

Environment & The Economy
Public Protection & Environmental Services



Licensing Act 2003

Statement of Licensing Policy 2011



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1 Introduction

The Licensing Act 2003 [‘the Act’] received Royal Assent on 10 July 2003. Newport City Council, [‘the Council’], is the Licensing Authority for the Newport area under the Licensing Act 2003 and is responsible for considering applications for premises licences, club premises certificates, temporary event notices and personal licences within the City.

2 The Policy

- 2.1 The Act requires the Council to prepare a Statement of Licensing Policy that sets out which policies will generally apply to promote the licensing objectives when making decisions on applications made under the Act. The Council welcomes the new powers granted to it by the Act, and intends to use them, in consultation with Responsible Authorities, licencees and with the general public in a socially responsible way.
- 2.2 This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and having regard to the Secretary of State's Guidance issued under Section 182 of the Act.
- 2.3 The Council recognises that balancing the interests of owners, employees, customers and neighbours of pubs, clubs, late night food premises and off-licences will not always be straightforward, but it will always be guided by the four principal licensing objectives of the Act:
- a) the prevention of crime and disorder;
 - b) ensuring public safety;
 - c) the prevention of public nuisance; and
 - d) the protection of children from harm.
- 2.4 The Council will use its powers to promote 'best practice' in relation to the operation of licensed premises, and to deter 'poor practice' with a view to achieving a continual improvement of standards over time, in the belief that this is in the long term interests of owners, employees, customers and neighbours alike.

3 Profile of Newport

- 3.1 Situated on the River Usk, Newport lies along the M4 corridor, within a few miles of the second Severn Crossing and was recently granted City status by the Her Majesty the Queen in celebration of her Golden Jubilee in 2002. The City has a population of approximately 138,000 and is bordered by Cardiff to the west, Monmouthshire to the east and by Torfaen and Caerphilly to the north.
- 3.2 Historically a busy port and industrial town, Newport is a modern thriving City and in recent years has become a prime location for attracting high tech industry with a corresponding decline in traditional heavy industrial plants. Newport has excellent communications with other parts of the UK with links to major road and rail networks. Newport will also be the proud host to the 2010 Ryder Cup.
- 3.3 Although the City is primarily urban with an historic core, the City also extends to large rural areas and includes the historic Roman town of Caerleon.
- 3.4 Newport is home to a wide variety of licensed premises. There are approximately 500 premises licensed to sell alcohol either on or off the premises, and a further 100 premises providing late night refreshments and/or take-aways which are licensed under the new regime. The City Centre is very compact in nature and has very high density of licensed premises in and around Westgate Square, High Street and Bridge Street, many of which operate well into the early hours of the morning.
- 3.5 The Council recognises the contribution made by the entertainment and leisure industry to the economy and vibrancy of the City. However, like the industry itself, the Council also recognises the potential negative impacts of licensed premises upon the safety and amenity of residents and businesses within the City. These include noise, nuisance and crime and disorder.
- 3.6 This Policy aims to provide guidance for applicants, residents, businesses and other interested persons on the general approach the Council will take towards licensing. Members and officers of the Council will have regard to this policy when making decisions on licensing applications and in the enforcement of licensing law.

4 Licensing Objectives

4.1 Newport City Council ['the Council'] will carry out its functions as the Licensing Authority under the Licensing Act 2003 with a view to promoting the following objectives:

- a) the prevention of Crime and Disorder;
- b) ensuring public safety;
- c) the prevention of public nuisance; and
- d) the protection of children from harm .

4.2 The Council makes this 'Statement of Licensing Policy' (the Policy) in accordance with Section 5 of the Act. It has been drawn up in consultation with:

- i) Heddlu Gwent Police.
- ii) South Wales Fire and Rescue Service.
- iii) Bodies representing local holders of premises licences.
- iv) Bodies representing local holders of club premises certificates.
- v) Bodies representing local holders of personal licences.
- vi) Local businesses and their representatives.
- vii) Local residents and their representatives, specifically through tenants' and residents' associations and through Area Committees.
- viii) Newport City Council Social Services.
- ix) Gwent Magistrates' Court.
- x) The Gwent Licensing Offices' Group.
- xi) Newport City Council Trading Standards.
- xii) Newport City Council Environmental Health.

4.3 The Policy relates to the following activities that are required to be licensed under the Act:

- 1) retail sale of alcohol [including via the internet, mail order or wholesale of alcohol to the public];
- 2) supply of alcohol to members of registered clubs;
- 3) the provision of regulated entertainment ;
- 4) the supply of hot food or drink between 11.00 p.m. and 5.00 a.m. ['late night refreshments'].

4.4 Licensing is about the control of licensed premises, qualifying members' clubs and temporary events. Terms and conditions attached to the various permissions granted under the Act will be focused on matters within the control of the individual licencees and others granted relevant permissions. These matters will relate to the premises and places being used for licensable activities and also in the vicinity of those premises or places.

4.5 Licensing law is **not** a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned. However, as a matter of policy, the Council expects every holder of a licence, certificate or permission to be responsible for minimising the impact of their activities and anti-social behaviour by their patrons within the immediate vicinity of their premises.

4.6 The Council recognises that balancing the interests of owners, employees, customers and neighbours of pubs, clubs and off-licences will not always be straightforward, but it will always be guided by the four principal objectives of the Act.

4.7 The aims of this Statement of Licensing Policy are to:

- a) help build a fair and prosperous society and properly balance the rights of people and their communities;
- b) integrate its aims and objectives with other initiatives that will:-
 - Reduce crime and disorder;
 - Encourage tourism;
 - Reduce alcohol misuse;
 - Encourage the 'self-sufficiency' of local communities;
 - Reduce the burden of necessary regulation on business;
 - Promote healthy life-styles.

4.8 This Statement of Licensing Policy does not seek to undermine the right of any individual to apply for a variety of permissions under the terms of the Act and to have such an application considered on its individual merits. It does not seek to override the right of any person to make representations in respect of an application or to seek a review of a licence or certificate where provision has been made in the Act for them to do so.

4.9 The Council will pay due regard to the Guidance issued by the Secretary of State under Section 182 of the Act [available from www.culture.gov.uk]. Where it is considered necessary to depart from the Guidance – either in this policy or at any other time – the Council will give clear and cogent reasons for doing so.

4.10 The Council's Licensing Committee will keep this Policy under regular review and Officers will make an annual report to the Committee on its operation.

4.11 Orders made by the Council under the Police and Criminal Justice Act 2001 to control the drinking of alcohol in the streets will be regularly reviewed as part of the Policy review. Following a successful application for a review of a licence, the Council may investigate whether such an Order should be made in the area in which the premises concerned in the review is situated.

5 Applications

5.1 POLICY - APP 1

Any application for licensing purposes will be accepted as being complete and duly made only where it is accompanied by *all* of the required documentation and fee specified by the Act and/or Regulations, together with information in respect of the advertising of the application. The level of detail to be provided will be proportional to the scale and nature of the application but must provide sufficient evidence to enable the application to be determined by the Council.

Reason:

5. 1. 1 To ensure that the legislation has been complied with and that the application is valid.

Additional Information

- 5.1.2 The Council considers that an advertisement in the South Wales Argus would be sufficient for this purpose.

6 Personal Licences

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

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

6.3 POLICY - APP 3

At a hearing in respect of an objection to the granting of a personal licence, or the revocation of an existing licence, the Council will consider carefully whether the grant of, or continuation of, the licence will be in the interests of the crime prevention objective. It will consider the seriousness and relevance of any conviction(s), the period that has elapsed since the offence(s) was/were committed and any mitigating circumstances. The Council will only grant the application, or not revoke the licence, if it is satisfied that doing so will promote this objective.

Reason:

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

7 Premises Licences & Club Premises Certificates

7.1 POLICY - APP 4

- 7.1.1 The Council will not consider an application for a licence unless the applicant can demonstrate that the premises have either an appropriate [in terms of the activity and hours sought] planning consent, or an appropriate certificate of lawful use or development. An exception may be made in respect of an application for a Provisional Statement, or where the applicant can demonstrate compelling reasons why the application should be considered although the planning status of the premises has not been finalised.**

Reason:

- 7.1.2 To avoid unnecessary duplication. This policy is not intended to duplicate existing legislation and regulatory regimes. The applicant's attention will be drawn to other relevant legislation that they need to comply with including Health and Safety at Work etc. Act 1974, Environmental Protection Act 1990 and anti-social behaviour, door supervisor, fire safety, disability discrimination legislation etc.

7.1.3 **Provisional Statement**

Where premises are being constructed for the purposes of being used for one or more licensable activities, or are being extended or otherwise altered for that purpose, (whether or not they are being used for that purpose), a person may apply for a Provisional Statement if he/she has an interest in the premises, and, is aged 18 years or older.

An application for a Provisional Statement must be accompanied by a schedule of works that includes details of the licensable activities for which the premises will be used; a plan of the premises; and such other information as may be prescribed.

Applications for Provisional Statements will be dealt with in a similar manner as applications for a Premises Licence.

7.2 POLICY – APP 5

The Council will expect individual applicants to address all the licensing objectives in their Operating Schedule, which the Act requires them to prepare. The Council will expect the Operating Schedule to have regard to the following matters as detailed in the guidance issued by Department for Culture Media and Sport.

- A description of style and character of the business;
- The relevant licensable activities to be carried on at the premises;
- The times during which the relevant licensable activities will take place;
- Any other times when the premises are to open to the public;
- Where the licence is required only for a limited period, details of that period;
- Where the licensable activities include the sale and supply of alcohol, the name and address of the Designated Premises Supervisor;
- The steps that the applicant proposes to take to promote the licensing objectives;

Reason:

7.2.1 To ensure the promotion of the licensing objectives

Additional Information:

7.2.2 Operating Schedules are the key to ensuring compliance with the four licensing objectives. In the vast majority of cases, the terms of the Operating Schedule should translate into the licence conditions that set out how the business will be run. The Council will endeavour to work in full co-operation with the licensee and applicants to minimise the number of disputes that may otherwise arise in this area.

In this respect the Council will expect the Schedule to demonstrate how it is intended that the premises will be a 'good neighbour' both to residents and to other venues and businesses in the locality

The Council expects applicants to provide evidence within the Operating Schedule, of effective and responsible management of the premises, including the effective instruction, training and supervision of staff being specifically addressed.

7.3 POLICY – APP 6

In respect of an application for any premises licence which includes the supply of alcohol, the Operating Schedule must specify the name and address of the Designated Premises Supervisor, save for applications in respect of community premises that include the alternative licence condition.

Reason:

7.3.1 To comply with the legislation

Additional Information:

- 7.3.2 Where premises are licensed for the sale of alcohol, the licence must specify who is to be the Designated Premises Supervisor (DPS). This person must hold a personal licence and will normally have responsibility for the day-to-day running of the premises. There can only be one DPS per premises.
- 7.3.3 The Council will expect the DPS to have been given the day to day responsibility for running the premises by the holder of the Premises Licence and as such, the Council will expect the DPS to be present on the premises for the majority of the time. This will ensure that the Police, Fire Officers or Officers of the Council can immediately identify the DPS and any problems which occur can be dealt with swiftly by engaging with this key individual.

8 Temporary Events Notices

- 8.1 A personal licence holder may hold up to fifty temporary events each year and a person who is not a personal licence holder can hold up to five events per year. Each temporary event may last for up to ninety-six hours and an individual premises may hold up to twelve such events per year as long as the total days used for the events does not exceed fifteen.
- 8.1.1 Section 100 of the Act, requires the organiser of a Temporary Event to give the Council a minimum of TEN working days notice of an event. However, in a significant number of cases, this time period would not be long enough to enable liaison and consultation between the Council and Heddlu Gwent Police.
- 8.1.2 The Council would therefore, urge that where possible the organiser of such an event gives at least twenty-one days notice prior to the planned event to ensure that the event can take place with minimum risk of crime and disorder and to the health and safety of staff and customers.

9 Licence Reviews

9. 1 The Council can consider a review of a premises licence where it is alleged by a Responsible Authority, such as the Police, Fire Authority or an Interested Party, that any of the licensing objectives are being undermined. It views particularly seriously applications for the review of any premises licence which involves the:

- 1) use of licensed premises for the sale and distribution of classified drugs and the laundering of the proceeds of drugs crimes;
- 2) use of licensed premises for the sale and distribution of illegal firearms;
- 3) evasion of copyright in respect of pirated films and music;
- 4) underage purchase and consumption of alcohol;
- 5) use of licensed premises for prostitution or the sale of unlawful pornography;
- 6) use of licensed premises for unlawful gaming;
- 7) use of licensed premises as a base for organised criminal activity;
- 8) use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks;
- 9) use of licensed premises for the sale of smuggled tobacco or goods;
- 10) use of licensed premises for the sale of stolen goods;
- 11) Police being frequently called to attend to incidents of disorder;
- 12) prolonged and/or repeated instances of public nuisance;
- 13) serious risk to public safety;
- 14) serious risk to children.

9.2 POLICY APP 7

Any Responsible Authority or Interested Party requesting a review of a premises licence shall, when making the request, provide the Council with the full name and address of the premises concerned and evidence as to which of the licensing objectives are being undermined and how.

Reason:

9.2. 1. To ensure that requests for licensing reviews are not frivolous or vexatious.

Where a review hearing is held, the Council has a variety of courses of action ranging from taking no action at all, varying conditions, suspending or revoking the licence.

10 Vicinity

10.1 The term 'vicinity' is used within the Licensing Act 2003 and in this Policy on a number of occasions and in particular in respect of those 'interested parties' who can make objections to an application for a premises licence and representations concerning existing premises licences. Section 13[3] of the Act defines an 'interested party' as being '*a person living within the vicinity, a body representing persons living in the vicinity or a person involved in a business in the vicinity or a body representing those persons or a member of the relevant licensing authority*'.

10.2 The Act, however does not define "vicinity".

10.2.1 In order to provide clarity of understanding to those involved in both applications and representations, the Council defines the term vicinity within this Statement of Licensing Policy as being within a 100 metres radius of the premises in question.

However, it is for either an applicant or interested party to argue that this definition is not relevant in specific circumstances.

10.2.2 This definition may be reviewed, particularly if a different interpretation is given as a result of a legal case or legislative amendment.

11 Consideration of the Impact of Licensed Premises

11.1 POLICY – IMP 1

The Council will normally grant applications for premises licences and club premises certificates subject to conditions which are consistent with the Operating Schedule and any mandatory conditions prescribed within the Act. Where relevant representations are received the Council may impose additional conditions as considered necessary in order to promote the licensing objectives which arise out of those representations.

Reason:

11. 1.2 The prime purpose of this Policy is to achieve the licensing objectives of preventing public nuisance and crime and disorder

Additional Information:

11. 1.3 The applicant should take into account the likelihood of the licensable activities at the premises causing unacceptable adverse impact both in terms of terms of crime and disorder and public nuisance, particularly to local residents. The Council would therefore encourage applicants to consider relevant factors including the following:

- The use of the premises, the number of patrons likely to use the premises and the targeted customers at the time of the application;
- The proposed hours and frequency of the activity;
- The level of likely car parking demand on principal roads and surrounding residential streets and the effect on local residents in comparison with the existing situation;
- The effect on residential parking and emergency access;
- The nature of the area within which the premises is situated;
- The cumulative impact of licensed premises within an area and the scope for mitigating any additional impact [see Special Policy - paragraph 22].

- The levels of noise from licensed premises - noise levels, which may be acceptable at certain times of day, may not be acceptable at those times when ambient noise levels are much lower;
- The impact of patrons arriving, queuing and leaving the premises - queuing should be confined to principal pedestrian routes as far as possible. It would not be appropriate, for instance, to have licensed activities which caused large numbers of people to queue or exit into a predominately residential area.

11.2 With any adverse impact, it may be possible to take steps to mitigate or prevent the impact and if such measures are considered to be reliable, an activity may be licensed.

11.2.1 The decisions taken by the Council will focus on matters within the control of individual licencees and others granted relevant permissions and the steps they can take to achieve the licensing objectives. These matters will centre on the premises and places being used for licensable activities and the likely impact of those activities on members of public living, working or engaged in normal activity in the area concerned.

11.2.2 In taking its decision the Council accepts the difficulty a licence holder has in preventing anti-social behaviour by individuals once they are beyond the direct control of that licence holder. However, the Council will take into account that the licensing objective of preventing public nuisance will not be achieved if patrons from licensed premises regularly engage in anti-social activities to the detriment of nearby residents or businesses. Furthermore the Council will also take into account its responsibility under the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder in the City.

12 Prevention of Nuisance

12.1 LOCATION OF PREMISES, LICENSING HOURS AND THE PREVENTION OF NUISANCE

12.1.1 POLICY – IMP 2

The Council will strike a fair balance between the benefits of a licensed premises to a community and the risk of disturbance to local residents. Consequently in certain areas, upon receipt of representations by any responsible Authority, the Council may restrict the hours of operation of licensable activities.

Reason:

12. 1.2 This Policy is aimed at the fulfilment of the licensing objective of “preventing public nuisance”.

Additional information:

12. 1.3 The Government’s view is that longer licensing hours should be encouraged in the interests of avoiding a concentration of disturbance while ensuring that nuisance is minimised to local residents. The Government believes that shops and public houses should generally be permitted to sell alcohol during the hours they intend to open. The Government wishes that entertainment providers should be encouraged to provide a range of entertainment during their operating hours, to promote live music, dancing and theatre for the wider cultural benefit to the community.

12. 1.4 The Council acknowledges this view but also considers that it is evident that the risk of disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning. For example the risk of residents’ sleep being disturbed by patrons leaving licensed premises is obviously greater at 2.00 a.m. than at 11.30 p.m.

13 Location & Impact of Activity

13.1 POLICY – IMP 3

The Council will normally grant premises licences for a time period of not earlier than 10.00 a.m. and a terminal hour of no later than 11.30 p.m. for those premises licensed to sell alcohol for consumption on the premises and which are located in primarily residential areas. However, hours beyond 11.30 p.m. may be permitted:

- a) **for premises located in predominantly commercial areas, such as the City Centre and where there is a high level of accessibility to public transport services; or**
- b) **the licensable activities would not be likely to cause adverse impact especially on local residents, and that, if there is a potential to cause adverse impact, appropriate measures will be put in place to prevent it; or**
- c) **there will not be any increase in the cumulative adverse impact from these or similar activities, on any neighbouring residential area and the activity will not be likely to lead to a demonstrable increase in car parking demand in surrounding residential streets or on roads.**

13.1.1 POLICY IMP 4A

The Council will expect the Operating Schedule to indicate that, in respect of those premises which are located in primarily residential areas, patrons will be required to vacate any outside areas including beer gardens, smoking shelters, patios, or any other such areas, by no later than 11.30 p.m.

13.2 POLICY IMP 4

The Council will expect the Operating Schedule to indicate that patrons will vacate the premises no later than sixty minutes after cessation of any licensable activities.

Reason:

13.2.1 This policy dealing with opening hours is based on a broad distinction between the approach to be taken in certain predominantly commercial areas, like parts of the City Centre and other parts of the City.

- 13.2.2 Any activity involving public entertainment, or eating or drinking either on or off the premises, has the potential to impact adversely on the surrounding area due to noise, smells, or congestion on the highway. It may be exacerbated by patrons being noisy when leaving, dropping litter or taking up on-street car parking space needed by residents. The impact of noise generated by these activities, especially patrons departing either on foot or in cars, is particularly intrusive at night when ambient noise levels are much lower.
- 13.2.3 Parts of this City are very sensitive to the impact of licensable activities because they are either residential in character or close to residential areas. The impact of traffic and parking related to licensed premises can be considerable. Even where a majority of patrons arrive on foot or by public transport, the additional parking demand may be significant, especially where there are already a number of licensed premises. The impact may be felt by local residents being prevented from parking close to their homes and by increasing the danger from traffic in residential streets.
- 13.2.4 However, some commercial areas in Newport, particularly the City Centre, may be more suitable locations for licensed activities, especially those with late opening hours or which attract significant numbers of people. In the City Centre, more patrons are likely to travel by public transport. Licensable activities may help bring vitality to the area after normal shopping hours. The ambient noise levels are also likely to be higher in the evening particularly when compared with residential areas so that additional noise may be less of a problem.
- 13.2.5 Nevertheless, early in the morning and late at night, the impact of licensable activities is more likely to be objectionable to residents living within the vicinity of, or close to, a licensable activity. The ambient noise level will be lower so that noise disturbance from activities becomes relatively more noticeable.

13.2.6 People who visit entertainment venues, which open beyond the provision of the main public transport services, are more likely to use taxis or private cars and seek to park in residential streets close to the activity. The Policy allows for earlier opening and later closing times if it can be demonstrated by the applicant that there will not be an adverse impact.

Additional information:

13.2.7 This part of the policy is concerned with whether a proposal is appropriate in a location with particular regard to the impact on any residential areas. In those parts of the City, which are predominantly residential, it is anticipated that the terminal hour of premises licensed to sell alcohol for consumption on the premises would normally be 11.30 p.m., unless there are exceptional circumstances.

13.2.8 Opening hours of before 10.00 a.m. and of 11.30 p.m. and beyond may be considered to be acceptable in principle, for premises in commercial areas with high levels of public transport accessibility. However, in all cases, the granting of a licence will depend on impact of an activity, particularly on local residents. It is necessary to consider, amongst other things, the level of impact that could arise from noise and vibration, litter, parking, people coming and going, crowds and queuing; and whether any impact is particularly unacceptable late at night or in the early hours of the morning.

14 Staggered Closing Times

The Council acknowledges that the Guidance to the Licensing Act 2003 states that it considers that fixed licensing hours are a key cause of disorder and disturbance with large numbers of customers required to leave the premises simultaneously. This also puts pressure on fast food outlets and transport facilities, which in turn produces friction and gives rise to disorder and excess noise and other nuisance. However, the same cumulative effect referred to above may arise where the closing time of a number of licensed premises coincide.

14.1 POLICY - IMP 5

In areas containing a concentration of licensed premises the Council will encourage licencees to stagger their closing times. Where relevant representations are received, and voluntary arrangements cannot be obtained or are unsuccessful and problems of nuisance for local residents or businesses arise, the Council will consider whether it is appropriate to limit the terminal hours of individual licensed premises.

Reason:

14.1.1 The aim of this Policy is to minimise disturbance and strain on transport systems. It is also designed to try to prevent the replication of the previous mass exodus of patrons but at a later hour to the detriment of the licensing objectives of preventing public nuisance and crime and disorder.

14.2 POLICY - IMP 6

The Council will expect applicants for premises licences to provide evidence, within their Operating Schedule, of any assessments made to minimise noise disturbance, both inside and outside of the premises, and to fully implement any measures identified as being required to prevent nuisance to patrons, local residents and local businesses.

Reason:

14.2. 1 One of the greatest causes of annoyance to residents trying to sleep is the sound of music escaping from licensed premises. Such an escape of sound might preclude the grant of a licence or if one has already been granted for it to be reviewed with a view to possible revocation. It might also lead to a Noise Abatement Notice being issued under the Environmental Protection Act. Responsible applicants and licencees will wish to avoid the need for such action, as they will need to comply with the licensing objective of preventing public nuisance.

14.2.2 In addition, residents are frequently disturbed by patrons leaving entertainment venues in the early hours of the morning. While licence holders cannot be held solely responsible for the behaviour of their Patrons after they have left the premises, they have a duty to put in place such measures that will assist in the quieter exiting and dispersal of such patrons, who may be less inhibited about their behaviour and be unaware of the noise and disturbance they are creating for residents. A responsible applicant or licensee will wish to further the licensing objective of preventing public nuisance.

Additional information:

14.2.3 Where the applicant has identified noise as having the potential to cause disturbance, he/she is encouraged to include, within the Operating Schedule, the practical steps proposed to prevent such disturbance to local residents. This may require a detailed noise assessment carried out by a competent noise consultant.

14.2.4 Excessive noise and/or disorder require more rigorous action. It is important that queues formed later in the evening are supervised to keep noise to a minimum. This action can help stop drug dealers from passing on drugs during the queuing process, but also to prevent noise and disturbance. Door supervisors will generally carry out this role, but they must be given clear instructions as to their duties and responsibilities – where necessary the licensee should provide adequate supervision to the door supervisors.

14.2.5 In terms of patrons leaving the premises, particularly late at night or early in the morning, the Council will expect the applicant to have considered including within the operating schedule such practical steps as:

- Erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors.
- At appropriate times making loudspeaker announcements in the premises to the same effect.

- Instructing door staff to ask customers leaving the premises to leave the area quietly.
- Reducing the volume of music towards the end of the evening and, where appropriate, playing quieter, more soothing music as the evening winds down.
- Availability of licensed taxis, private hire vehicles or public transport to take patrons from the premises.
- Banning people from the premises who often leave in a noisy fashion.
- Increasing outside lighting levels.
- Installing outside CCTV systems.

[NOTE: THIS LIST IS NOT EXHAUSTIVE]

15 Prevention of Crime & Disorder

15. 1. The Council recognises that crime and disorder can occur, particularly outside licensed premises, however well managed the premises may be. Therefore, in considering whether the crime and disorder objective is met, the Council will normally take into account the criteria set out below:

- Use of CCTV both within and outside the premises.
- Metal detection and search facilities.
- Use of toughened or polycarbonate drinking glasses.
- Recording of all incidents related to the premises.
- Procedures for assessing risk associated with promotions and events such as “happy hours” for the potential to cause crime and disorder, and plans for minimising such risks.
- Measures to prevent the use or supply of illegal drugs.
- Employment of licensed door supervisors and other appropriately trained staff.
- Installation of non-retrievable bottle bins at exits and ensuring that patrons do not leave with open bottles or drinking glasses.
- Participation in the Newport City Pub Watch Scheme/ Radionet etc.

15 2 In addition, to the above the following criteria should also be taken into account:-

- i) the ability of the person in charge of the premises to monitor the premises at all times it is open and arrangements for deputies to take proper responsibility;
- ii) the training given to staff in crime prevention measures appropriate to those premises;
 - iii) physical security features installed in the premises. This may include matters such as the position of cash registers or where alcohol is actually stored in 'off-licences',
 - iv) management attitudes, such as the willingness to stagger trading hours with nearby competing businesses to try to avoid all of their patrons subsequently competing for the limited public transport late at night; their willingness to limit sales of bottled alcohol for immediate consumption; and the use of responsible pricing promotions;
 - v) any other such measures as may be appropriate, such as participation in a local Pub watch and Clubwatch schemes, 'music wind-down policies', and restrictions on 'happy hours',
 - vi) where premises are subject to age-restrictions, the procedures in place to conduct age verification checks;
 - vii) the likelihood of any violence, public order or policing problem if the licence is granted.

16 Drugs

16.1 POLICY- IMP 8

The Council will expect applications for premises licences which propose to provide alcohol and regulated entertainment after 11.30pm to include a written drugs policy in their Operating Schedule.

Reason:

16. 1. 1 To further the crime prevention objective and to ensure public safety.

Additional information:

16. 1.2 The Council recognises that drug problems are not something which are relevant to all licensed premises. Many entertainment venues can, however, be popular both with drug users and suppliers. The production of a 'Drugs Policy' combined with effective professional management of a venue will assist in keeping incidents of drug abuse to a minimum.

- 16.1.3 The Council expects that all licencees who provide entertainment along with retail alcohol sales will comply with the **Home Office Safer Clubbing Guidelines**.

These include such issues as follows:-

- the provision of free drinking quality [potable] water. Provision should be in public areas for example, in the bar area and **not** in toilets;
- the installation of a drugs deposit box in all licensed premises providing entertainment beyond 11.30pm;
- a Drugs Register to record confiscated drugs and drugs deposits;
- Suitably qualified First Aiders at all premises which provide entertainment beyond 11.30pm;
- the provision of cooler, quieter "chill out" areas for patrons.

16.2 POLICY – IMP 9

In respect of any premises licence application the Council will normally expect an Operating Schedule to indicate any proposals for the provision of door supervisors and/or security personnel.

Where the capacity of the premises is 100 persons or greater and where alcohol and regulated entertainment is to be provided, the Council will normally expect an Operating Schedule to indicate that all such personnel are appropriately licensed with the Security Industry Authority.

Reason:

16.2.1 To promote the licensing objectives of preventing crime and disorder, ensuring public safety, the protection of children from harm and minimising or preventing public nuisance.

Additional Information:

16.2.2 The provision of door supervisors and security teams may be valuable in:

- preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- keeping out excluded individuals (subject to court bans or imposed by the licence holder);
- searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons;
- maintaining orderly queuing outside of venues prone to such queuing;
- ensuring that the premises are not overcrowded; and
- generally promoting public safety.

16.3 Where door supervisors conducting security activities are to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with the number of such supervisors, the displaying of name badges, the carrying of proof of registration, where and at what times they should be stationed on the premises, and whether at least one female supervisor should be available (for example, if female customers are to be the subject of body searches).

17 Public Safety

17.1 POLICY:IMP 10

The Council will normally set a capacity for the licensed premises by way of a licence condition to ensure safety of those persons at the premises and to ensure a safe means of escape in the event of an emergency.

Reason:

17. 1.2 The Council accepts that many problems which occur in licensed premises maybe controlled by good management practices. However, controlling numbers of customers permitted within a premises, and in any outside areas, will assist in promoting public safety, prevention of crime and disorder and prevention of public nuisance.

18 Protection of Children from Harm

18.1 The wide range of premises that require licensing means that children can be expected to visit many of these for food and/or entertainment. While the Licensing Act 2003 does not prohibit children from having free access to any licensed premises, the Council recognises that limitations may have to be considered where it appears necessary to protect children from harm.

18.2 The Licensing Act 2003 lists the 'Responsible Authorities' who are entitled to lodge representations about applications for premises licences or major variations of such licences or who may apply to the Licensing Authority for an existing licence to be reviewed. In connection with the protection of children from harm the Responsible Authorities include those who:-

- i) in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and
- ii) is recognised by the Licensing Authority for that area for the purposes of this section as being competent to advise on such matters.

18.3 POLICY - IMP 11

The Council will take robust measures to protect children from harm and, where relevant representations are received, will normally impose conditions for limiting the access where it considers necessary to prevent harm to children.

Reason:

18.3.1 This policy is designed to allow flexibility for the individual licensee to ensure that where appropriate, licensed premises are suitable for children, whilst ensuring that they are adequately protected.

Additional information:

18.3.2 Whilst the prevention of children from harm is a key licensing objective, the Council will not normally impose restrictions on admission of children to any premises as it considers that it is a matter for the discretion of the licensee, club, or person who has given a Temporary Event Notice. However, premises that may require conditions relating to access by children may include the following:

- a) Where there have been convictions for serving alcohol to minors or with a reputation for underage drinking.
- b) Where entertainment of an adult or sexual nature is provided;
- c) Where there is a strong element of gambling on the premises;
- d) Premises with a known association with drug taking or dealing.
- e) Where the supply of alcohol is the exclusive or primary purpose of services provided.

18.3.3 In such circumstances it may be necessary to impose a condition banning entry to those premises by children under the age of 18 years. Options other than a complete ban can include the following:

- Limitations on the hours when children may be present;
- Proof of age arrangements for alcohol sales, for example the PASS scheme;
- Age limitations [below 18];
- Limitations on exclusions of the presence of children under certain ages when particular activities are taking place;
- Requirements for accompanying adults;
- Full exclusion of people under 18 from the premises when certain licensable activities are taking place.

18.3.4. Where there are large numbers of children expected to attend any licensable activities, or the entertainment is specifically provided for children, the Council will, by way of suitable conditions, require the presence of stewards to control the access and egress of the children and ensure their safety within the premises. Such adults shall be over 18 years of age and have training in the means of escape arrangements and other facilities. The stewards will also be required to undergo a periodic PNC/CRB check to the satisfaction of the Council.

18.4 POLICY - IMP 12

In relation to cinemas and other premises used for the exhibition of films, the Council will expect that the applicant's Operating Schedule will include conditions requiring admission of children to the exhibition of any film to be restricted in accordance with any recommendation of the British Board of Film Classification (BBFC), or where relevant the Council itself.

Reason:

18.4. 1 To ensure that harm to children is prevented thus promoting licensing objective, the protection of children from harm.

19 Activities of an Adult or Sexual Nature

19.1 Where activities specified in an applicant's operating schedule include activities of an adult or sexual nature, for example, male and/or female striptease, lap-, table, or pole-dancing, topless waitresses, entertainment involving strong and offensive language etc., the Council will take into consideration the risk to the promotion of the licensing objectives particularly in respect of the protection of children and prevention of crime and disorder.

19.2 POLICY - IMP 13

The Council will not normally grant premises licences for entertainment which involves a sex related or adult element in any premises which are located in the vicinity of schools, youth clubs or any other premises where significant numbers of children are likely to attend.

Reason:

19.2.1 To further the licensing objective of protection of children from harm by preventing them being exposed to unsuitable material or acts, and also to further the crime and prevention objective.

19.2.2 Where such applications are made, it will be for the applicant to demonstrate in their operating schedule all preventative measures which will be taken to ensure that there is no risk to the promotion of the licensing objectives. Where such licences are granted, the Council will impose suitable conditions to prevent the admission of children and to prevent crime and disorder problems.

19.2.3 Where the Council grants a premises licence that includes activities of an adult or sexual nature, it will impose conditions relating to the following:-

- the location within the premises where activity takes place;
- the absence of advertising the activities outside the premises;
- the measures taken to ensure no person under 18 years of age enters the premises;
- the position of the performers' dressing rooms in relation to the area in which they perform;
- physical contact between performers and customers.

19.3 POLICY - IMP 14

The Council considers it appropriate to designate Newport City Council Social Services as the Responsible Authority for the prevention of harm to children.

Reason:

To promote the licensing objective of protecting children from harm.

20 Enforcement

20.1 POLICY – G 1

In general, all enforcement action will be in accordance with the principles of the Enforcement Concordat, the Central / Local Government Concordat and / or the Council's own enforcement policy

Reason:

20. 1. 1 To ensure the application of consistency, transparency and proportionality.

Additional information:

20.1.2 The Enforcement Concordat and the Council's own enforcement policy is available on request from the Licensing Team or viewed 'on-line' at www.newport.gov.uk. Any enforcement action, which is taken in relation to the duties of this Council under the Licensing Act 2003, will comply with the enforcement policy.

20. 1.3 The Council intends to take a graduated response in respect of breaches of the Licensing Act 2003, dependent upon the seriousness of the breach. This response will range from giving a verbal warning to the relevant person, a warning letter, issuing a formal caution, prosecution, review of the premises licence to revocation of the licence.

20. 1.4 Officers of the Council's licensing team will normally carry out inspections and visits to licensed premises. However joint enforcement operations will also be carried with Heddlu Gwent Police and South Wales Fire Service or other appropriate services etc. Such partnerships will provide for the targeting of identified problems and high risk premises which require greater attention.

20. 1.5 When planning its inspection regime the Council will, in liaison with the Heddlu Gwent Police, South Wales Fire Service and other relevant partners, complete a risk assessment of all licensed premises within the City. The results of this risk assessment will determine how often individual premises will normally be the subject of an inspection. This would normally range from quarterly inspections to annual inspections, but would not preclude a more vigorous inspection regime of individual premises if circumstances warrant it. Accordingly, resources will be targeted at problem and high risk premises. Premises that are well run and low risk will be subject to a less frequent inspection regime.

20.1.6 The Council will work with Heddlu Gwent Police in enforcement of the law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices where permitted, the prosecution of any personal licence holder or member of staff selling alcohol to a person who is drunk and the confiscation of alcohol from adults and children in designated areas. The Police have powers to close down instantly, for up to twenty-four hours, any licensed premises or temporary events on the grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises.

20.2 POLICY – G 2

The Council will attach conditions to licences, which are tailored to the individual style and characteristics of the premises. Such conditions will normally be drawn from the Council’s pool of conditions. Where appropriate, additional conditions will be formulated based on an individual case following receipt of relevant representations.

Reason:

To ensure that only conditions which are necessary are attached to the licence thus promoting the licensing objectives.

21 Special Policy Statement in respect of Newport City Centre

'SATURATION POLICY'

21.1 In the interest of public safety, the prevention of crime and disorder, and the avoidance of nuisance, in determining any application, the Council will take into account the cumulative effect that the existence of a saturation of premises in any area may have.

21.2 The Council has received representations from Heddlu Gwent Police in respect of the cumulative impact of the premises within the area outlined in red as shown on the attached map in Appendix 1.

21.3 This sector is a highlighted problem area in terms of alcohol related incidents confirming the impact of a high concentration of licensed premises in close proximity. The evidence of such incidents is concentrated in and around the late night venues in this sector during the peak time period of midnight to 02:00 hours. Further development of bars, entertainment venues and late night premises can only compound the existing problem within this zone.

21.4 POLICY – SP 1

Where relevant representations are received, the Council will not grant any further premises licences, within the Saturation Zone unless the applicant can demonstrate to the satisfaction of the Council that the premises involved will not add to the existing problems.

Reason:

21.4.1 A saturation of licensed premises has an impact on the surrounding area beyond the control of individual licence holders. The impact from licensed premises increases considerably in areas where there are concentrations of such premises. This is of particular concern in the area indicated in Appendix 1. Here the Council considers the areas are saturated with licensed premises thus causing a significant cumulative effect. The Council therefore considers that the primary way to fulfil the licensing objectives of preventing crime and disorder, and preventing public nuisance, is to refuse to grant new licences except in exceptional circumstances where it can be shown that the grant of a licence will not add to existing problems.

Additional information:

- 21.4.2 Where the cumulative effect of many licensed premises within an area gives rise to problems of public disorder and nuisance in the surrounding area, the Council may consider it inappropriate for any further licensed premises to be established in this area in the interests of public safety, prevention of crime and disorder and the avoidance of nuisance.
- 21.4.3 The impacts associated with premises can accumulate where there are a number of licensable activities within an area. In some localities an additional activity may be unacceptable because of the additional cumulative effect on an area already saturated with licensed premises.
- 21.4.4 The fact that particular premises are located within a 'Saturation Zone' cannot be used as a justification for removing an existing licence. If a representation is received that an existing licensed premises has an impact which undermines the Licensing Objectives, then a Responsible Authority or interested party may request a review of that specific licence.

21.5 POLICY - SP 2

Where relevant representation is made that the identified problems that led to the designation of a 'Saturation Zone' have been mitigated or no longer apply, the Council will reconsider the designation and may remove such status where it considers there is evidence for doing so.

Reason:

- 21.5.1 To ensure that these restrictive policies continue to apply only where necessary

22 Other Licensing Controls

22.1 The Government has indicated that policy statements should outline that there are other mechanisms, both within and outside the licensing regime, which are available for addressing issues of customers behaving badly away from licensed premises. For example:-

- Planning controls;
- Positive measures to create a safe and clean town centre environment in partnerships with local businesses, transport operators and other departments of a Council;
- Provision of CCTV surveillance in city centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
- Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- Police enforcement of the law concerning disorder and anti-social behaviour, including the issue of fixed penalty notices;
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- the confiscation of alcohol from adults and children in designated areas;
- powers to close down instantly for up to 24 hours any licensed premises or temporary events on the grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises; and
- the power of the Police, other responsible authority or a local resident or business to seek a review [and possible revocation] of the licence or certificate in question.

22.2 For a variety of reasons many of these mechanisms may be of limited effectiveness and value in dealing with anti-social behaviour away from the premises. The Council will therefore consider very carefully the grant of a licence, particularly when the hours sought extend far into the early hours of the morning.

23 The Licensing Committee

23.1 The Council will appoint a Licensing Committee in accordance with its constitution.

23.2 A Licensing Committee, shall establish Sub-Committees consisting of three Members of the Committee, to consider applications where representations have been received from interested parties and/or Responsible Authorities. A Councillor will **not** sit on a Sub-Committee to consider an application within their 'Ward'.

23.3 The Chairman of the Licensing Committee shall be elected at the annual meeting of the Council. The Chairman of the Licensing Sub-Committees shall be the most senior member of the majority group.

23.4 The Licensing Committee will also sit to determine applications not associated with the Licensing Act 2003, such as taxi and private hire vehicle licensing.

23.5 Under the Licensing Act 2003, Councillors, AMs, MPs and MEPs are **not allowed** to make representations about licensing applications.

23.6 In the interests of good governance, where a Councillor who is a Member of a Licensing Committee or a Licensing Sub-Committee has had a direct or indirect pecuniary or personal interest in any matter before them they will be disqualified from any involvement in the decision-making process affecting the premises licence.

23.7 The Licensing Sub-Committee will refer to the Licensing Committee any matter it is unable to deal with because less than three members are able to consider the matter before the Sub-Committee.

23.8 The Licensing Committee shall refer to the 'Licensing Authority' [the Council], any matter it is unable to deal with because less than the quorum of three Members are able to consider the matter before the Committee.

23.9 Every determination of a licensing decision by the Licensing Committee or a Licensing Sub-Committee shall be accompanied with reasons for the decision. A summary of the decision shall be posted on the Council's website as soon as possible after the decision has been made, where it will form part of the statutory licensing register.

- 23.10 The Council's Licensing Officers will deal with all licence applications where either no relevant representation has been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.
- 23.11 A periodic report will be made to Licensing Committee on the exercise of delegated powers.
- 23.12 The Council will ensure that members and relevant officers are appropriately trained to carry out their duties under the Act.
- 23.13 Matters in respect of the Licensing Act 2003 are to be dealt with as overleaf:-

Matters dealt with Full Committee Sub Committee Officers



Matters dealt with	Full Committee	Sub Committee Officers
	If a Police objection	If no objection
Application for personal licence	All cases	
Application for personal licence with 'Unspent Convictions'	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for 'Provisional Statement'	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises Supervisor	If a Police representation	All other cases
Request to be removed as designated premises Supervisor		All cases
Application for transfer of premises licence	If a Police objection	All other cases
Application for Interim Authorities	If a Police representation	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 'Lead Authority'.	All cases	
Determination of a Police representation to a temporary event notice	All cases	

24 Appeals Procedure

24.1 Entitlements to appeal for parties aggrieved by decisions of the Council are set out in Schedule 5 of the Act.

24.2 Other than in the case of personal licences, an appeal has to be made to the local Magistrates' Court. In the case of personal licences, the appeal must be made to the Magistrates' Court for the area in which the licensing authority which has considered the application [or any part of it] is situated.

24.3 An appeal has to be instigated by giving notice of the appeal by the Appellant to the Justices' Chief Executive for the Magistrates' Court within a period of twenty-one days beginning with the day on which the Appellant was notified by the Council of the decision appealed against.

24.4 The Council will always be a respondent to the appeal, but in cases where a favourable decision has been made for an applicant against the representations of a responsible authority or an interested party, the holder of the premises licence or club premises certificate will also be entitled to act as a respondent.

24.5 On determining an appeal, the Court may:

- a) dismiss the Appeal;
- b) substitute any other decision which could have been made by the Council or;
- c) remit the case to the Council to dispose of it in accordance with the direction of the Court.

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

25 Giving Reasons for Decisions

25. 1 In anticipation of such appeals, the Council will give comprehensive reasons for its decisions. On making findings of fact in its reasons, the Council will ensure that they address the standard of proof and the burden of proof that they have adopted. The Council will also address the extent to which the decision has been made with regard to its Statement of Licensing Policy and the Guidance issued by the Secretary of State under Section 182.

26 Implementing the Determination of the Magistrates' Courts

26. 1 As soon as the determination of the Magistrates' Courts has been promulgated, the Council will not delay its implementation and necessary action will be taken forthwith unless ordered by a higher court to suspend such action [for example, as a result of an ongoing Judicial Review]. The Act provides for no further appeal against the determination of the Magistrates' Courts.

27 Promotion of Racial Equality/Human Rights

27.1 The Council has due regard for the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between people of different racial groups. In carrying out its functions under the Act, the Council will fulfil its legal obligation under the Race Relations Act 1976 as amended.

27.2 The Council will have regard to the Human Rights Act 1998 when exercising its licensing functions, with particular reference to the following relevant provisions:

- ARTICLE 6 - in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;.
- ARTICLE 8 - everyone has the right to respect for his/her home and family life;.
- ARTICLE 1 - of the first protocol -everyone is entitled to the peaceful enjoyment of his/her possessions.

28 Review of the Statement of the Licensing Policy

28.1 In accordance with the requirements of the Licensing Act 2003, the Council intends to review its Policy at those time intervals provided by the Act. In addition, the Council will review its policy whenever it is considered that relevant issues have arisen. Prior to publishing and revision, the council intends to consult fully with those groups and partnerships consulted on this version. Policy whenever it is considered that relevant issues have arisen.

Dyma Bolisi Trwyddedu Cyngor Dinas Casnewydd o dan Deddf Trwyddedu 2003. Os ydych eisiau copi yng Nghymraeg, cysylltwch ar Canolfan Cysylltu Dinas ar Casnewydd 01633 656656 neu e-bost environment.licensing@newport.gov.uk

Further copies of this Policy may be obtained from the Council's web site at: www.newport.gov.uk or by telephoning 01633 656656 or emailing environment.licensing@newport.gov.uk

Appendix 1

