prevent, crime and disorder in their area. Therefore, the licensing authority will have particular regard to the likely impact of licensing on related crime and disorder in the Council's area particularly when considering the location, impact, operation and management of all proposed licence/certificate applications, renewals and variations of conditions.

Further information on the Vale of Glamorgan Welsh Language standards can be accessed at

https://www.valeofglamorgan.gov.uk/en/our_council/equalities/welsh-language-standards.aspx

This policy is published in Welsh and is available in other formats on request.

Where the licensing authority makes a decision on an application it will provide reasons in writing and in other formats on request.

Accessibility enquiries should be addressed to the Licensing Section in the first instance.

21. DISCLAIMER

Where extracts from the Licensing Act 2003 are reproduced, they are provided as an information guide only. They are not a full and authoritative statement of the new licensing law. In particular, it must be noted that, although the Council has made every effort to ensure that the information in these pages is correct, changes to the law and the implementation of specific regulations for licensing mean that the supporting information in these pages may be subject to change.