

**Licensing Act 2003**

**Statement of Licensing Policy**

**Approved at a meeting of the council on the insert date and coming into effect on the 1st November 2025**

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**This policy can also be made available in Welsh or large print on request to the Licensing Team.Contents**

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|  | Introduction | | | |
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|  | 1.1 | | | The Licensing Act 2003 requires the Council, in fulfilling its role as the Licensing Authority, to publish a “Licensing Policy” that sets out the policies the council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. This is that statement of policy prepared in accordance with the provisions of the 2003 Act and the latest version of Home Office Guidance issued under section 182 of the Act. |
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|  | 1.2 | | | Torfaen County Borough Council (“the Council”) is the Licensing Authority under the Licensing Act 2003 and is responsible for granting premises licences, club premises certificates, temporary event notices and personal licences in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late-night refreshment. Throughout the document, the Council will be referred to as the Licensing Authority, where appropriate to prevent confusion between this role and the other functions carried out by the Council. |
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|  | 1.3 | | | This policy sets out how applications for licences, which are required by the Licensing Act 2003, will be considered by the Licensing Authority. |
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|  | 1.4 | | | In developing this licensing policy, the advice of bodies such as Local Government (LG), the [Welsh] Local Government Association ([W]LGA) and various trade associations have been taken into account wherever possible. Where appropriate, the Policies of other Gwent authorities have also been taken into account, in order to achieve uniformity wherever possible and to help ensure the integration of the various policies over a wider geographical area. Other Corporate policies adopted by the Council have also been taken into account, and these will be referred to throughout this document as appropriate. |
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|  | 1.5 | | | The Equalities Act 2010 introduced measures to tackle discrimination encountered by disabled people in certain areas including employment, and access to goods, facilities and services. The applicant shall have regard to this legislation. However, the Licensing Authority will not use licensing to pursue such issues, other than wheresupported by legislation and accepted good practice. |
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|  | 1.6 | | | Torfaen County Borough Council has a legal obligation to comply with all legislation that promotes equality, it has a policy in place to promote equality to all. The The Economy and Environment Area has its own equalities framework which is available for inspection on our website. Licensing of persons and premises under the Licensing Act 2003 will actively promote equality of service and enforcement to all members of the community. |
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|  | 1.7 | | | 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 such a rightThe Licensing Authority will have regard to the Human Rights Act when considering any licensing issues, and particularly in respect of the way in which applications are considered and enforcement activities are carried out. |
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|  | 1.8 | | | Each application will be considered on its individual merits, and in the light of this Policy |
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|  | 1.9 | | | The Licensing Authority acknowledges that it may need to depart from this Policy and from the guidance issued under the Act in individual and exceptional circumstances, and where the case merits such a decision in the interests of the promotion of the licensing objectives. Any such decision will be taken in consultation with the appropriate legal advisors for the Licensing Authority, and the reasons for any such departure will be fully recorded. |
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|  | 1.10 | | | The licensing policy will not seek to regulate matters which are provided for in any other legislation and will seek to complement such regimes e.g. planning, health and safety, employment rights, fire safety, etc. |
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|  | 1.11 | | | The Licensing Authority wishes to encourage licensees to provide a wide range of entertainment activities in Torfaen throughout their opening hours and to promote live music, dance, theatre, etc. for the wider cultural benefit of the community. |
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|  | 1.12 | | | This Licensing Authority will update and publish a new Licensing Policy whenever necessary but in any case within five years of the date of this Policy, and will fully consult with partners, trade associations and resident’s groups as appropriate at that time. Any representations received will be considered. . However, where updates are required due to changes in national legislation, statutory guidance or contact details. the council reserves the right to amend this policy without consultation where it is necessary to ensure the policy reflects national legislation or statutory guidance. |
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|  | 1.13 | | | . |
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|  | Profile of the Borough/City | | | |
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|  |  | | | **The Borough of Torfaen**  Torfaen has an area of 126km² and is the 5th smallest borough in Wales. It has a population of around 92,000. There are three main settlements running from the south to the north.  Much of the southern parts of the county borough are now urbanised around the [Cwmbran](http://www.torfaen.gov.uk/en/Related-Documents/Research-and-Citizen-Engagement/Statistics-and-Census-Information/Cwmbran-Town.pdf) New Town conurbation which has the most population of around 49,000. Cwmbran Shopping Centre is the main retail area of Torfaen and is advertised as the second largest shopping centre in Wales. It is reported that the centre attracted 22.2million visitors in 2024. .  The former industrial town of [Pontypool](http://www.torfaen.gov.uk/en/Related-Documents/Research-and-Citizen-Engagement/Statistics-and-Census-Information/Pontypool-Town.pdf) with its traditional indoor and outdoor market is the next largest settlement located in the heart of the borough with around 29,000 population in 2021.  The World Heritage Site town of [Blaenavon](http://www.torfaen.gov.uk/en/Related-Documents/Research-and-Citizen-Engagement/Statistics-and-Census-Information/Blaenavon-Town.pdf) has around 6,000 population and is furthest north in the borough. Blaenavon is famous for the Big Pit coal mining museum and Europe’s best preserved 18 th century ironworks.  http://www.torfaenonline.co.uk/torfaen.gif **http://www.torfaenonline.co.uk/torfaennew.gif**  **Wales UK**  **Torfaen County Borough**  Figure 2  Figure 1 |
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|  | Licensing Committee | | | |
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|  | 3.1 | | | The Council will appoint a Licensing Committeein accordance with its constitution. |
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|  | 3.2 | | | A Licensing Committee shall establish Sub-Committees (panels) consisting of three Members of the Committee, to consider applications where representations have been received from any person and/or Responsible Authorities. |
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|  | 3.3 | | | The Licensing Committee will also sit to determine applications not associated with the Licensing Act 2003, such as taxi and private hire vehicle licensing. |
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|  | 3.4 | | | In the interests of good governance, where a Councillor who is a Member of a Licensing Committee or a Licensing Sub-Committee has had a direct or indirect pecuniary or personal interest in any matter before them they will be disqualified from any involvement in the decision-making process affecting the premises licence. A Councillor will not sit on a Sub-Committee to consider an application within their ‘Ward’. |
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|  | 3.5 | | | 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. |
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|  | 3.6 | | | 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. |
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|  | 3.7 | | | Every determination of a licensing decision by the Licensing Committee or a Licensing Panel (Sub-Committee) shall be accompanied with reasons for the decision which is notified to all parties to the hearing. 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. |
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|  | 3.8 | | | 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. |
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|  | 3.9 | | | A periodic report will be made to Licensing Committee on the exercise of delegated powers. |
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|  | 3.10 | | | The Council will ensure that members and relevant officers are appropriately trained to carry out their duties under the Act. |
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|  | 3.11 | | | Matters in respect of the Licensing Act 2003 are to be dealt with as specified in the council’s scheme of delegation under its constitution. |
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|  | Fundamental principles | | | |
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|  | 4.1 | | | Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the 2003 Act, and conditions may be attached to licences, certificates and permissions that will cover matters which are within the control of individual licensees. |
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|  | 4.2 | | | When considering these conditions, the Licensing Authority will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned. |
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|  | 4.3 | | | In this respect, the Licensing Authority recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues that can occur away from the licensed premises, including:   * Planning controls; * On-going measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council departments; * Designation of parts of the County of Torfaen as places where alcohol may not be consumed publicly; * Regular liaison with police on law enforcement issues regarding disorder and antisocial behaviour, including the issue of fixed penalty notices, prosecution of those selling alcohol to people who are drunk, confiscation of alcohol from adults and children in designated areas and instantly closing down licensed premises or temporary events on the grounds of disorder, or likelihood of disorder or excessive noise from the premises; * The power of the police, other responsible authority or interested party to seek a review of the licence or certificate. |
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|  | Zoning and licensing hours 5.1 Paragraph 10.13 of the current Section 182 Statutory guidance states that, “The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the Licensing Authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing Authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.  5.2 Where there are objections to an application to extend hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.  5.3 Shops, stores and supermarkets should 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 there are good reasons, based on the licensing objectives, for restricting those hours. | | | |
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|  | 5.1 | | |  |
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|  | 5.4 | | | Paragraph 14.48 of the Government’s current Section 182 Guidance goes on to state that: *“As part of its licensing policy, the licensing authority may also wish to consider the use of alternative approaches such as fixed closing times, staggered closing times and zoning. Such policy restrictions would need to be evidence-based and would be subject to the merits of each case in accordance with what is appropriate for the promotion of the licensing objectives. The licensing authority would be expected to justify the use of such measures as an appropriate means of managing problems in its area”.* |
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|  | 5.5 | | | When dealing with licensing hours, the Licensing Authority recognises the requirement that each application will be dealt with on its individual merits. Nonetheless, whilst the Licensing Authority does not wish to unduly inhibit the continuing development of a thriving and safe evening ad night-time local economies, which are important for investment and employment locally. The Authority considers that it is vital to create an appropriate balance between the economic needs of licensed premises and the rights of local residents to be able to enjoy a reasonable degree of peace and quiet at noise-sensitive times and other persons not experience early fall out of the night-time economy. To this end, the Licensing Authority is prepared to consider identifying zones in its area where hours of operation for licensable activities will be fixed. This will be applied in the event of representations being made upon an application unless the Licensing Sub-Committee is persuaded that it would not be appropriate to apply them in the circumstances of the application. |
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|  | 5.5 | | | The Licensing Authority notes that the Government’s Section 182 Guidance states that “Shops, stores and supermarkets should 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 there are good reasons, based on the licensing objectives, for restricting those hours”. Applicants should very carefully consider the hours they seek when devising their operating schedule and it is recommended to discuss such application with the appropriate Responsible Authorities prior to submission to the Licensing Authority. |
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|  | 5.6 | | | In the event that applications are submitted which have not demonstrated that appropriate alcohol trading hours have been properly considered it is likely that representations will be made by the relevant responsible authorities and the public which will delay the determination of the application and result in it being referred to a Licensing Sub-Committee for determination. |
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|  | 5.7 | | | Once an application, or an existing licence in the case of a review, is referred to a Sub-Committee it can be expected that the Sub-Committee will scrutinise the application or licence very carefully and arrive at a decision regarding hours which it considers being appropriate to promote the licensing objectives and may even result in the refusal of the application or the revocation of a licence. |
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|  | 5.8  5.9  5.10  5.11  5.12 | | | For example, in areas where there are known to be problematic drinkers or where it is known that groups of people congregate and cause anti-social behaviour applicants should very carefully consider the appropriateness of selling alcohol during early morning or late evening hours.  Later hours will generally be more appropriate within town centres due to the developed infrastructure in respect of managing a late night economy, for example a CCTV network, increased access to public transport, cleaning services and a more visible enforcement presence. Nevertheless, many areas of towns are now developing into hybrid environments with an increase of cafe, recreation and housing in towns.  The licensing authority will generally expect licensing hours to be appropriate for the locality. Where there are relevant representations received, it will be for the sub-committee to determine if they agree with any characterisation of an area when considering an application before them, taking into account the information provided to them as well as applying their own local knowledge.  Hours will not be reduced as a bargaining tool to compromise. The starting point for the application is not important, it is the outcome that must be appropriate for the promotion of the licensing objectives. Applicants are strongly encouraged to apply for the hours that they intend to operate, and it may be that not applying for (unwanted) later hours might reduce the likelihood of objections against the application. The licensing authority will not consider the fact that other premises in the vicinity already have similar hours, as a justification for granting similar or extended hours.  While the quality of the venue and the operator will be an important consideration generally and may be a relevant consideration in justifying the appropriateness of a later terminal hour, it is often beyond the capacity of the operator to control the impact of customers once they have left the premises. The lateness of the terminal hour for the premises will often be a contributory factor in the risk of intoxication and potential for disturbance, and so licensed hours may be reduced to avoid the likelihood of nuisance and peaks of dispersal. The licensing authority will also be mindful of the risk of staggered closing times leading to ‘migratory drinking’ and problems on the streets as patrons move from closed bars to ones that are open. |
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|  | 5.13 | | | **Drinking up time / cooling down time**  Even though the traditional drinking up time was not carried over into the Act the Council recommends that applicants of premises licensed for the on-sale of alcohol should consider a drinking up / cooling down period during which music volume may be reduced, customers may consume their drinks and make arrangements for transportation from the premises. The Council considers that a minimum of 30 minutes drinking up time will assist in the gradual dispersal of customers and consequently reduce impact on the area. It is also recommended that licensed premises make available for customers, telephone numbers of licensed Hackney Carriage and Private Hire Operators in the area to enable customers to leave the premises in a quick and safe manner. |
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|  | Commercial demand | | | |
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|  | 6.1 | | | The commercial demand for additional premises licences (as distinct from cumulative impact) will not be a matter for the Licensing Authority, such matters being a specific consideration for the local planning authority taking into account the demands of the licensed trade and market demands |
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|  | Alcohol Harm | | | |
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|  | | | 7.1  7.2  7.3  7.4 | Chief Medical Officer Guidelines recommend that “to keep health risks from alcohol to a low level it is safest not to drink more than 14 units a week on a regular basis”.  The evidence base for the negative impact of alcohol use on health and well-being is strong. Alcohol use has been identified as a casual factor in more than 200 medical conditions including liver and heart diseases,stroke, dementia, foetal alcohol spectrum disorderand several cancers including liver, mouth, breast and bowel. It can have a negative effect on our mental health and emotional well-being, increases our risks of accidents and injury and can have long-term social implications. Alcohol can pose additional risks for young people, including negatively impacting their cognitive and social development.  Harms associated with alcohol can also include, amongst other concerns, increased risk of violent crime, sexually transmitted infections and road traffic collisions.  Alcohol is a major cause of death in Wales. Using data from the Office of National Statistics (ONS) and Digital Health Care Wales (DHCW), Public Health Wales (PHW) notes:   * In 2023/24 in Wales, there were 12,236 alcohol-specific hospital admissions and 52,177 alcohol-attributable hospital admissions * In 2023, there were 683 alcohol-related deaths and 562 alcohol-specific deaths registered in Wales. This represents an increase of 10.5 and 15.6 per cent respectively compared to the previous year. |
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|  | | | 7.5  7.6  7.7 | The World Health Organisation (WHO) recognises there is scientific consensus that communities encounter more problems when alcohol is more available.  While on-premise and off-premise alcohol sales may result in different types of harm for different reasons, research has repeatedly shown that the economic, geographical and temporal availability of alcohol has a significant effect on the level of alcohol related harms, including health harms.  It has shown that the range of times and days alcohol is available for sale has a significant impact on the harms caused by alcohol. The geographical ease of access also has an impact, as shown by a large body of research into outlet density. Research conducted in 2017 demonstrated that actively enforced Licensing Policies lead to a reduction in alcohol-related hospital admissions. These are all factors that are influenced by local licensing frameworks and operational and enforcement approaches to licensing. |
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|  | | | 7.8  7.9 | Research has demonstrated that the most effective and cost-effective approach to tackle the harms from alcohol misuse is to reduce the affordability, availability of and access to alcohol. The World Health Organisation has identified limiting alcohol establishment density as an effective, evidence-based means of reducing the harms and inequity associated with alcohol. Similarly,Public Health Wales considers reducing the availability of and access to alcohol as key to reducing alcohol related health harms.  These harms are not experienced equally by people across Wales. In 2023-2024, PHW notes the proportion of all patients admitted for alcohol specific conditions who lived in the 10 per cent of most deprived areas in Wales were 2.8 times higher than those from the least deprived areas. This is despite the adult populations in these areas often consuming similar to or less alcohol than those in less deprived areas. WHO states that alcohol establishments also tend to be more heavily concentrated in more deprived areas, which may then also experience more of the related social and environmental harms. |
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|  | | | 7.10 | The intent of the Licensing Act 2003 is to regulate the supply of alcohol. Licensing is therefore the key mechanism by which the availability of alcohol can be regulated, through regulating the times and days of the week alcohol can be sold, premises which can supply alcohol and the conditions of sale. |
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| **re** | 7.11  7.12 | | | **Local data**  Torfaen County Borough Council recognises the significant negative impact on the health of our residents that is caused by alcohol, which is reflected in hospital admissions and deaths from alcohol related illnesses and injuries (see below).  Torfaen has the second highest level of adults consuming alcohol above low-risk guidelines in Gwent.  National survey for Wales age-standardised data for 2021-22 and 2022-23,shows that in Torfaen:   * 19.1% of persons aged 16+ self-reported an average weekly alcohol consumption above guidelines. The average is 16.8% for the Aneurin Bevan Health Board area, and 16.4% for Wales. * 16.3% of persons aged 16+ self-reported hazardous average weekly alcohol consumption and 2.8% reported drinking to harmful levels. The averages for Aneurin Bevan are 14.5% and 2.2% respectively, and for Wales are 13.9% and 2.5% respectively * 21.7% of persons aged 16+ self-reported an average weekly alcohol consumption of none. The average for Aneurin Bevan is 18.8% and teh average for Wales is 17.9%   School Health Research Network data shows that in 2023 in Torfaen:   * 39.9% of males aged 11-16 reported drinking alcohol. This is significantly higher than the figure for Wales (33.8%) * 42% of females aged 11-16 reported drinking alcohol. This is significantly higher than the figure for Wales (37.1%)   There were 1,183 alcohol-attributable hospital admissions per 100,000 population (EASR) in Torfaen in 2023-24. The rate has increased by 1% since 2022-23, but decreased by 15% since 2018-2019 data. The Wales rate is 1.001, which is a decrease of 18% since 2018-2019.  There were 255 alcohol-specific hopsital admissions per 100,000 population (EASR) in 2023-2024. The rate has decreased by 36% since 2018-2019. The Wales rate is 258, which is a decrease of 25% since 2018-2019.  Despite these decreases, alcohol-specific deaths have increased. There were 47 alcohol-specific deaths in Torfaen between 2021 and 2023. This is an age standarised rate of 16.6 deaths per 100,000 population (over a rolling 3-year aggregate). This rate increased from 7.7 for 2019 to 2021. The Wales rate for 21-23 was 16.  All alcohol-specific hospital admissions and deaths are preventable.  **Gwent**  County Councils in Gwent recognise the significant negative impact on the health of our residents caused by alcohol, which is reflected in hospital admissions and deaths from alcohol related illnesses and injuries (see below).    In National Survey for Wales age-standardised data for 2021-22 and 2022-23, Gwent, served by Aneurin Healthy Board, had the second highest level of adults consuming alcohol above low-risk guidelines in Wales. Figures range from 14.70 in Powys Teaching Health Board, to 18.52 in Cardiff and Vale UHB.    The survey shows that in Gwent:   * 16.8% of persons aged 16+ self-reported an average weekly alcohol consumption above guidelines. This ranges from 12.3% in Newport, to 24.2% in Monmouthshire. The average is 16.4% for Wales. * 14.5% of persons aged 16+ self-reported hazardous average weekly alcohol consumption and 2.2% reported drinking to harmful levels. This ranged from 11.3% and 1% respectively in Newport, to 20.3% and 3.8% in Monmouthshire. The averages for Wales are 13.9% and 2.5% respectively. * 18.8% of persons aged 16+ self-reported an average weekly alcohol consumption of none. This ranged from 13.1% in Monmouthshire to 22.3% in Blaenau Gwent. The average for Wales is 17.9%.     School Health Research Network data shows that in 2023 in Gwent:   * 35.6% of males aged 11-16 reported drinking alcohol. This is significantly higher than the figure for Wales (33.8%). * 37.6% of females aged 11-16 reported drinking alcohol. This is not significantly different to the figure for Wales (37.1%).     PHW’s Annual Profile for Substance Misuse shows that in 2023-2024:   * Using a person-based broad measure, alcohol-attributable hospital admissions per 100,000 population (European Age Standardised Rate/EASR) for residents in Gwent ranged from 994 in Monmouthshire to 1341 in Blaenau Gwent. The Wales rate was 1001. * Alcohol-specific hospital admissions per 100,000 population (EASR) for residents in Gwent ranged from 208 in Monmouthshire to 366 in Blaenau Gwent. The Wales rate was 258.     The above rates have decreased since the 2019-2020 data. Despite this, alcohol-specific deaths have increased in Gwent. ONS data shows there were 288 alcohol-specific deaths in Gwent between 2021 and 2023 (over a rolling 3-year aggregate). This number increased from 260 for 2020 to 2022, and from 217 in 2019 to 2021. The age-standardised alcohol-specific death rate per 100,000 populations between 2021 and 2023 (over a 3-year aggregate) ranged from 10.5 in Monmouthshire to 22.5 in Blaenau Gwent. The rate for Wales was 16.0.    The data shows alcohol-related health inequalities, as areas of lower deprivation consume higher levels of alcohol but experience lower levels of alcohol related harms. |
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|  | 7.13 | | | Within the context of promoting the four licensing objectives, the Licensing Authority expects applicants to propose licensing conditions to mitigate the impact their premises may have on the health and well-being of their customers, the neighbourhood and the wider community, which is especially important in areas of higher alcohol consumption and areas of higher deprivation. For examples of licensing conditions that can promote health and wellbeing please refer to Torfaen County Borough Council’s ‘Model Pool of Conditions’. |
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|  | 7.14 | | | In addition, the Licensing Authority expects applicants to consider the impact their premises may have on sensitive locations and people vulnerable to alcohol misuse, in particular to education facilities, children and young people and to alcohol treatment facilities and people with alcohol use disorders. . Commissioned alcohol treatment services are set within the communities they serve. The availability of alcohol in near proximity to treatment services can create specific issues for treatment providers and recipients, such as increased cravings. The Licensing Authority expects applicants to consider and mitigate the harm by including licensing conditions when their premise is close to the location of treatment services, and areas where children and young people may congregate, such as schools, youth clubs and parks. |
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|  | 8. Drugs | | | |
|  | 8.1 | | | The harms from drug misuse are numerous,and not restricted to health harms. Welsh drug death levels were at their highest ever level in 2018-2019 with deaths from drug poisoning having increased by 78% over the last 10 years. Drug deaths appear to be increasingly occurring in people using drugs on a recreational basis. |
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|  | 8.2 | | | The UK’s drug market is rapidly evolving, with common street drugs continuing to increase in strength and purity, and an ever-widening array of substances in circulation. Licensing has a role in reducing the harms from drug misuse in the Night Time Economy and our licensed premises. |
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|  | 8.3 | | | Where there are issues of concern the Licensing Authority will expect to see evidence that a drugs policy has been implemented and is kept under review. |
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|  | 8.4 | | | Within the context of promoting the licensing objectives for preventing crime and disorder and ensuing public safety, the Licensing Authority expects applicants and licensees to:   * Take all reasonable steps to prevent the entry of drugs into licensed premises * Take all reasonable steps to prevent drugs changing hands within the premises * Train staff to recognise and understand the signs of drug misuse in people so that practical steps can be taken to deal with instances that occur * Have appropriately trained staff to deal with drug related incidents * Display appropriate drug safety awareness information to customers * Provide a first aid room and first aid equipment, including a defibrillator in larger venues. * Deploy staff trained to assist with medical incidents * Implement an appropriate banning policy * Drug Swabbing * Searches of the premises * Physical measures to deter drug use on the premises * Signage and welfare information in the venue |
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|  | 8.5 | | | At the request of Gwent Police, licensed premises would be required to seize, retain and document any drugs found, with a clear audit trail and a process for surrendering them to the Police in compliance with Gwent Police written policy. Furthermore, in the interest of Crime and Disorder, Gwent Police would also require licensed premises to allow the use of the ION track machine or similar, on the premises to assist with identifying the areas where illegal drugs may be used at the venue. |
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|  | 8.6 | | | The Licensing Authority recognises that drug misuse is not something that is relevant to all licensed premises, however it is committed to the reduction and eradication where possible of drugs from licensed premises as part of its role in promoting the crime and disorder licensing objective. The licensing authority expects all licence holders to actively support this aim in the way that they plan, manage and operate premises. |
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|  | 8.7 | | | If relevant representations are received to an application for grant or variation of a licence special conditions may be imposed to support the prevention of the illegal supply or use of controlled drugs. Advice on conditions will be sought from the police or any other relevant organisation involved in the control of controlled drugs or the support and/or treatment of drug users. |
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|  | 8.8  8.9  8.10 | | | In premises where drug misuse is problematic and where any responsible authority or other person apply for a review of the licence, the licensing authority will consider this as being very serious and will give appropriate consideration to the full range of options available, including suspension and revocation of the licence in accordance with the statutory guidance issued by the secretary of state. The licensing authority recognises that each case is individual and will be decided on its own facts and specific merits  **Data**  The age-standardised mortality rate for deaths relating to drug poisoning in England and Wales has risen every year between 2012 and 2023.  There were 28 deaths related to drug poisoning registered in Torfaen between 2021 and 2023, which is an age-standardised rate of 10.5 deaths per 100,000 population.  Gwent Police recorded 1243 drug offences in 2023/24, an increase of 9% from the previous year  **Promoting Personal Safety**  Torfaen County Borough Council is committed to ensuring that Torfaen is a safe and welcoming place for everyone, regardless of their gender, ethnicity, sexuality, beliefs or background. Unfortunately, this is not always the case. The increase in reports of drink spiking nationally and the demand for welfare and police service indicates that there is still significant partnership work to be undertaken to further develop Torfaen’s night-time economy to improve actual and perceived safety to all residents, visitor’s and those who work in the Borough at night.  This policy aims to ensure that vulnerability and personal safety is an important consideration in decision making in the night time and late-night economy throughout the Borough. The licensing authority will keep the prevalence, prevention and reporting of sexual harassment and misconduct and gender-based violence under review.  Operators of businesses are strongly encouraged to develop a harm-reduction policy for their business and ensure sufficient measures to protect and provide support to customers in spiking and vulnerability incidents.  The Council aims to promote best practice initiatives, including the [Guidance & Best Practice - NTIA](https://ntia.co.uk/guidance-and-best-practice/) (Night Time Industry Association standards of good practice) for dealing with incidents of spiking and having a duty of care for customers as well as integrate with other safety-related initiatives in the Borough.  The Licensing Authority will actively promote campaigns which help to remove risks to vulnerable people who visit or work in licensed premises. Examples include the ‘a safe place’ scheme and the ‘ask for Angela’ scheme. Licensing Officers seek to work closely with licence holders to encourage positive engagement with such campaigns and to help promote and explain the importance of keeping the public safe. |
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|  | Licensing Objectives | | | |
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|  | 9.1 | | | The Licensing Authority has a duty under the Act to carry out its functions with a view to promoting the licensing objectives. The licensing objectives (of which each one is of equal importance) are:     * The prevention of crime and disorder; * Public safety; * The prevention of public nuisance; * The protection of children from harm. |
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|  | 9.2 | | | It is recognised that the licensing function is not the primary method of securing the delivery of these objectives. The Licensing Authority will therefore continue to work in partnership with its neighbouring authorities, the police, health board, immigration, other Council departments, local businesses, licensees and local people towards the promotion of the objectives. |
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|  | Prevention of crime and disorder | | | |
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|  | 10.1 | | | Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems. |
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|  | 10.2 | | | The Licensing Authority will expect operating schedules (see section 27) to satisfactorily address these issues from the design of the premises through to the day-to-day operation of the business. Details of the factors that will need to be considered as part of the operating schedules are given in the Licensing Policy and are matters for consideration when deciding applications, which are attached in the annex to this policy and in the Guidance notes for applicants. |
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|  | 10.3 | | | Applicants are recommended to seek advice from the Licensing Authority’s licensing officers, environmental health team and the police, as well as taking into account, as appropriate, local planning and transport policies, tourism, cultural and crime prevention strategies, when preparing their plans and operating schedules. |
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|  | 10.4 | | | The Licensee / applicant should use their own experience and knowledge of their customers and locations when drafting their operating schedule, which subsequently becomes the basis of conditions on the licence. Failure to do this may lead to a representation from the Authority, a responsible authority or other person. Applicants may wish to consider the following and are advised to refer to the Authority’s “Model Pool of Conditions” when considering an application;   * Is there CCTV and if so, what areas are covered, does the system have the ability to see clear full face recording of patrons entering, does it record the patron search area at the entrance What is the retention period of recordings, how easy is it to access, produce copies or download images if requested by Police and the Licensing Authority What procedures are in place to rectify any issues with the CCTV system * Are Security Industry Authority (SIA) door staff employed and what checks are made to the validity of the SIA licence. What records are kept of SIA checks, search policy, entrance policy, restriction of patrons using outside areas such as smoking areas, employment times of SIA and their training * Is there ID scanning on entry to the premises. Will there be ‘No ID, No Entry’ policy in place. * Is there a clear drug and weapon policy. Is there a regular documented training of this policy carried out with staff when drugs/weapons are seized or stored. Are areas or surfaces designed to prevent the likelihood of drug use at the premises. * Has the use of plastic or polycarbonate glass for serving of alcohol been considered, will glass bottles be handed over the bar. Are there restrictions of drinks being taken outside, * Is there a proof of age scheme. Does the premises have a challenge 25 policy, Are staff trained on this policy and is it documented in writing. |
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|  | 10.5 | | | The Authority will endeavour to reduce crime and disorder throughout the Borough in accordance with its statutory duty under s.17 of the Crime and Disorder Act 1998. |
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|  | 10.6  10.7  10.8  10.9 | | | Torfaen County Borough Council, through agencies working together and sharing information, aim to identify and prevent sexual exploitation, modern slavery and human trafficking. Licence holders can help as they may become aware or come into contact with such victims. This may be in hotels, bars and restaurants, late night takeaways, off licence or other licensed premises. Licence holders and staff employed in licensed premises are in an ideal positions to help protect people.  Modern slavery and human trafficking is a crime and a violation of fundamental human rights and can take various forms such as slavery, servitude and compulsory labour. The licence holder and staff who work in licensed premises should ask themselves the following questions:   * Has the person got any physical signs of abuse or neglect? Are they deprived of food, water, sleep, medical care or other life necessities? * Are there signs of worrying behaviour? * Is the victim in possession of a passport, identification or travel documents? Are these documents in the possession of someone else? * Does the victim act as if they have been instructed or coached by someone else? Do they allow others to speak when spoken to directly? * Was the victim recruited for one purpose and forced to engage in some other job? Was their transport paid for by facilitators to whom they must pay back through providing services? * Does the victim receive little or no payment for their work? Is someone else in control of their earnings? * Was the victim forced to perform sexual acts? * Does the victim have freedom of movement? Can they freely contact friends and family? Do they have limited social interaction? * Has the victim or family been threatened with harm if the victim attempts to escape? * Is the victim bonded by debt, or in a situation of dependence?   If there are concerns in relation to Modern Day Slavery, these concerns can be reported to the Modern Slavery helpline on 08000 121 700 or via the website https;//www.modernslaveryhelpline.org/report, or to the Licensing Authority by emailing licensing@torfaen.gov.uk or if someone is in immediate danger, to call the Police on 999,  In addition, all staff who are employed in the UK must have the right to work in the UK. Employing someone with no right to work in the UK without carrying out the prescribed checks can lead to robust sanctions against the licence holder. |
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|  | Prevention of public nuisance | | | |
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|  | | | 11.1 | Licensed premises have significant potential to impact adversely on persons living and working (including those carrying on business) in the area around the premises and also further afield through public nuisances that arise from their operation. It is therefore important that in considering the promotion of this licensing objective, Licensing Authorities and Responsible Authorities focus on the effect of licensable activities at the specific premises on these parties which may be disproportionate and unreasonable, |
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|  | | | 11.2  11.3  11.4  11.5  11.6  11.7  11.8 | The definition of what may be considered as a potential or actual ‘public nuisance’ is to be interpreted in line with its broad common law meaning established through relevant case law. This is the interpretation which the Licensing Authority will apply when considering such matters. Matters giving rise to ‘public nuisance’ are mainly accepted to include issues relating to noise, light pollution, odour and litter. It may also arise as a result of the adverse effects of dust, insects, accumulations or any other matter which is determined to have an adverse impact on the living and working environment of other persons living and working in the area of the licensed premises.  Licensed premises have a responsibility under this objective to clear up litter/rubbish caused by customers in the near vicinity of the licensed premises. Premises are encouraged to provide adequate bins for their customers and to undertake regular litter picks in the vicinity of the premises. Applicants will be encouraged to demonstrate in the Operating Schedule of their licence application what suitable and sufficient measures have been identified and what will be implemented and maintained to prevent public nuisance including litter.  The Workplace Recycling Regulations came into force in Wales in April 2024. All businesses, charities and public sector organisations anywhere in Wales must ensure relevant waste materials are collected separately and disposed of appropriately. Further information is available at: [Workplace recycling | GOV.WALES](https://www.gov.wales/workplace-recycling)  There is a duty of care to ensure that any waste is properly contained and controlled while in the operator’s possession, and that it is collected by a reputable waste carrier. The Licensing Act 2003 does not duplicate this law, but licence holders will need to apply good waste management practice in order to prevent public nuisance. Uncontrolled litter, waste and street fouling is unsightly. It can cause offensive odour, may attract rats and insects and may therefore be a public health risk. It may cause people to slip, trip and cause injuries, and it may harm the reputation of the business. Examples include take-away packaging, food dropped by customers, discarded and broken bottles, smashed glass cigarette ends and chewing gum discarded by customers and people who have consumed too much alcohol urinating and vomiting in the street.  Steps should be taken to prevent fly posting and litter issues arising from the distribution of flyers advertising the premises or events at the premises. The Operator of the business should remove any graffiti and fly posting from their surfaces as soon as it appears.  Limiting public nuisance that may be associated with a licensed premises and their operation is an important factor for an individual’s health and well-being. Disturbed sleep and stress can add to resident’s mental and physical health issues, and their wider well-being.  Applicants should consider the potential impact their premises may have on public nuisance, particularly from noise, and put in place measures to mitigate the impact. |
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|  | | | 11.9 | The Licensing Authority expects applicants for premises licences and club premises certificates to have made relevant enquiries about the local area before submitting their application. The purpose of this is to enable the applicant to consider the most appropriate controls for potential inclusion in the operating schedule with a view to ensuring their activities do not undermine the licensing objective with regard to the prevention of public nuisance. It is important to recognise that the impacts of licensed activities are not contained with a building. Inevitably there is a wider impact as people travel to and from the premises or congregate outside whilst it is in operation. Nuisance is best managed by careful consideration of the suitability of the selected site and any necessary mitigation at an early stage. |
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|  | | | 11.10 | Applicants will be encouraged to demonstrate in their Operating Schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance. When a suitable site is identified, operating schedules should be prepared on the basis of a risk assessment of the potential sources of nuisance posed by the premises operation to those who may be impacted by their activities. The operating schedule should demonstrate an understanding of the level of risk of nuisance and include positive measures to manage any potential risks. |
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|  | | | 11.11 | The Licensing Authority recommends that licensees apply a high standard of control to minimise the potential for any public nuisance that may arise from their operation of the premises, particularly where:  • they are situated in a residential or noise sensitive area; or  • extended opening hours are proposed. |
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|  | | | 11.12 | The Licensing Authority recognises that beyond the immediate vicinity of the premises the control that a licence-holder can exert over its patrons diminishes and individuals who engage in anti-social behaviour are accountable in their own right. However applicants are encouraged to consider the actions they may take as a responsible licence holder to mitigate the potential adverse impact of patrons. The operating schedule should again be used to demonstrate an understanding of the potential risks and the positive measures that may be implemented to manage such issues. |
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|  | | | 11.13 | Applicants are encouraged to engage with the Licensing Authority and other relevant Responsible Authorities (such as Environmental Health and the Police) at an early stage and prior to the submission of an application, wherever reasonably practicable, for advice in respect of appropriate control measures that may be put in place and included in the operating schedule to mitigate potential risks of public nuisance occurring. |
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|  | 11.14 | | | **The Well-being of Future Generations (Wales) Act 2015, Noise & Soundscape Management**  The Well-being of Future Generations (Wales) Act 2015 (hereinafter referred to as the WFG Act 2015) places a duty on Local Authorities including the Licensing Authority to embody sustainable development principles aimed at achieving seven prescribed well-being goals as part of its fundamental operation; this includes the delivery of its Licensing function. One of the cornerstone areas of consideration is the management of noise and its impact on health and well-being. |
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|  | 11.15 | | | The Statutory Licensing guidance issued under Section 182 of the Licensing Act 2003 does not currently provide any reference to how operationally Licensing Authorities are to have regard to the requirements of the WFG Act 2015 specifically as it may relate to the promotion of the Licensing Objective, the prevention of Public Nuisance. It is clear however in the Welsh Government’s ‘Noise and Soundscape Action Plan 2018-2023’ that there is recognition of the impact of noise. The Licensing Authority will have regard to this action plan when determining applications (please refer to section 17 Integrating strategies). |
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|  | Public safety | | | |
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|  | 12.1 | | | The Council is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. Applicants will be expected to demonstrate in their Operating Schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and events. Applications are advised to seek advice from various organisations such as Torfaen’s Health and Safety Officers, South Wales Fire and Rescue Service etc., before preparing their plans and schedules, particularly where regulated entertainment is to be provided. |
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|  | 12.2 | | | The Regulatory Reform (Fire Safety) Order 2005 introduced a requirement that any person responsible for the management of a premises must make a suitable and sufficient assessment of the risks to which persons may be exposed for the purpose of identifying the general fire precautions that need to be taken. Therefore no conditions may be imposed on an authorisation where it directly relates to fire safety. It is expected therefore that authorisation holders will conduct a thorough risk assessment which is regularly reviewed and updated. The risk assessment should be retained at the premises and be available upon request by any authorised officer of the Council. |
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|  | 12.3  12.4 | | | Where an applicant identifies an issue with regard to public safety, which is not covered by existing legislation, the applicant should indicate in the operating schedule the steps which will be taken to ensure public safety.  Depending on the individual style and characteristics of the premises and/or events the following issues may be relevant:   * The number of people attending the premises/safe capacity levels (factors may include access and egress, flow around the premises, comfort levels seating provisions, dance areas, accessibility to bars etc.); * The age, condition, design and layout of the premises, including the means of escape in case of an emergency; * The nature of the activities to be provided, in particular the sale or supply of alcohol and/or the provision of music and dancing and including whether those activities are of a temporary or permanent nature; * The hours of operation, differentiating between the hours of opening from the hours when the licensable activities will be provided * Customer profile (e.g. age, disability etc,); * The use of special effects such as lasers, pyrotechnics, smoke machines, foam machines etc. |
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|  | 12.5 | | | The following examples of control measures are considered to be important and should be taken into account by applicants in their Operating Schedule, having regard to the particular type of premises and/or activities;   * Suitable and sufficient risk assessments; * Effective and responsible management of premises; * Provisions of a sufficient number of people employed or engaged to secure the safety of everyone attending the premises or event; * Appropriate instruction, training and supervision of those employed or engaged to secure the safety of everyone attending the premises; * Adoption of best practice (Assistance can be obtained by contacting Environmental Health, Fire Safety and HSE) * Provision of effective CCTV in and around the premises; * Implementation of crowd management measures; * Regular testing (and certification where appropriate) of procedures, appliances, systems etc. pertinent to safety. * Appropriate First Aid facilities and staff training on when to administer / not administer First Aid |
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|  | 12.6 | | | The Authority recommends that specialists, e.g. qualified safety officer, should be consulted to assist with an assessment of public safety issues (excluding fire safety as such a risk assessment is a mandatory requirement). |
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|  | 12.7  12.8  12.9  12.10  12.10.1  12.10.2  12.10.3  12.111  12.11.1 | | | Gwent Police promote the use of polycarbonate drinking vessels to reduce injuries caused either deliberately or accidentally from glass drinking vessels. The Council supports this initiative and would advise any applicant or authorisation holder that toughened glass often lose their tempering through repeated use and should consider the introduction of solely polycarbonate or plastic drinking vessels. Where premises are associated with crime and disorder, the Council may also advocate that open glass bottles for consumption on the premises should not be permitted and that contents are decanted before serving to customers, the purpose being to reduce any incidents where bottles may be used as weapons.  The Licensing Authority recognises that there are links between public safety and health, e.g. injuries suffered in a licensed premises that need medical attention.  Consideration of issues relating to public safety in a licensing application can be an effective way of addressing these issues through conditions being put on a licence, or in extreme cases, a licence being refused.  **Martyn’s Law**  The Terrorism (Protection of Premises) Act 2025, also commonly referred to as ‘Martyn’s Law’, received Royal Assent on 03 April 2025. The Primary Governing Authority for the Act is the Security Industry Authority (SIA). This Act delivers the Government’s manifesto commitment to strengthen the security of public premises and events. It is expected that licensed premises fully comply with the future Guidance and Regulations.  To ensure licensed premises and event organisers are adequately prepared and equipped to respond in the event of a terrorist incident, designated premises supervisors and those in a managerial position, are strongly encouraged to undertake the free ACT (Action Counter Terrorism) counter terrorism awareness training courses for licensed premises and venue operators.  Further details regarding Martyn’s Law can be found on the Home Office and Security Authority websites: <https://www.gov.uk/government/news/martyns-law-to-ensure-stronger-protections-against-terrorism-in-public-places>  **Crowd Safety**  Venues should have a clear policy for managing large crowds, for example during concerts, sporting events or festivals. This may include implementing a capacity limit, managing entry and exit points, and having staff members trained in crowd control techniques. |
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|  | Protection of children from harm | | | |
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|  | 13.1 | | | Nothing in this statement of policy shall limit or require access of children to premises unless there is an overriding requirement of necessity to prevent harm to children. Areas that will give rise to particular concern are highlighted elsewhere in this policy. |
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|  | 13.2 | | | With the exception of the restrictions specified in Section 145, the 2003 Act does not prohibit children from having free access to any licensed premises. However, the Licensing Authority recognises that limitations may have to be considered where it appears necessary to protect children from harm. |
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|  | 13.3 | | | The Licensing Authority will not impose any condition that specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual premises or club. |
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|  | 13.4 | | | The 2003 Act details a number of offences designed to protect children in licensed premises and the Licensing Authority will work closely with the police and any other relevant agency to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children. |
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|  | 13.5 | | | The Strategic Director of Social Care and Housing for the authority will be consulted on issues relating to protecting children from harm. |
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|  | 13.6  13.7  13.8 | | | Safeguarding children is everyone’s responsibility. Child sexual exploitation is a crime that can affect any child, anytime, anywhere – regardless of their social or ethnic background. Child sexual exploitation involves perpetrators grooming youngsters and using their powers and it can take many forms, whether it occurs through a seemingly ‘consensual’ relationship with an older partner, having sex in return for attention, gifts, money, alcohol and cigarettes. Violence, coercion and intimidation are common forms of exploitation, with some vulnerable children being given drugs or made to sell drugs and/or are forced to be part of county lines networks.  Hotels, bars and restaurants, late night takeaways, off licences or other licensed premises may come into contact with such children. This Authority encourages those premises to look out for signs of possible exploitation. Licence holders and staff should ask themselves:   * Does a child appear to be in a relationship with an older person? * Does the child appear to be under the influence of alcohol or drugs? * Is the hotel booking done by an adult, who is trying to conceal that they are with a younger person? * Numerous adults and young people coming to a hotel who do not appear to have a reason for being there or high levels of visitors to a guest room, with guests moving in and out of the premises at unusual times. * Guests arriving and asking for specific room numbers without knowing the name of the person whose name is on the booking.   The Licensing Authority does not support contactless check-in systems (e.g. virtual reception) whereby no members of staff will have interaction with the customers at any hotel, guest house or similar premises.  If there are concerns, the licence holder and member of staff are to report the matter to Torfaen Council’s Safeguarding team, by telephoning 01495 762200 (or 0800 3284432 for out of hours emergencies), and if someone is in immediate danger, to call the Police on 999. |
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|  | 13.7 | | | Evidence demonstrates that young people are more vulnerable than adults to the adverse effects of alcohol due to a range of physical and psycho-social factors. As such, initiatives to prevent the sale and supply of alcohol to children are supported. |
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|  | 13.8  13.9  13.9.1 | | | The Authority expects age verification measures to be operated by licensed premises involved in the sale and supply of alcohol to ensure the licensing objective for the protection of children is met. To support the age-verification process the Authority strongly recommends that premises have the following measures in place to ensure age verification for sales:   * That ‘Challenge 25’ is supported as part of the age verification scheme. The scheme should require the production of evidence of age from any person appearing to staff engaged in selling or supplying alcohol to be under the age of 25, and who is attempting to buy alcohol. * That evidence of the scheme (in the form of documented procedures) is maintained and made available for inspection by authorised officers. * That all staff involved in the sale of alcohol shall be trained in age verification schemes and proxy sales, where a person attempts to buy alcohol for a person under the age of 18 years of age. Records of such training shall be retained on the premises and made available for inspection by authorised officers. Refresher training for staff should also be in place. * That an incident log be maintained and details of all age-related refusals are recorded. This log shall be reviewed at least monthly by the DPS and any actions taken recorded in the book and signed off by the DPS. The log shall be retained on the premises and made available for inspection by authorised officers. * That a personal alcohol licence holder shall be on the premises at all times that alcohol is sold or supplied. * That the DPS shall ensure that as far as is reasonably practical, that alcohol is displayed in an area which can be constantly monitored or supervised by staff, separate from goods likely to be purchased by persons under the age of 18 years of age.   **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 issue of proxy sales of alcohol and shall ensure that all reasonable steps and procedures are in place and implemented to prevent adults purchasing alcohol for those underage. Steps must be in place to ensure that any designated premises supervisors and members of staff involved with the delivery of alcohol to residential addresses are made fully aware of their responsibilities to ensure that no alcohol is sold to persons underage. |
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|  | Rights of representations | | | |
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|  | 14.1 | | | The Licensing Authority will expect applicants to address the licensing objectives in their operating schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community, in order that those with a right to make representations or objections are able to fully assess the factors that may affect them. |
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|  | 14.2 | | | Relevant representations may be made by a responsible authority, other persons or organisations representing them, but they should state whether they are making a representation on their own behalf or on behalf of another person. |
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|  | 14.3 | | | Amendments to the Act has inserted the term ‘other person’ to replace ‘interested party’ as someone who can make representations, it also removed the vicinity test for residents and the specific term of councillor. This opens up the range of persons who may make representation and includes for example the following:-   * Residents living near the premises * Persons with an interest in the premises or locality * Local councillors * Businesses with an interest in the premises or locality. * Organisations with an interest in the locality, premises or licensable activities.   The Council will have to decide if the representation is relevant and/or reasonable, and in making that assessment will assess the person or organisation making the representation and their relationship to the premises and or vicinity. |
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|  | 14.4 | | | Relevant representations will be taken as those that relate to the fundamental principles of the Licensing Act, any organisation or individual wishing to object to any application will therefore need to state whether they are doing so on the grounds of:     * The prevention of crime and disorder; * Public safety; * The prevention of public nuisance; * The protection of children from harm. |
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|  | 14.5 | | | Unreasonable, frivolous and vexatious representations will be disregarded. Representations that have been made and considered elsewhere, for example as an objection to a planning application, may also be disregarded where consideration of such representations would be duplication. |
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|  | 14.6 | | | Petitions may be accepted if the Authority believes that all persons that signed the petition understood the implications of what they were signing. Please refer to 29.24 for further guidance. |
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|  | Responsible authorities | | | |
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|  | 15.1 | | | The Licensing Act 2003 as amended specifies who are responsible authorities that may make representations on applications or apply for the review of a premises licence or club premises certificate, and they are:   * The Chief Officer of Police * The Fire Authority * The enforcing authority for Health and Safety at Work * The local planning authority * The local authority responsible for minimising or preventing the risk of pollution of the environment or of harm to human health * The local weights and measures authority * The Director of Social Services and the body representing matters relating to the protection of children from harm, currently the Local * Safeguarding Children Board * In relation to a vessel, a navigation authority, the Environment Agency, or the British Waterways Board * The Local Health Board (Aneurin Bevan University Health Board) * The Licensing Authority (The Council) * Immigration (Home Office Immigration Enforcement) |
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|  | Other persons | | | |
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|  | 16.1 | | | Changes to the Licensing Act 2003 by virtue of the Police Reform and Social Responsibility Act 2011 have now removed the test of “vicinity” from the 2003 Act and as a consequence, the categories of “interested party” no longer exist. |
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|  | 16.2 | | | Therefore, any person is able to make representations in relation to certain types of applications as an “Other Person” However; all representations must relate to the licensing objectives and may not be frivolous or vexatious. |
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|  | Integrating strategies | | | |
|  | 17.1 | | | The Secretary of State’s Guidance to the Licensing Act 2003 states that the Licensing Authority should outline how it will secure proper integration between it’s licensing policy with policies and strategies concerned with local crime prevention, planning, transport, tourism, equality schemes, cultural strategies and any other policy or plan introduced for the management of town centres and night time economies. The Licensing Authority agree that such co-ordination and integration is crucial to achieve the Council’s aims for a safe and vibrant night time economy. Other pieces of legislation may impact directly or indirectly on the licensing regime. The Licensing Authority must have regard to the following when it discharges its responsibilities under the Licensing Act 2003 and in relation to the promotion of the four licensing objectives:  Crime and Disorder Act 1998  This Act requires local authorities and other bodies to consider crime and disorder reduction. Section 17 of the Act states that it shall be the duty of each authority, to exercise its various functions with due regard to the likely effect the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area (including anti social and other behaviour adversely affecting the local environment). This links specifically with the licensing objective of prevention of crime and disorder and the licensing authority will take into account all reasonable measures that actively promote this licensing objective.  The Anti-social Behaviour, Crime and Policing Act 2014  This Act gives a wide range of powers to local authorities and the police to tackle incidents of crime, disorder and nuisance that may be impacting on residents. The Act introduced public spaces protection orders which allows the local authority to designate areas where anti-social behaviour such as street drinking will be prohibited. The Act also gives powers to the local authority and police to close licensed premises where nuisance and anti social behaviour is taking place. This Act therefore clearly supports and actively promotes the licensing objectives contained within the Licensing Act 2003.  Immigration Act 2016  Section 36 and Schedule 4 of the Immigration Act 2016 amended the Licensing Act 2003 and made Home Office Immigration Enforcement a Responsible Authority concerned with the licensing objective of prevention of crime and disorder. They will exercise their power both in respect of being a consultee on new licence applications and having right of entry to licensed premises with a view to seeing whether an offence under any of the Immigration Acts is being committed on a licensed premises. This will primarily involve the detection and prevention of illegal working on premises that have an alcohol licence or a late night refreshment licence. The offence of employing people at licensed premises who have no right to work in the UK is also now listed in the Secretary of State’s guidance under Section 11.27 which covers criminal activity deemed to be particularly serious and where a licensing authority should consider revoking a premises licence even in the first instance. This Act clearly supports and actively promotes the licensing objective of preventing crime and disorder and the licensing authority will work with colleagues in the Immigration service and Gwent Police to enforce this.  Human Rights Act 1998  The Council has a duty under the European Convention on Human Rights to protect both the rights of resident to privacy and family life (Article 8) and the rights of a licence holder to operate their business without undue interference (Article 1 of the First Protocol). This promotes the need for the licensing authority to reach a balance between these two principles when making decisions.  Equality Act 2010  The Act places a legal obligation on public authorities to have regard to the need to eliminate unlawful discrimination, to advance equality of opportunity and to foster good relations between persons who shared a protected characteristic and those that do not. Protected characteristics include age, disability, race, religion and sexual orientation. When making a decision, the licensing authority will have regard to this due to the goal of ensuring that the night time economy is safe and accessible to all  Well-being of Future Generations (Wales) Act 2015  This Act requires Local Authorities in Wales to think about the long-term impact of their decisions, to work better with people, communities and each other, and to prevent persistent problems, such as poverty, health inequalities and climate change. The Act clearly supports and actively promotes the licensing objectives. This Act links specifically to the prevention of crime and disorder and public nuisance. It recognises that there is a need to create appropriate soundscapes – the right acoustic environment in the right time and place. The Local Authority will consider the management of noise and soundscapes and in particular the five ways of working contained under this Act namely, i) Long term – the importance of balancing short-term needs with the needs to safeguard the ability to also meet long-term needs, ii) Integration, iii) Involvement, iv) Collaboration and v) Prevention.  Welsh Government has produced a ‘Noise and Soundscape Action Plan for 2018-2023’ <https://gov.wales/sites/default/files/publications/2019-04/noise-and-soundscape-action-plan.pdf>  The Licensing Authority will also have cognisance to the following legislation when it decides to discharge its responsibilities under the Licensing Act. This list is not exhaustive:   * Environmental Protection Act 1990 which deals with noise and nuisance * Regulatory Reform Order 2005 which deals with fire safety   Highways Act 1980 which deals with pavement café licences. |
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|  | 17.2 | | | The Licensing Authority will as far as possible, seek to avoid duplication with other regulatory regimes when dealing with the licensing function. If other existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be appropriate or proportionate to impose the same or similar duties on the premises licence holder or club. Once the discretion of the Licensing Authority is engaged, it is only where additional and supplementary measures are appropriate to promote the licensing objectives that appropriate and proportionate conditions will be attached to a licence. |
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|  | 17.3 | | | Other Local Authority and Government policies, strategies, responsibilities, and guidance documents may also refer to the licensing function, and the Licensing Authority may liaise with the relevant authorities or its directorates with regard to these. Whilst some of these may not be directly related to the promotion of the four licensing objectives, they can indirectly impact upon them. |
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|  | 17.4 | | | For example, the Licensing Authority will liaise closely with the local Safer Neighbourhood Teams and evaluate data provided by the local health board to identify trends to ensure that the Local Authority can develop effective strategies that take full account of local crime and disorder issues. |
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|  | 17.5 | | | It is the Local Authority’s intention that it will, through its Licensing Committee monitor how these matters, set above, impact on the Authority’s licensing and other functions, in order that it may seek to co-ordinate and integrate its licensing function with other relevant strategies. |
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|  | 17.6 | | | The Local Authority may, in appropriate circumstances, consider seeking from the Licensing Authority premises licences in its own name for its own public spaces within the community. This may assist with the promotion of broader cultural activities and entertainments. |
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|  | 17.7 | | | In respect of cultural strategies, the Licensing Authority will, for example through periodic consultation with local Leisure and Cultural Services officers, consider whether the provision of live music and cultural activities and entertainments are being deterred by local licensing requirements. Where there is any indication that this is the case, the Licensing Authority may consider investigating how the situation might be reversed, and may if necessary, in the light of such investigations consider a revision to the Statement of Licensing Policy. |
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|  | 17.8 | | | Where it considers it appropriate to do so, and in order to seek proper integration of the licensing function, the Licensing Authority may directly or indirectly provide periodic reports to the Planning Authority on the general situation regarding licensed premises in the area, which may include reference to the impact of alcohol related crime and disorder. |
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|  |  | | | **Relationship with Planning Process** |
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|  | 17.9 | | | Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the Local Planning Authority. |
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|  | 17.10 | | | It is strongly recommended that prospective licence applicants contact the Local Planning Authority in advance of making a licence application in order to check, or seek advice on, any planning consents or any conditions relevant to the use of the premises. It clearly makes operational sense to ensure that planning and licensing are compatible. |
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|  | 17.11 | | | The Licensing Authority wishes to emphasise that the granting by the Licensing Committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control consent where appropriate. |
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|  | 17.12 | | | The Local Authority will aim to properly separate planning, building control and licensing regimes in order to avoid duplication and inefficiency. The Licensing and Planning regimes involve consideration of different (albeit related) matters. |
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|  | 17.13 | | | The Licensing Authority will avoid treating licensing applications as a re-run of planning applications, and will not normally:   * cut-across decisions taken by the Local Authority Planning Committee or following appeals decisions taken by that Committee; or * impose licensing conditions where the same or similar conditions have been imposed on a planning consent. |
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|  | 17.14 | | | The Licensing Authority is not bound by decisions made by the Planning Committee and vice versa. |
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|  | 17.15 | | | Where, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes that is different to the licensing hours, the licensee must observe the earlier closing time in order to avoid any breach of their planning permission - for which they may be liable to prosecution under planning law (and vice versa where the licensing hours finish earlier than the planning permission). |
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|  | Personal alcohol licence | | | |
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|  | 18.1  18.2  18.3  18.4 | | | The Council recognises it has very little discretion in the granting of a personal licence. In general provided an applicant is aged 18 or over , is entitled to work in the UK, has an approved qualification, has not had a personal licence forfeited within five years of this application and does not have relevant criminal convictions or Civil penalty received after 6 April 2017 for immigration matters, the application must be granted.  Individuals applying for a personal licence must be entitled to work in the UK. Licences must not be issued to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from doing work relating to the carrying on of a licensable activity.  Where an applicant’s immigration permission to live and work in the UK is time-limited, a personal licence may be issued but will become invalid when the immigration permission expires. In the event that the Home Office cuts short or ends a person’s immigration permission, any personal licence issued in respect of an application made on or after 6 April 2017 will automatically lapse.  If an applicant declares that they have been issued with an immigration penalty or convicted of an immigration offence or a foreign offence comparable to an immigration offence, the Licensing Authority is required to notify the Secretary of State for the Home Department (through Home Office Immigration Enforcement). |
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|  | 18.5  18.6 | | | If an applicant has a relevant conviction the Police can oppose the application. If an applicant has been issued with an immigration penalty or convicted of a relevant immigration offence on or after 6 April 2019, the Home Office may object to the application. When an objection is lodged by either the Police or by the Home Office, 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. |
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|  | 18.7 | | | 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, if it is satisfied that doing so will promote this objective. |
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|  | 18.8  18.9  18.10  18.10.1  18.10.2 | | | 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.  From 6 April 2017 the Policing and Crime Act 2017 gives licensing authorities the power to revoke or suspend personal licences. This is a discretionary power and may be undertaken when a Licensing Authority becomes aware that the licence holder has been convicted of a relevant offence or foreign offence or been required to pay an immigration penalty on or after 6 April 2017. The decision must be made by the licensing committee or sub-committee and they may revoke the licence or suspend it for a period up to 6 months.  **Designated Premises Supervisor**  The Licensing Authority expects the Designated Premises Supervisor (DPS) to carry out the day to day management activities of the premises. This is in line with the expectations set out in the Section 182 Statutory guidance. Where a DPS is not able to satisfactorily show that they are able to do this, the premises licence holder will be invited to appoint an appropriate alternative person.  After a DPS has been specified on a licence, if problems arise relating to their performance the Police can at any stage, seek a review of the premises licence on any grounds relating to one of more of the licensing objectives. The licensing authority will not normally impose conditions relating to the management competency of a DPS, except where it is considered appropriate in circumstances associated with particular premises. Poor management competency could lead to issues of crime and disorder, public safety, public nuisance or impact on the protection of children from harm. |
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|  | Premises licence | | | |
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|  | 19.1 | | | A premises licence is granted in respect of any premises, other than a private members club or similar type premises, authorised for one or more licensable activities, such as the supply of alcohol, late night refreshment or regulated entertainment. |
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|  | 19.2 | | | There are some exemptions for the requirement of a licence, and they include the exhibition of films for educational or promotional reasons, films shown as part of an exhibition, amplified live and recorded music to audiences of less than 500 people between the hours of 8.00 am and 11.00 pm. Applicants are advised to contact the licensing authority on other exemptions for further guidance. Further details can also be found in the [Revised guidance issued under section 182 of Licensing Act 2003 - GOV.UK](https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003) |
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|  | 19.3 | | | Where alcohol is supplied, a Designated Premises Supervisor, who must be the holder of a personal licence, must be nominated to authorise the sale of alcohol at the premises. |
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|  | 19.4 | | | Premises licences are issued to individuals over the age of 18 years who carry on, or propose to carry on, a business which involves the use of the premises for licensed activities. In addition, charities, health service bodies, educational institutions and persons of other prescribed descriptions may apply for a premises licence. |
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|  | 19.5 | | | A licence may be issued subject to conditions, which must be complied with at all times whilst the premise is being used for licensable activities during the times specified in the licence. Failure to comply with the terms and conditions of a licence or if licensable activities are carried out without a premises licence, may result in an unlimited fine or a term of imprisonment of up to 6 months, or both. |
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|  | 19.6 | | | Fees for licences are based on the rateable value of a premises and although licences are usually issued for an indefinite period, an annual fee is payable. |
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|  | 19.7 | | | It is an expectation that the licence holder and designated premises supervisor will be aware of their permitted licensable activity types, permitted hours and the conditions of the licence. Failure to demonstrate or have a lack of regard could result in a lack of confidence in management by a responsible authority. |
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|  | Club premises certificate | | | |
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|  | 20.1 | | | A qualifying club, industrial and provident society, friendly society and miners’ welfare institute that satisfies the criteria specified in part 4 of the Licensing Act 2003 may provide licensable activities for its members and guests of a member that are authorisation by a club premises certificate (CPC). |
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|  | 20.2 | | | A CPC only authorises the use of a premises for the benefit of its members and their guests and cannot be used to provide licensable activities to non-members. If the premises are to be used to provide licensable activities for non-members an additional authorisation will be required. This may be a premises licence (PL) or a temporary event notice (TEN). |
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|  | 20.3 | | | A premises operating under the authorisation of a CPC enjoy special privileges. If a club premises operates under the authorisation of a PL or TEN, the privileges do not apply. The privileges include restricted rights of entry, no need to have a qualified person authorising sales of alcohol. Other considerations would be different taxation rules; advice should be sought from HMRC. |
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|  | 20.4  20.5 | | | It is an expectation that the CPC holder will be aware of their permitted licensable activity types, permitted hours and conditions of the licence. Failure to demonstrate or have a lack of regard could result in a lack of confidence in management by a responsible authority.  “Shadow Licences”  There is nothing in the 2003 Act which prevents two or more authorisations having effect concurrently in respect of the whole or a part of the same premises or in respect of the same person. (Section 2 Licensing Act 2003). The Section 182 Guidance further provides at paragraph 8.19, “There is nothing in the 2003 Act which prevents an application being made for a premises licence at premises where a premises licence already held”. Shadow licences may occur where, for example, a landlord seeks to protect the premises licence by creating a “shadow licence” where the licence is operated by a tenant. Shadow licences are usually created on the same terms as the existing premises licence. When granting a licence on a premises that already holds a premises licence, the responsible authorities may seek to add conditions to the additional licence that mirror the current premises licence or may seek to impose a ‘cooling off’ period before trading can begin.  Responsible authorities are also able to review the shadow licence whenever the original licence is under review. It must always be clear to the responsible authorities as to which licence is in operation to avoid two individuals trading within the same licensed area at the same time under different premises licences. |
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|  | Temporary event notices | | | |
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|  | 21.1 | | | Temporary Event Notices (TENs) can be used to allow licensable activities to be carried out on a one-off or occasional basis. They are the most appropriate type of authorisation for small-scale, one-off events, such as community, school and charity fundraising events, at which it is intended to:  • sell or supply alcohol;  • provide regulated entertainment; or  • sell hot food/drink between 11 pm and 5 am. |
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|  | 21.2 | | | A TEN, accompanied by the fee, must be sent to and received by the relevant licensing authority, to the Police and the local authority exercising environmental health functions at least ten working days before the event. A premises user may also give a limited number of “Late TENs” to the licensing authority less than 10 working days before the event, but certain restrictions apply. |
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|  | 21.3 | | | The police or authority exercising environmental health functions may intervene to restrict the event or prevent the event taking place. They may agree a modification of the TEN directly with the TENs user. When giving a TEN, the premises user should consider the promotion of the four licensing objectives. |
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|  | 21.4 | | | There are two types of TEN: a standard TEN and a late TEN. A standard notice is given no later than ten working days before the event to which it relates, and a late notice is given not before nine and not later than five working days before the event. The period excludes the day the notice is received and the first day of the event. Late TENs are intended to assist premises users who are required to submit a notification at short notice for reasons outside of their control. |
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|  | 21.5 | | | The Police and authority exercising environmental health functions have a period of three working days from when they are given the notice to object to it on the basis of any of the four licensing objectives. |
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|  | 21.6 | | | If an objection notice is received in relation to a standard TEN the licensing authority must hold a hearing to consider the objection, unless all parties agree that a hearing is unnecessary. |
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|  | 21.7 | | | If an objection notice is received in relation to a late TEN, the notice will not be valid, and the event will not be permitted to go ahead as there is no scope for a hearing or for any existing licence conditions to be applied to the notice. |
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|  | 21.8 | | | A number of limitations are imposed on the use of TENs by the Licensing Act 2003. Notice givers are advised to contact the licensing authority for further advice. |
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|  | 21.9 | | | The Licensing Authority recommends that anyone wishing to submit a Temporary Event Notice, particularly where this involves the provision of regulated entertainment, gives as much notice to the Authority as possible, to ensure that proper advice can be given and any anticipated issues resolved in a planned and timely manner. Whilst notices can legally be submitted with 10 working days’ notice prior to the event taking place~~,~~ a period of 12 weeks is recommended for larger events. |
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|  | 21.10  21.11  21.12 | | | The Licensing Authority may notify the Council’s Event Safety Advisory Group (ESAG) of any Temporary Event Notices involving the provision of regulated entertainment. This Panel brings together the various enforcement bodies that may be responsible for enforcement in respect of an event, along with any applicants and other organisers, and allows agreement to be reached regarding the way that the event will be organised etc. It is recommended that all applicants submitting a Temporary Event Notice go through the Events Panel when drawing up their Notice, and the Events Panel will be of particular assistance to charities, community and voluntary groups, and other event organisers who may not have access to legal advice or technical knowledge.  It is recommended that an events organiser make contact with ESAG at the earliest opportunity to discuss any proposed event. It is important to plan early, especially if it is anticipated that there may be issues around licensing, closing a road, insurance, food safety etc. Some of these issues, in particular road closures and licensing are subject to time constraints. Further information can be found on the Council’s website: [Planning an Event | Torfaen County Borough Council](https://www.torfaen.gov.uk/en/LeisureParksEvents/Events/TorfaenSafetyAdvisoryGroup/Planning-an-Event.aspx)  L**arge scale events**  These are events that are temporary but more than 499 people are expected to attend. Much larger crowds may be attracted to large-scale events and the risk to public safety and crime and disorder, as well as public nuisance, may be considerable. The licensing authority and all other statutory consultees, should be given the earliest opportunity, notice of such major events to discuss operating schedules with the organiser, prior to a formal application being submitted. It is the responsibility of the event organiser / applicant to provide the licensing authority and all other statutory consultees, at the earliest opportunity, notice of such major events. This will enable discussion about operating schedules prior to a formal application being submitted. It is expected that the applicant will consider how their event will take place safely and how it will impact on the surrounding area. For large events such as festivals, the licensing authority will expect to receive an event management plan to be submitted with their application for a licence. An event management plan should be a working document to include information which outlines how the premises will be run during the event. |
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|  | Sale and supply of alcohol | | | |
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|  | 22.1 | | | Shops, stores and supermarkets should generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. However, in the case of individual premises, which are known to be a focus or cause of disorder and disturbance then, subject to representations from the police and other responsible authorities, a limitation on licensing hours may be appropriate. |
|  | 22.1 | | | Licensed premises authorised under the Act for the sale and/or supply of alcohol must consider their responsibilities with regard to who they supply with alcoholic drinks, in particular:   * The sale to persons under the age of 18 years * The sale to persons who are delivering to persons under the age of 18 years * The sale to persons who are drunk |
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|  | 22.3 | | | The Licensing Authority actively encourages that the sale or supply of alcohol should terminate at least thirty minutes before the closing time of the premises. This provides a suitable ‘wind down’ period and a slower dispersal of customers. A longer winding down period should be considered for large events, |
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|  | 22.4 | | | The council recommend that any licensed premises that is authorised to sell or supply alcohol have a policy that sets out how the sale or supply is controlled and must include staff training requirements. Written records should be kept of all training provided and any incidents e.g. a refusal to sell and reasons. Staff refresher training should also be provided on a regular basis. |
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|  | Regulated entertainment | | | |
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|  | 23.1 | | | Schedule 1 to the 2003 act sets out what activities are regarded as the provision of regulated entertainment and when they are licensable and those activities, which are not and therefore exempt from the regulated entertainment regime. (Applicants are strongly advised to review Home Office Section 182 Guidance of the Licensing Act 2003 regarding Regulated Entertainment).  The descriptions of entertainment activities licensable under the 2003 Act are:   * A performance of a play; * An exhibition of a film; * An indoor sporting event; * A boxing or wrestling entertainment; * A performance of live music; * Any playing of recorded music; * A performance of dance; and * Entertainment of a similar description to a performance of live music, any playing of recorded music or performance of dance.   To be licensable, on or more of these activities needs to be provided for the purpose (at least partly) of entertaining an audience; has to be held on premises made available for the purpose of enabling that activity; and must also either:   * Take place in the presence of a public audience, or   Where that activity takes place in private, be the subject of a charge made with a view to profit. |
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|  | 23.2 | | | **Public Audience**  For the purpose of regulated entertainment, the term “audience” refers to any person for whose entertainment (at least in part) any licensable activities are provided. An audience member need not be, or want to be, entertained: what matters is that an audience is present and that the purpose of the licensable activity is (at least in part) intended to entertain any person present. The audience will not include performers, together with any person who contributes technical skills in substantial support of a performer (for example, a sound engineer or stage technician), during any associated activities. This includes setting up before the entertainment, reasonable breaks (including intervals) between activities and packing up thereafter. Similarly, security staff and bar workers will not form part of the audience while undertaking their duties.  More than one entertainment activity (or single activity, more than one performance or event) can be held concurrently, provided that the audience for each such performance or event does not exceed the threshold at which such a performance or event does not exceed the threshold at which such a performance or event becomes licensable. In some circumstances, there will be a clear distinction between performances or events; for example, their taking place in separate rooms or on separate floors. However, organisers will have to ensure that audiences do not grow or migrate, so that the audience exceeds the relevant limit for any one performance or event at any time. If there is the possibility of audience migration, it might be easier and more flexible to secure an appropriate authorisation. |
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|  | 23.3 | | | **Overview of circumstances in which entertainment activities are not licensable**  There are a number of exemptions that mean that a licence (or other authorisation) under the 2003 is not required. This Policy cannot give examples of every eventuality or possible entertainment activity that is not licensable. However, the following activities are examples of entertainment which are not licensable:   * Activities which involve participation as acts of worship in a religious context; * Activities in places of public religious worship; * Education – teaching students to perform music or to dance; * The demonstration of a product – for example, a guitar – in a music shop; * The rehearsal of a play or performance of music for a private audience where no charge is made with a view to make a profit; * Morris dancing (or similar); * Incidental music – the performance of live music or the playing of recorded music if it is incidental to some other activity; * A spontaneous performance of music, singing or dancing; * Garden fetes – or similar if not being promoted or held for purposes of private gain; * Films for advertisement, information, education or in museums or art galleries; * Television or radio broadcasts – as long as the programme is live and simultaneous; * Vehicles in motion – at a time when the vehicle is not permanently or temporarily parked; * Games played in pubs, youth clubs etc. (e.g. pool, darts and table tennis); * Stand-up comedy; and * Provision of entertainment facilities (e.g. dance floors) |
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|  | 23.4 | | | **Deregulatory changes where a licence is not required**  As a result of deregulatory changes that have amended the 2003 Act, no licence is required for the following activities:   * **Plays**: no licence is required for performances between 08.00 and 23.00 on any day, if the audience do not exceed 500. * **Dance**: no licence is required for performances between 08.00 and 23.00 on any day, if the audience do not exceed 500. * **Films**: no licence is required for ‘not-for-profit’ film exhibition held in community premises between 08.00 and 23.00 on any day, provided that the audience does not exceed 500 and the organiser (a) gets the consent to the screening from a person who is responsible for the premises and (b) ensures that such screening abides by age classification ratings. * **Indoor sporting events**: no licence is required for an event between 08.00 and 23.00 on any day, if the audience do not exceed 1000. * **Boxing or wrestling entertainment**: no licence is required for a contest exhibition or display of Greco-Roman wrestling, or freestyle between 08.00 and 23.00 on any day, if the audience do not exceed 1000. * **Live unamplified music**: No licence is required for a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises. * **Live amplified music**: No licence is required for a performance of amplified live music between 08.00 and 23.00 on any day * on premises authorised to sell alcohol for consumption on the premises, if the audience do not exceed 500. * In a workplace that does not have a licence, if the audience do not exceed 500. * In a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital. * **Recorded music**: No licence is required for any playing of recorded music between 08.00 and 23.00 on any day * On premises authorised to sell alcohol for consumption on the premises, if the audience do not exceed 500. * In a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises. * At the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience do not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital. * **Cross Activity Exemptions**: No licence is required between 08.00 and 23.00 on any day, with no limit on audience size for: * Any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority; * Any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider. * Any entertainment taking place on the premises of the school were the entertainment is provided by or on behalf of the school and * Any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.   If organisers are uncertain as to audience size or if audience migration is likely, it might be easier and more flexible to secure an appropriate authorisation.  Examples of where a Temporary Event Notice (TEN) could still be required include if the activity is the playing of recorded music or the exhibition of a film that required an authorisation; or if the entertainment is not authorised by an existing licence or certificate and its conditions.  Of course, anyone involved in the organisation or provision of entertainment activities – whether or not any such activity is licensable under the 2003 Act – must comply with any applicable duties that may be imposed by other legislation relevant to the event (e.g. in areas such as crime and disorder, fire, health and safety, noise, nuisance and planning). Any such person should take steps to be aware of relevant best practice, and may find responsible authorities a useful source of expert support and advice. |
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|  | 23.5 | | | **Circumstances in which entertainment activities are no longer licensable**  **Local Authorities, hospital healthcare providers and school proprietors: cross entertainment activity exemption**  No licence is required for any entertainment provided by or on behalf of a local authority, health care provider, or school proprietor to the extent that it takes place on defined premises, between 08.00 and 23.00 on any day provided that:   * For entertainment provided by, or on behalf of, a local authority it takes place on premises in which that authority has relevant property interest, or is in lawful occupation. * For entertainment provided by, or on behalf of, a health care provider, providing it takes place on any premises forming part of a hospital in which the provider has a relevant property interest, or is in lawful occupation; and * For entertainment provided by, or on behalf of, a school proprietor it takes place on the premises of the school.   This policy cannot give examples of every eventuality where entertainment is not licensable under this exemption through being provided “by or on behalf of”. It will depend on the facts in each case.  However, the following are examples of activities that are not usually considered to be licensable under this exemption:   * Any entertainment activity hosted by a local authority on their own premises where there is a significant relationship between the local authority and the provider of the entertainment (e.g. principal and agent); * Any entertainment activity organised on a local authority’s behalf on that local authority’s premises by a cultural trust in discharge of a local authority’s discretionary power to arrange entertainment provision and support for the arts, including festivals and celebrations. * Any entertainment activity organised by a healthcare provider on their own hospital premises in partnership with a hospital charity. * Any entertainment event on school premises organised by the Parent Teacher Association (PTA) to benefit the school.   It is for the local authority, health care provider or school proprietor to determine whether, and on what basis, they can (or wish) to provide entertainment activity under this exemption, including consideration of issues around fundraising, profit making, governance or use of public funds. However a pure hire of premises by a third party does not constitute the provision of an entertainment event “on behalf of” a local authority, healthcare provider, or school proprietor and nor does commercial entertainment which the local authority merely facilitates through providing a public space.  All the terms used in this exemption such as “local authority”, “health care”, “health care provider”, “hospital”, “school”, “school premises”, “school proprietor”, domestic premises” and “relevant property interest” are defined in the 2014 Order.  **Local authority, hospital and school premises: third party music entertainment**  No licence is required for a performance of live music or the playing of recorded music on local authority, hospital or school premises, that are not domestic premises, between 08.00-23.00 on any day provided that;   * It is performed in front of an audience of no more than 500 people; and * A person concerned in the organisation or management of the music entertainment has obtained the prior written consent of the local authority, health care provider or school proprietor (as appropriate) for that entertainment to take place. It is for these “trusted providers” to determine whether, or not, they wish to make their premises available for music entertainment by a 3rd party and on what terms they deem it appropriate.   **Community premises: music entertainment**  No licence is required for a performance of live music or the playing of recorded music on community premises, between 08.00-23.00 on any day provided that;   * The community premises are not authorised, by a premises licence or club premises certificate, to be used for the supply of alcohol for consumption on the premises; * The music entertainment is in the presence of an audience of no more than 500 people and * A person concerned in the organisation or management of the music entertainment has obtained the prior written consent of the management committee of the premises, or if there is no management committee, a person who has control of the premises in connection with the carrying on by that person of a trade, business or other undertaking, or failing that a person with a relevant property interest in the premises.   **Community premises: exhibition of film**  No licence is required for an exhibition of a film on community premises between 08.00-23.00 on any day providing that   * The film entertainment is not provided with a view to a profit * The film entertainment is in the presence of an audience of no more than 500 people * The admission of children is subject to such restrictions as are necessary to comply with the recommendation issued by BBFC or relevant licensing authority regarding the admission of children and * A person concerned in the organisation or management of the exhibition of the film has obtained the prior written consent of the management committee of the premises, or if there is no management committee, a person who has control of the premises in connection with the carrying on by that person of a trade, business or other undertaking, or failing that a person with a relevant property interest in the premises   Under this exemption, one condition is that the film entertainment is not being provided with a view to profit. An entry charge does not of itself make the film entertainment licensable; it is whether the organiser intended to make a profit (that includes raising money for charity). A charge or contribution that is made solely to cover the costs of the film screening is consistent with ‘not being provided with a view to profit’. The ‘not with a view to profit’ condition applies solely to the activity of exhibiting the film under this exemption. A charge with a view to making a profit may legitimately be levied for any other activity or event that is distinct from film admission, such as the provision of refreshments, film talks, or a social event.  This community film exemption is also conditional on those responsible having in place operating arrangements that ensure that the age rating for the film is implemented by means of a suitable child admission policy. How this is achieved is a matter for the organisation or social group exhibiting the film. For example, they may operate a membership subscription scheme which pays for entry to all titles in a season and is limited to adults. It could be a children’s film club with a policy of only showing films that are suitable for all by being rated ‘U’ by the BBFC. Alternatively, the organisers could sell tickets to the public and ensure that children are only permitted to attend in accordance with any age rating for the film – i.e. a door admissions policy linked to proof of age.  **Travelling Circuses**  Where types of entertainment are present in a performance by a travelling circus they will not be licensable provided that certain qualifying conditions are met. The qualifying conditions are;   * The entertainment is not an exhibition of a film or a boxing or wrestling entertainment; * The entertainment takes place between 08.00hrs and 23.00hrs on the same day; * The entertainment takes place wholly within a moveable structure and the audience present is accommodated wholly inside that moveable structure; and * The travelling circus has not been located on the same site for more than 28 consecutive days.   **Live Music**  Live music is licensable   * Where a performance of live music – whether amplified or unamplified – takes place before 08.00 or after 23.00 on any day; * Where a performance of amplified live music does not take place either on relevant licensed premises, or at a workplace that is not licensed other than for the provision of late night refreshment; * Where a performance of amplified live music takes place at a time when the relevant licensed premises are not open for the purposes of being used for the sale or supply of alcohol for consumption on the premises; * Where a performance of amplified live music takes place at relevant licensed premises, or workplaces, in the presence of an audience of more than 500 people; or * Where a licensing authority intentionally removes the effect of the deregulation provided for by the 2003 Act when imposing a condition on a premises licence or club premises certificate as a result of a licence review.   In any of the above circumstances, unless the performance of live music is appropriately authorised by a premises licence, club premises certificate or TEN, allowing it to take place could lead to enforcement action and, where relevant, a review of the alcohol licence or certificate.  A public performance of live unamplified music that takes place between 08.00 and 23.00 on the same day no longer requires a licence under the 2003 Act in any location. An exception to this is where a specific condition related to live music is included following a review of the premises licence or club premises certificate in respect of relevant licensed premises.  **Key terms used in relation to live music**  Under the live music provisions, “music” includes vocal or instrumental music or any combination of the two. “Live music” is a performance of live music in the presence of an audience which it is intended to entertain. While a performance of live music can include the playing of some recorded music, ‘live’ music requires that the performance does not consist entirely of the playing of recorded music without any additional (substantial and continual) creative contribution being made. So, for example, a drum machine or backing track being used to accompany a vocalist or a band would be part of the performance of amplified live music. The performance of a DJ who is merely playing tracks would not be classified as live music, but it might if he or she was performing a set which largely consisted of mixing recorded music in a live performance to create new sounds. There will inevitably be a degree of judgement as to whether a performance is live music (or recorded music) and organisers of events should check with their licensing authority if this consideration is relevant to whether the activity is authorised by a licence or certificate. In the event of a dispute about whether a performance is live music or not, it will be for the licensing authority initially and ultimately, for the courts to decide in the individual circumstances of any case.  A “workplace” is as defined in regulation 2(1) of the Workplace (Health, Safety and Welfare) Regulations 1992 and is anywhere that is made available to any person as a place of work. It is a very wide term which can include outdoor spaces, as well as the means of entry and exit.  A “relevant licensed premises” for the purposes of this chapter is one which is authorised to sell or supply alcohol for consumption on the premises by a premises licence or club premises certificate. Premises cannot benefit from the deregulation introduced by the 2012 Act by virtue of holding an authorisation for the sale or supply of alcohol under a TEN.  **Recorded Music**  No licence is required for recorded music where it takes place on premises which are authorised by a premises licence or club premises certificate to be used for the supply of alcohol for consumption on the premises. However, recorded music remains licensable   * Where the playing of recorded music takes place before 08.00 or after 23.00 on any day; * Where the playing of recorded music takes place at a time when the relevant licensed premises are not open for the purposes of being used for the sale or supply of alcohol for consumption on the premises; * Where the playing of recorded music takes place at a relevant licensed premises in the presence of an audience of more than 500 people; and * Where a licensing authority intentionally removes the effect of the deregulation provided for by the 2003 Act (as amended).   **Plays and Dance**  No licence is required for a performance of a play or dance to the extent that certain qualifying conditions are satisfied. However a performance of a play or dance remains licensable;   * Where the performance takes place before 08.00 or after 23.00 on any day; or * Where the performance takes place in the presence of an audience of more than 500 people.   **Indoor Sport**  No licence is required for an indoor sporting event to the extent that certain qualifying conditions are satisfied. However an indoor sporting event remains licensable;   * Where the performance takes place before 08.00 or after 23.00 on any day; or   Where the event takes place in the presence of more than 1000 spectators. |
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|  | 23.6 | | | **Licence Conditions**  **Live Music or Recorded Music**  Any existing licence conditions (or conditions added on a determination of an application for a premises licence or club premises certificate which relate to live music or recorded music remain in place, but are suspended between the hours of 08.00 and 23.00 on the same day where the following conditions are met:   * At the time of the music entertainment, the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises; * If the music is amplified, it takes place before an audience of no more than 500 people; and * The music takes place between 08.00 and 23.00 on the same day.   Whether a licence condition relates to live or recorded music will be a matter of fact in each case. In some instances, it will be obvious that a condition relates to music and will be suspended, for example “during performances of live music all doors and windows must remain closed”. In other instances, it might not be so obvious: for example, a condition stating “during performances of regulated entertainment all doors and windows must remain closed” would be suspended insofar as it relates to music between 08.00 and 23.00 on the same day to an audience of up to 500, but the condition would continue to apply if there was regulated entertainment after 23.00.  More general licence conditions (e.g. those relating to overall management of potential noise nuisance) that are not specifically related to the provision of entertainment (e.g. signage asking patrons to leave quietly) will continue to have effect)  These conditions will, in effect, be suspended between 08.00 and 23.00 if a performance of live music or the playing of recorded music takes place before an audience of 500 people or fewer, but will remain on the face of the licence for when these activities may take place under other circumstances.  On a review of a premises licence or club premises certificate, Section 177A (3) of the Licensing Act 2003 permits a licensing authority to lift the suspension and give renewed effect to an existing condition relating to music. Under Section 177A (4), a licensing authority may add a condition relating to music as if music were regulated entertainment, and as if that premises or club premises certificate licensed the music.  Where a performance of live music or the playing of recorded music on relevant licensed premises is not licensable, it remains possible for anyone to apply for a review of a licence or certificate, if there are appropriate grounds to do so.  **Beer Gardens**  Beer gardens are often included as part of a premises licence or club premises certificate. Live amplified music that takes place in a beer garden is exempt from licensing requirements, provided the beer garden is included in the licence or certificate applying to the relevant licensed premises, and the performance takes place between 08.00 and 23.00 on the same day before an audience of 500 people or fewer.  Where a beer garden does not form part of the relevant licensed premises and so is not included in plans attached to a premises licence or club premises certificate, it is nevertheless very likely that it will be a workplace.    Paragraph 12B of Schedule 1 to the 2003 Act says that a performance of live music in a workplace that does not have a licence (except to provide late night refreshment) is not regulated entertainment if it takes place between 08.00 and 23.00 on the same day in front of an audience of no more than 500 people. Note that the exemption in paragraph 12B does not apply to the playing of recorded music.  However, a licensing authority may, where justified, impose a licence condition that relates to the performance of live music in an unlicensed beer garden being served by any associated premises licence or club premises certificate. Provided such a condition is lawfully imposed, it takes effect in accordance with its terms.  **Plays, dance and indoor sport**  Where qualifying conditions are satisfied, any current licence condition that relates to a performance of a play or dance, or an indoor sporting event for which a licence is no longer required will (except in the circumstances described in the next paragraph) have no effect.  Where, however, these non-licensable activities take place at the same time as other activities for which a licence is required (e.g. the sale or supply of alcohol for consumption on the premises), conditions included in a licence may nevertheless apply to the non-licensable activities in the circumstances set out above.  Dance that is sufficiently sexual in nature continues to be regulated. Performances of dance which are “relevant entertainment” within the meaning of the Local Government (Miscellaneous Provisions) Act 1982 (“the 1982 Act”) are not deregulated, regardless of the size of the audience or the time of day. “Relevant entertainment” is defined in the 1982 Act as a live performance or live display of nudity that, ignoring financial gain, can be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience.  In almost all cases where a performance of dance is potentially licensable as both the provision of relevant entertainment (under the 1982 Act) and regulated entertainment (under the 2003 Act), the 1982 Act disapplies the entertainment licensing regime in the 2003 Act in favour of its stricter regime for the control of sex establishments. However, an authorisation under the 2003 Act rather than the 1982 Act will continue to be required where:   * The premises are not licensed as a sex entertainment venue under the 1982 Act, and * Releveant entertainment has been provided at those premises on no more than 11 occasions in any 12 month period, with none of those occasions lasting longer than 24 hours or taking place within a month of any such occasion.   **Boxing or wrestling entertainment and conditions relating to combined fighting sports**  An indoor boxing or wrestling entertainment cannot also be an indoor sporting event, and any contest, exhibition or display that combines boxing or wrestling with one or more martial arts (‘combined fighting sports’) is – whether indoors or not – a boxing or wrestling entertainment.  Where a premises licence or club premises certificate purports to authorise a boxing or wrestling entertainment or combined fighting sports as an ‘indoor sporting event’, the 2013 Order provides that the authorisation will be treated as having authorised those activities as a boxing or wrestling entertainment. Those activities will continue to be subject to any relevant conditions attached to that authorisation.  A contest, exhibition or display of Greco-Roman wrestling, or of freestyle wrestling, between two participants (regardless of their sex) does not require a licence provided that certain qualifying conditions are met. They are that:   * It takes place in the presence of no more than 1,000 spectators; * It takes place between 08.00 and 23.00 on the same day; and * It takes place wholly inside a building and the spectators present at that entertainment are accommodated wholly inside that building. |
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|  | 23.7 | | | **Conditions relating to other non-licensable activities**  If appropriate for the promotion of the licensing objectives, and if there is a link to remaining licensable activities, conditions that relate to non-licensable activities can be added to or altered on that premises licence or club premises certificate at review following problems occurring at the premises. This has been a feature of licence conditions since the 2003 Act came into force. A relevant example could be the use of conditions relating to large screen broadcasts of certain sporting events which, combined with alcohol consumption, could create a genuine risk to the promotion of the licensing objectives. It is also not uncommon for licence conditions relating to the sale of alcohol to restrict access to outside areas, such as unlicensed beer gardens, after a certain time.  Similarly, while karaoke no longer needs licensing as the provision of entertainment facilities (and will generally be classed as a performance of live music) it might, for example, be possible on review to limit the use or volume of a microphone made available for customers on an ‘open-mic’ night (which encompasses more than just live music), if a problem had occurred because of customers purchasing alcohol for consumption on the premises becoming louder and less aware of causing noise nuisance later in the evening. Another example might be a condition restricting access to a dance floor at certain times, where the presence of customers in close proximity who had been consuming alcohol on the premises had led to serious disorder. In the first instance it is for the licensing authority to satisfy itself that a particular condition is appropriate and lawful in each case. |
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|  | 23.8 | | | **Incidental music**  The performance of live music or playing of recorded music is not regulated entertainment under the 2003 Act if it is ‘incidental’ to another activity “which is not itself a description of entertainment falling within paragraph 2” of Schedule 1 to the 2003 Act. 16.58 The incidental music exemption can apply to an indoor sporting event or a performance of a play or dance for which no licence is required, as it takes place between 08.00 and 23.00 on the same day and before an audience which does not exceed the relevant limit. This is because such an activity is no longer a description of entertainment within the meaning of paragraph 2 of Schedule 1 to the 2003 Act. This means that, while a performance of live music or the playing of recorded music cannot be incidental to a boxing or wrestling entertainment, such music may be within the scope of the incidental music exemption for an indoor sporting event or performance of a play or dance for which no licence is required.  Whether or not music is “incidental” to another activity will depend on the facts of each case. In considering whether or not live or recorded music is incidental, one relevant factor could be whether, against a background of the other activities already taking place, the addition of music will create the potential to undermine the promotion of one or more of the four licensing objectives of the 2003 Act. Other factors might include some or all of the following:   * Is the music the main, or one of the main, reasons for people attending the premises and being charged? * Is the music advertised as the main attraction? * Does the volume or the music disrupt or predominate over other activities, or could it be described as ‘background’ music.   Conversely, factors which would not normally be relevant in themselves include:   * The number of musicians, e.g. an orchestra providing incidental music at a large exhibition; * Whether musicians are paid; * Whether the performance is pre-arranged; and * Whether a charge is made for admission to the premises.   In any disputed case, it will be for the licensing authority initially and, ultimately, for the courts to consider whether music is “incidental” in the individual circumstances of any case. |
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|  | 23.9 | | | **Removing licence conditions**  On a review of a premises licence or club premises certificate, section 177A(3) of the 2003 Act permits a licensing authority to lift the suspension and give renewed effect to an existing condition relating to music. Similarly, under section 177A(4), a licensing authority may add a condition relating to music as if music were regulated entertainment, and as if that premises licence or club premises certificate licensed the music. In both instances the condition should include a statement that Section 177A does not apply to the condition.  An application for a review in relation to relevant premises can be made by a licensing authority, any responsible authority or any other person. Applications for review must still be relevant to one or more of the licensing objectives and meet a number of further requirements. |
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|  | 23.10 | | | **Busking**  Busking or street performance is the practice of performing in public spaces for money. Performances are not limited to music or singing and can take the form of a wide range of activities that people find entertaining.  Busking is generally not licensable under the 2003 Act as   * It often occurs in a place that is not a premises made available (at least in part) for the purposes of providing entertainment. * The entertainment is usually incidental to another activity, such as shopping or sightseeing, as there are few circumstances in which anyone would go out specifically to watch buskers; and * Any unamplified live music is not licensable between 08.00 and 23.00.   It is recommended that landowner permission is sought prior to busking or a street performance taking place.  If complaints are received in relation to noise nuisance as a result of a performance, these will be passed to the Council’s Environmental Health team |
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|  | 23.11 | | | **Incidental Film**  An exhibition of a film within the meaning of paragraph 15 of Schedule 1 to the 2003 Act is not regulated entertainment if it is ‘incidental’ to another activity “which is not itself a description of entertainment falling within paragraph 2” of Schedule 1 to the 2003 Act.  The incidental film exemption can apply to an indoor sporting event or a performance of a play or dance for which no licence is required as it takes place between 08.00 and 23.00 on the same day before an audience which does not exceed the relevant limit. Such activities would no longer be a description of entertainment within the meaning of paragraph 2 of Schedule 1 to the 2003 Act  This means that, while any exhibition of moving pictures cannot be incidental to a boxing or wrestling entertainment, such film displays may be within the scope of the incidental film exemption for an indoor sporting event or performance of a play or dance for which no licence is required.  Whether or not an exhibition of moving pictures is “incidental” to another activity will depend on the facts of each case. In considering whether or not film is incidental, one relevant factor could be whether, against a background of the other activities already taking place, the addition of an exhibition of moving images will create the potential to undermine the promotion of one or more of the four licensing objectives of the 2003 Act. This would mean that if the BBFC or the relevant licensing authority has given an age rating to a film, video, or music video, then to qualify for the “incidental film” licensing exemption, the admission of children to the premises will need to be restricted in accordance with the appropriate age rating. But that is one aspect of one relevant factor. Other factors to consider in assessing whether film is incidental might include some or all of the following:   * Is the film the main, or one of the main, reasons for people attending the premises and being charged? * Is the film advertised as the main attraction? * Does the screening of the film predominate over other activities, or could it be described as ‘background’ images?   Does the appearance of moving pictures within another entertainment activity, for which no licence is required (e.g. a performance of a play or dance), undermine the promotion of the licensing objectives? |
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|  | 23.12 | | | **Entertainment activity provided as part of childcare** Entertainment activity that is provided as part of childcare will generally not be licensable. This includes entertainment activity in a nursery or private home. In addition, paragraph 5 of Schedule 1 to the 2003 Act includes a licensing exemption for an exhibition of a film where the main purpose is to provide education. Education will generally include all forms of pre-school child and day care. Furthermore, an exhibition of a film, or the playing of live or recorded music, will generally be incidental to the activity of childcare and so the incidental music and film exemption in paragraph 7 of Schedule 1 will also apply. This will generally be the case for any entertainment activity organised as part of wraparound childcare, including breakfast clubs, after school clubs or holiday clubs linked to the child’s school or based in the local community. |
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|  | 23.13 | | | **Child Performers**  Child performance legislation requires that a licence must be obtained from a child’s home local authority before a child can take part in certain types of performance and activities. A licence may be required whether or not any payment is made for the child to perform. The deregulation of entertainment licensing does not alter the regulations on when children can take part in performances. Further information can be found on the Council’s website: [Children in Entertainment | Torfaen County Borough Council](https://www.torfaen.gov.uk/en/EducationLearning/SchoolsColleges/AttendanceBehaviourWelfare/ChildEmployment/ChildrenInEntertainment/ChildPerformanceLicence.aspx) or by contacting the Education Welfare Service by emailing [EWS@torfaen.gov.uk](mailto:EWS@torfaen.gov.uk) |
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|  | Administration | | | |
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|  |  | | | The council’s licensing team administer all aspects of the Licensing Act 2003, including applications, representations and requests for assistance and advice. The council’s website has detailed information on all of the services it offers for licensees, applicants, complainants and all other enquiries. Application information and forms can be downloaded from our website. The licensing teams can be contacted by any of the following means:- |
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|  |  | | | Licensing Team  Civic Centre  Glantorvaen Road  Pontypool  NP4 6YB  E-mail: [licensing@torfaen.gov.uk](mailto:licensing@torfaen.gov.uk)  Tel: 01633 647286  Web: [www.torfaen.gov.uk/licensing](http://www.torfaen.gov.uk/licensing) |
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|  | Application procedures | | | |
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|  | 25.1 | | | Prospective applicants are strongly recommended to seek pre-application advice. Advice on the application process will be given, but at no stage will the Licensing Authority complete the application form on behalf of an applicant. The council’s website has detailed information on all of the services it offers for licensees, applicants, complainants and all other enquiries. |
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|  | 25.2 | | | In accordance with the Provision of Services Regulations 2009, electronic application facilities for premises licences are available and may be found on GOV.UK or [www.torfaen.gov.uk/licensing](http://www.torfaen.gov.uk/licensing). Electronic applications for other categories of licence and authorisations are also available on these sites. Applications made in electronic form or via GOV.UK will be sent to the responsible authorities by the licensing authority. If the applicant submits their application in writing, they will remain responsible for copying it to the responsible authorities. |
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|  | 25.3 | | | Details of applications are available via the Torfaen County Borough Council website at [www.torfaen.gov.uk/licensing](http://www.torfaen.gov.uk/licensing) |
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|  | 25.4 | | | Applications for all licences and authorisations available under the 2003 Act must be made on the relevant form prescribed under secondary regulations. Applications will not be progressed until the form has been completed in full and received, together with the relevant fee(s) and all other required information, by the Licensing Authority and the relevant responsible authorities. |
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|  | 25.5 | | | Where electronic applications are made, the application will be taken to be ‘given’ when the applicant has submitted a complete application form and submitted the fee. |
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|  | 25.6 | | | **The Responsible Authorities are:**   |  |  | | --- | --- | | **Responsible Authority** | **Contact details** | | Licensing Authority | Licensing  Torfaen County Borough Council  Civic Centre  Pontypool NP4 6YB  [licensing@torfaen.gov.uk](mailto:licensing@torfaen.gov.uk) | | Environmental Health Authority | Environmental Health – Public Health  Torfaen County Borough Council  Civic Centre  Pontypool NP4 6YB  [public.health@torfaen.gov.uk](mailto:public.health@torfaen.gov.uk) | | Health and Safety | Environmental Health – Food and Health Protection Team  Torfaen County Borough Council  Civic Centre  Pontypool NP4 6YB  Foodandhealthprotection@torfaen.gov.uk | | Trading Standards | Trading Standards  Torfaen County Borough Council  Civic Centre  Pontypool NP4 6YB  [trading.standards@torfaen.gov.uk](mailto:trading.standards@torfaen.gov.uk) | | Child Protection Authority | TCBC Social Services  Torfaen County Borough Council  Civic Centre  Pontypool NP4 6YB  tcbcsafeguarding@torfaen.gov.uk | | Planning Authority | Planning  Torfaen County Borough Council  Civic Centre  Pontypool NP4 6YB  [planning@torfaen.gov.uk](mailto:planning@torfaen.gov.uk) | | Heddlu Gwent Police | Police Licensing  Ebbw Vale Police Station  28 Bethcar Street  Ebbw Vale  NP23 6UY  [WestLPALicensingTeam@gwent.pnn.police.uk](mailto:WestLPALicensingTeam@gwent.pnn.police.uk) | | South Wales Fire & Rescue Service | South Wales Fire & Rescue Service  Forest View Business, Llantrisant, Pontyclun CF72 8LX.  [safetysouth@southwales-fire.gov.uk](mailto:safetysouth@southwales-fire.gov.uk) | | The Gwent Public Health Team | The Gwent Public Health Team (alcohol licensing)  Llanarth House, Unit 1, Newbridge Gateway, Bridge Street, Newbridge  NP11 5GH  [ABB.ABGPHT.AlcoholLicensing@wales.nhs.uk](mailto:ABB.ABGPHT.AlcoholLicensing@wales.nhs.uk) | | Home Office  (Immigration Enforcement) | Home Office Alcohol Licensing Team, Lunar House, 40 Wellesley Road, Croydon CR9 2BY.  [IE.Licensing.applications@homeoffice.gov.uk](mailto:IE.Licensing.applications@homeoffice.gov.uk) | | Vessels only | The Consultee is dependant on the waterway that that licence is requested within the County and as such refer to [licensing@torfaen.gov.uk](mailto:licensing@torfaen.gov.uk) for assistance on who to consult. | | Torfaen Safety Advice Group | SAG@torfaen.gov.uk | |
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|  | 25.7 | | | The steps for consideration of licensing application, a licensing variation and a club premises certificate are:   1. If no representations are made to an application, the Authority must grant it in full. Please see our website for further information [www.torfaen.gov.uk/licensing](http://www.torfaen.gov.uk/licensing). 2. When an application is made, and relevant representation are made to the Authority it must hold a hearing of the Licensing Sub-Committee (unless those who have made representations agree in advance that this is unnecessary). 3. The Licensing Sub-Committee will then consider the evidence provided by applicants and by those making representations, the legislation and accompanying Guidance, the Statement of Licensing Policy and any other relevant data. 4. The Licensing Sub-Committee will determine the application and will take any steps it considers appropriate for the promotion of the licensing objectives. 5. Conditions on the licence, additional to those voluntarily offered by the applicant, may be considered. Appropriate conditions will focus on matters which are within the control of individual licensees and which also relate to the premises or places being used for licensable activities and the impact of those activities in the vicinity. If situations arise where the licensing objectives are compromised but cannot be dealt with by the use of appropriate conditions the Licensing Authority will consider whether it is appropriate for a licence to be issued or for the premises to continue in operation. |
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|  | 25.8 | | | Conditions on a licence:   * Must be appropriate for the promotion of the licensing objectives; * Must be precise and enforceable; * Must be unambiguous and clear in what they intend to achieve; * Should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation; * Must be tailored to the individual type, location and characteristics of the premises and events concerned; * Should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case; * Should not replicate offences set out in the 2003 Act or other legislation; * Should be proportionate, justifiable and capable of being met; * Cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and * Should be written in a prescriptive format. |
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|  | 25.9 | | | Individuals applying for a personal licence must be entitled to work in the UK. The Immigration Act 2016 amended the Licensing Act 2003 with effect from 6 April 2017 so that an application made on or after that date by someone who is not entitled to work in the UK must be rejected. Licences must not be issued to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from doing work relating to the carrying on of a licensable activity. In order to discharge this duty, the Authority must be satisfied that an applicant has the right to work in the UK, to demonstrate that the applicant has permission to be in the UK and that they are permitted to undertake work in a licensable activity. This also applies to individuals who apply for premises licences. The purpose of this is to prevent illegal working in the UK. |
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|  | 25.10 | | | A person is also disqualified from holding a licence if they are subject to a condition on their permission to be in the UK preventing them from holding a licence, for example if they are subject to an immigration restriction that does not permit them to work. |
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|  | Operating schedule | | | |
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|  | | | 26.1 | All new and variation applications should incorporate an ‘operating schedule’ which outlines how the premises will be operated. This should include details of how the applicant will promote the four licensing objectives and reduce any potential negative impact from the operation of their business on the local community, depending on the type of premises, location and profile of customers. The proposals contained in the operating schedule will form the main body of the conditions to be applied to the licence, together with any applicable mandatory conditions, any conditions agreed with responsible authorities during the application process and any conditions imposed by a licensing sub-committee where representations have been made. |
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|  | | | 26.2 | In completing an operating schedule, applicants are expected to have regard to this statement of licensing policy and to demonstrate suitable knowledge of their local area when describing the steps that they propose to take in order to promote the Licensing Objectives. |
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|  | | | 26.3 | The Licensing Authority will provide general advice on the drafting of operating schedules and applicants are strongly recommended to discuss their operating schedules with the Licensing Authority and other Responsible Authorities prior to submitting them. |
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|  | | | 26.4 | The complexity and detail required in the operating schedule will depend upon the nature and use of the premises concerned. For premises such as a public house where regulated entertainment is not provided, only a relatively simple document may be required. However for an operating schedule accompanying an application for a major entertainment venue or event, it will be expected that issues such as public safety and the prevention of crime and disorder will be addressed in detail |
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|  | | | 26.5 | The operating schedule must be set out on the prescribed form and include a statement of the following:-   * Full details of the licensable activities to be carried on at and the intended use of the premises; * The times during which the licensable activities will take place; * Any other times when the premises are to be open to the public; * Where the licence is only required for a limited period, that period; * Where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the designated premises supervisor; * Whether alcohol will be supplied for consumption on or off the premises or both; * The steps which the applicant proposes to promote the Licensing Objectives. |
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|  | | | 26.6 | For some premises, it is possible that no measures will appropriate to promote one or more of the Licensing Objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be:   * Precise and enforceable * Be unambiguous * Not to duplicate other statutory provisions * Be clear in what they intend to achieve, and * Be appropriate, proportionate and justifiable. |
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|  | | | 26.7 | To assist applicants the authority has provided a Model Pool of Conditions for licenced premises, the current document can be found in Appendix A of this policy. It should be noted the model pool of licensing conditions does not form any part of this policy, and the guidance and examples of control measures are simply given to assist applicants in preparing operating schedules and the on-going running of a licenced premises. The model pool of conditions is not exhaustive and is not to be regarded in any way as standard conditions or mandatory requirements. |
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|  | Conditions | | | |
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|  | 27.1 | | | The Licensing Act 2003, as amended, imposes a number of mandatory conditions on licences. The council has the power to impose additional conditions if they consider that they are appropriate for the promotion of the licensing objectives. |
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|  | 27.2 | | | Conditions attached to licences or certificates will be tailored to the individual style and characteristics of the particular premises, activities and/or events provided at the premises. The policy does not provide for any standard, general or blanket conditions, and will not impose disproportionate and burdensome requirements. |
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|  | 27.3 | | | Applicants may offer conditions in the operating schedule as part of their application; the council may remove or reword any of these conditions if they are considered to be unclear, ambiguous or unenforceable, with the agreement of the applicant. This will ensure that all parties fully understand their responsibilities to promote the licensing objectives. |
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|  | 27.4 | | | The council recognise that they can only impose conditions were relevant representations are received, and it is considered appropriate for the promotion of the licensing objectives. Where a responsible authority gives evidence that it is appropriate to impose specific conditions the request will be considered by the council who may suggest the wording of the condition to ensure that it is clear, relevant and enforceable. |
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|  | 27.5 | | | When attaching conditions, the council will also be aware of the need to avoid measures that might deter live music, dancing or theatre by imposing costs of a substantial nature, that are not in proportion to the risks. |
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|  | Applications where representations are received | | | |
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|  | | | 28.1 | When an application is made for the grant, variation or review of a premises licence or club premises certificate, representations about the application can be made by responsible authorities or other persons. However the Licensing Authority will usually give greater weight to representations that are made by people who can demonstrate that they would be directly affected by the carrying on of licensable activities at the premises concerned. |
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|  | | | 28.2 | Representations must be made to the Licensing Authority within the statutory period of 28 days beginning on the day after the relevant application is received by the Licensing Authority. Representations must be made in writing and can be sent via post or by email. |
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|  | | | 28.3 | Representations can be made either be in support of an application or to express objections to an application being granted. However the Licensing Authority can only accept “relevant representations.” A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the Licensing Objectives |
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|  | | | 28.4 | An example of a representation that would not be relevant would be a representation from a local businessperson about the commercial damage that competition from a new licensed premise would do to their own business. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be a relevant representation. |
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|  | | | 28.5 | In other words, representations should relate to the impact of licensable activities carried on from premises on the Licensing Objectives. |
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|  | | | 28.6 | For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. |
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|  | | | 28.7 | Whilst the Licensing Authority expects representations to be evidence based, there is no requirement for a Responsible Authority or other person to produce a recorded history of problems at premises to support their representations, and it is recognised that in fact this would not be possible for new premises. |
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|  | | | 28.8 | Responsible authorities are a group of public bodies that must be fully notified of applications and that are entitled to make representations to the Licensing Authority in relation to the application for the grant, variation or review of a premises licence or club premises certificate. A full list of contact details for the responsible authorities is provided on the Licensing Authority’s website, as well as in this policy. |
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|  | | | 28.9 | Whilst all responsible authorities may make representations regarding applications for licences and club premises certificates and full variation applications, it is the responsibility of each Responsible Authority to determine when they have appropriate grounds to do so. |
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|  | | | 28.10 | The Licensing Authority recognises that every Responsible Authority can make representations relating to any of the four Licensing Objectives. However the Licensing Authority would normally expect representations about the promotion of individual Licensing Objectives to come from the most relevant Responsible Authority with expertise in that particular area. For example the Licensing Authority would expect representations about the prevention of crime and disorder to come primarily from the police and representations about the prevention of public nuisance to come primarily from environmental health. |
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|  | | | 28.11 | The Licensing Authority recognises that the police should be its main source or advice on matters relating to the promotion of the crime and disorder licensing objective,but also may be able to make relevant representations with regards to the other Licensing Objectives if they have evidence to support such representations. |
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|  | | | 28.12 | The Licensing Authority will accept all reasonable and proportionate representations made by the police unless it has evidence that do so would not be appropriate for the promotion of the Licensing Objectives. However the Licensing Authority will still expect any police representations to be evidence based and able to withstand scrutiny at a hearing. |
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|  | | | 28.13 | The Licensing Authority recognises Torfaen County Borough Council children’s services as being the body that is competent to advise it on the licensing objective of the protection of children from harm. |
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|  | | | 28.14 | The inclusion of the health service as a responsible authority under the Licensing Act 2003, which occurred in 2012, enables health bodies to have a say in alcohol licensing. The Licensing and Public Health teams work together across Gwent to ensure that the health impacts of alcohol licensing are considered. The Licensing Authority recognises that, although public health is not a licensing objective, health bodies may hold information or be able to access clinical evidence which other responsible authorities do not, but which would assist the Licensing Authority in exercising its functions. |
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|  | | | 28.15 | For example, drunkenness can lead to accidents and injuries from violence, resulting in attendances at emergency departments and the use of ambulance services. Some of these incidents will be reported to the police, but many will not. Such information might be relevant to the public safety objective and in some cases the crime and disorder and protection of children from harm objectives. |
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|  | | | 28.16 | As a result of the Police Reform and Social Responsibility Act 2011, the Licensing Authority is also now a Responsible Authority and can therefore make representations if it deems it appropriate to do so. |
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|  | | | 28.17 | However, the Licensing Authority will not normally act as a Responsible Authority on behalf of other parties (for example, local residents, local councillors or community groups) although there are occasions where the authority may decide to do so. |
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|  | | | 28.18 | Such parties can make relevant representations to the Licensing Authority in their own right, and the Licensing Authority expects them to make representations themselves where they are reasonably able to do so. |
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|  | | | 28.19 | The Licensing Authority also expects that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other Responsible Authority. Each Responsible Authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other Responsible Authority. |
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|  | | | 28.20 | In cases where a Licensing Authority is also acting as Responsible Authority in relation to the same process, the Licensing Authority will seek to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. This will be achieved by allocating the different responsibilities to different licensing officers or other officers within the local authority to ensure a proper separation of responsibilities. |
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|  | | | 28.21 | Relevant representations about applications can also be made by any other person, regardless of their geographical position in relation to the relevant premises. However, the Licensing Authority will usually give greater weight to representations that are made by people who can demonstrate that they would be directly affected by the carrying on of licensable activities at the premises concerned. |
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|  | | | 28.22 | The Licensing Authority will also reject as invalid, any representations from other persons that are deemed to be frivolous or vexatious. A representation might be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause. Frivolous representations are essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate. |
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|  | | | 28.23 | Decisions as to the validity of representations will normally be made by officers of the Licensing Authority. In borderline cases, the benefit of the doubt about any aspect of a representation will be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it. |
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|  | | | 28.24 | The Licensing Authority will accept petitions, but there are some important factors to consider before organising a petition:   * We ask that the organiser of the petition identify himself or herself as a central point of contact. We may need to make contact in order to verify certain matters if we are unable to do this it could invalidate the petition. * Each page of the petition should contain information as to the purpose of the petition so that all persons know what they are signing. * Full names and addresses must be supplied * All signatories must be made aware that a copy of the petition will be supplied to the applicant and a copy will be contained within the committee papers, so their personal details will become public knowledge.   We will not write to each signatory separately, but instead assume that the organiser will advise each signatory of the hearing date and the final outcome of the application. It is expected that the organiser will represent the signatories at the hearing and to speak for them. When making a decision, the Licensing Authority will give appropriate weight to a petition. Those wishing to make representations should appreciate that the quality of the representations we receive is an important consideration when making a decision. |
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|  | | | 28.25 | Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the authority’s corporate complaints procedure. A person may also challenge such a decision by way of judicial review. |
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|  | | | 28.26 | Where a notice of a hearing is given to an applicant, the Licensing Authority is required to provide the applicant with copies of the relevant representations that have been made. |
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| **2** | | | 28.27 | The Licensing Authority will normally provide copies of the relevant representations to the applicant in full and without redaction. However in exceptional circumstances, where a person satisfies the Licensing Authority that they have genuine reasons to fear intimidation or violence if their personal details, such as name and address, are divulged to the applicant, the copies of the representations may be redacted accordingly. |
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|  | | | 28.28 | In such circumstances the Licensing Authority will still provide some details to the applicant (such as street name or general location within a street), so that the applicant can fully prepare their response to any particular representation. |
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|  | | | 28.29 | Alternatively persons may wish to contact the relevant Responsible Authority or their local Councillor with details of how they consider that the Licensing Objectives are being undermined so that the Responsible Authority can make representations on their behalf if appropriate and justified. |
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|  | | | 28.30 | Further guidance on making representations is provided on the Licensing Authority’s website. |
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|  | Exercise and delegation of functions | | | |
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|  | 29.1 | | | The Licensing Act 2003 requires local authorities to act as the Licensing Authority and to set up a Licensing Committee to be responsible for all matters relating to the Licensing Act 2003. The Licensing Committee further delegate to Licensing Sub Committees (Panels), or by one or more officers acting under delegated authority. |
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|  | 29.2 | | | It is considered that many of the functions will be largely administrative in nature with no perceived areas of contention. In the interests of efficiency and cost effectiveness these will, for the most part, be carried out by officers. |
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|  | 29.3 | | | The Schedule below sets out the presumed delegation of functions and decisions. Notwithstanding this presumption of delegation, the Council reserves the right to refer any matter to the Licensing Committee or sub-committee. |
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|  | 29.4 | | | **Schedule of delegation of licensing functions and decisions**   |  |  |  |  | | --- | --- | --- | --- | | **Matter to be dealt with** | **Licensing Committee** | **Licensing panels** | **Officers** | | Application for personal licence |  | If a police objection | If no objection made | | Application for a personal licence with unspent convictions |  | All cases |  | | Application for premises licence/club premises certificate |  | If a relevant representation made and not withdrawn | If no relevant representation made or representation withdrawn | | Application for provisional statement |  | If a relevant representation made and not withdrawn | If no relevant representation made or representation withdrawn | | Application to vary premises licence/club premises certificate |  | If a relevant representation made and not withdrawn | If no relevant representation made or representation withdrawn | | Application to vary designated premises supervisor |  | If a police objection | All other cases | | Application for a minor variation |  |  | All cases | | Application to vary a licence on a community premises to include alternative licence condition |  | If police objection | All other cases | | Request to be removed as designated premises supervisor |  |  | All cases | | Application for transfer of premises licence |  | If a police objection | All other cases | | Application for interim authorities |  | If a police objection | All other cases | | Application to review premises licence/club premises certificate |  | All cases |  | | Decision on whether a complaint is irrelevant frivolous vexatious etc. |  |  | All cases | | Determination of a police or environmental health objection to a temporary event notice |  | In all cases if not withdrawn. |  | | Suspension of licences following non-payment of annual fees |  |  | All Cases | |
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|  | 30. Reviews of licences | | | |
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|  | 30 .1 | | | The Council can only review a licence where it is alleged by a “responsible authority", or other person that the licensing objectives are being breached. Responsible authorities will aim to give licence holders early warning of any concerns identified at the premises. Only responsible authorities or other persons (e.g. local residents, local organisations and councillors) can apply for the review of a licence; and determine its outcome at a hearing where an evidential basis for allegations made will be submitted. It views particularly seriously applications for the review of any premises licence which involves the:   * use of licensed premises for the sale and distribution of controlled drugs and the laundering of the proceeds of drugs crimes; * use of licensed premises for the sale and distribution of illegal firearms; * evasion of copyright in respect of pirated films and music; * underage purchase and consumption of alcohol; * use of licensed premises for prostitution or the sale of unlawful pornography; * use of licensed premises for unlawful gaming; * use of licensed premises as a base for organised criminal activity; * use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks; * use of licensed premises for the sale of smuggled tobacco or goods; * use of licensed premises for the storage or sale of stolen goods; * the police being frequently called to attend to incidents of disorder; * prolonged and/or repeated instances of public nuisance; * serious risk to public safety have been identified and the management is unable or unwilling to correct; * serious risk to children. |
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|  | 30.2 | | | The Licensing Sub-committee will consider all evidence provided at the hearing and apply appropriate weight to that evidence when making their decision. |
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|  | 30.3 | | | The licensing sub-committee will consider all of the sanctions available to it provided for in the Act and guidance, including taking no action if appropriate. In cases where a licensing objective is seriously undermined, that revocation of the licence, even in the first instance, will be considered where appropriate to ensure the licensing objectives are promoted. |
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|  | Cumulative impact Assessment | | | |
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|  | 31.1 | | | Under the Licensing Act 2003, Licensing Authorities have the power to introduce a cumulative impact policy where there is evidence showing that a significant number of licensed premises concentrated in one area has led to an increase in; Crime and disorder, Public nuisance or to both. Where adopted, a Cumulative Impact Policy creates a rebuttable presumption that applications for new premises licences or club premises certificates or variations that are likely to add to the existing cumulative impact will normally be refused |
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|  | 31.2 | | | The Statutory Guidance sets out the steps to be followed when considering whether to adopt a special policy within the Policy these include;   1. Identify concern about crime and disorder; public safety; public nuisance; or protection of children from harm 2. Consider whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or the protection of children from harm. 3. If such problems are occurring, identify whether these problems are being caused by the customers of licensed premises, or that the risk of cumulative impact is imminent. 4. Identify the boundaries of the area where problems are occurring   Consult with those specified by Section 5(3) of the Licensing Act and subject to the outcome of that consultation, include and publish details of any special policy in the licensing policy statement. |
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|  | 31.3 | | | In April 2018, Section 141 of the Policing and Crime Act 2018 introduced a new Section 5A to the Licensing Act 2003 relating to Cumulative Impact Assessments (CIA). Before an Impact assessment area can be introduced the Authority must give reasons why they are considering a CIA, what part(s) they are considering to be a CIA and whether it considers the CIA applies to all licences or those of a particular kind. As such, the Authority must conduct a thorough assessment and if a CIA is introduced it must be reviewed at least every 3 years |
|  | 31.4  32.1  32.2  32.3 | | | The licensing authority recognises there are a number of existing measures available that are relevant to tackling unlawful and antisocial behaviour associated with licensed premises, including:   * Planning controls * Positive measures to create a safe and clean environment in partnership with local businesses, transport operators and other departments of the local authority * The provision of CCTV surveillance, 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. * The confiscation of alcohol from adults and children in designated areas * Police enforcement of the general law concerning disorder and antisocial behaviour, including the issue of fixed penalty notices * Prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale) – Police powers to close down instantly for up to 24 hours (extendable to 48 hours) any licensed premises or temporary event on grounds of disorder, the likelihood of disorder, or noise emanating from the premises causing a disturbance. * Robust conditions on the licence promoting the four licensing objectives. * The power of the police, or other responsible authorities or any person to seek a review of the licence or certificate.  32.Public Spaces Protection Orders The Anti-Social Behaviour, Crime Policing Act 2014, commenced in October 2014, and introduced the Public Spaces Protection Order (PSPO). A PSPO is designed to prevent individuals or groups committing antisocial behaviour in a public space where the behaviour is having, or is likely to have, a detrimental effect on the quality of life of those in the locality and the behaviour is or likely to have, a detrimental effect on the quality of life of those in the locality and the behaviour is or likely to be persistent or continuing in nature. The powers to make an Order rest with the local authorities, in consultation with the Police, Police and Crime Commissioner and other relevant bodies who may be impacted upon by the Order.  Applicants wishing to apply for a licence in a PSPO area or in an area in close proximity to a PSPO, will need to demonstrate within their application how the effects of the licence will not have an adverse effect.  Full details of any PSPO’s that may be in place can be found on the Council Website. |
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|  | 33.Early morning restriction orders | | | |
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|  | 33.1 | | | An EMRO restricts the time within which alcohol can be supplied. Alcohol supply can be prohibited between 0000-0600 and applies to Premises Licences, Club Premises Certificates and Temporary Event Notices. There are no exceptions save that which authorise supply of alcohol to residents with overnight accommodation via minibars and room service; |
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|  | 33.2 | | | An EMRO can apply to a specific area or even single street – it does not need to be borough-wide. It can apply to specific days of the week, can specify different times for different days of the week, and can apply to limited periods of the year or for an unlimited period. But it cannot apply on New Year’s Eve/New Year’s Day; |
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|  | 33.3 | | | The adoption of an EMRO is subject to a process involving the collection and analysis of relevant evidence and a consultation exercise with the public and holders of licences and/or club premises certificates. The decision to adopt an EMRO has to be taken by a meeting of the Council; |
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|  | 33.4 | | | The council currently does not have an EMRO, and if considered necessary they will conduct a full consultation before the provision is adopted. |
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|  | Hearings | | | |
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|  | 34.1 | | | Applications for licences and certificates will be determined following consultation with relevant responsible authorities. Where no representations are received, they will be issued administratively by the Licensing Team, however, contentious applications must be referred to the Council’s Licensing Sub-Committee (panel) for determination, unless it is agreed by all parties that a hearing is not necessary |
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|  | 34.2 | | | The period of notice of a hearing that must be given to all relevant parties, and the information which may be disclosed, varies depending on the type of application, subject to regulations. A Licensing Sub-Committee (panel) of three Elected Members will determine a contentious application and will either grant a licence, grant a licence with amendments or refuse an application. Any party can appeal against the Council’s decision to a Magistrates’ Court. |
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|  | 34.3 | | | At any time during the period of a licence, any responsible authority or other person can ask for the review of a licence or certificate. All review applications will be determined by the Licensing Sub-Committee. |
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|  | 35. Appeals | | | |
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|  | 35.1 | | | Entitlements to appeal for parties aggrieved by decisions of the Council are set out in Schedule 5 of the Act. Other than in the case of personal licences, an appeal has to be made to the local Magistrates’ Court. In the case of personal licences, the appeal must be made to the Magistrates’ Court for the area in which the licensing authority which has considered the application (or any part of it) is situated. |
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|  | 35.2 | | | An appeal has to be instigated by giving notice of the appeal by the appellant to the  The Clerk to the Justices,  Newport Magistrates' Court  Usk Way  Newport  NP20 2GE  Within a period of 21 days beginning with the day on which the appellant was notified by the Council of the decision appealed against. |
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|  | 35.3 | | | On determining an appeal, the Court may:   * dismiss the appeal * substitute any other decision which could have been made by the Council or * remit the case to the Council to dispose of it in accordance with the direction of the Court.   The Court may make such order as to costs as it thinks fit. |
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|  | 35.4 | | | 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 decisions has been made with regard to its statement of licensing policy and the Guidance issued by the Secretary of State under section 182 Implementing the determination of the Magistrates’ Courts |
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|  | 35.5 | | | Where appropriate, the Licensing Authority will provide applicants and objectors etc. with information concerning their rights of appeal. |
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|  | 36.Implementing the determination of the Magistrates’ Court | | | |
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|  | 36.1 | | | 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 on-going Judicial Review]. The Act provides for no further appeal against the determination of the Magistrates’ Courts. |
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|  | 37.Enforcement | | | |
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|  | 37.1 | | | The Licensing Authority has established joint enforcement protocols with the police and other enforcing authorities. These protocols will provide for the targeting of agreed problem and high-risk premises, but with a lighter touch being applied to low-risk premises, which are shown to be well run. |
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|  | 37.2 | | | The Licensing Authority intends that enforcement visits will be made to licensed premises as appropriate, to ensure that any conditions imposed as part of the licence are being complied with. These visits may be either proactive planned inspections based on the risk presented by the premises, history of non-compliance etc., or reactive visits as a result of complaints. |
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|  | 37.3 | | | In general, action will only be taken in accordance with agreed enforcement principles and in line with the Council’s own enforcement policy. To this end the key principles of consistency, transparency and proportionality will be maintained. More information on the Council’s Enforcement Policy can be found on the Council’s website: [Enforcement Policy | Torfaen County Borough Council](https://www.torfaen.gov.uk/lgsl/en/Food,HealthandSafetyEnforcement/Enforcement-Policy/Enforcement-Policy.aspx) |
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|  | 37.4 | | | In general, action will only be taken in accordance with agreed enforcement principles and in line with the Council’s own enforcement policy. To this end the key principles of consistency, transparency and proportionality will be maintained. |
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|  | 38.Fees Generally | | | |
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|  | 38.1 | | | All fees are currently set by statute and the council is obliged to charge the fees as detailed in the Fees Regulations. |
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|  | 39.Annual Fees for Premises Licences and Club Premises Certificates | | | |
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|  | 39.1 | | | The Licensing Act 2003 and regulations made under the Act set out requirements for annual fees and require that the fee is paid on the due date which is every year on the anniversary of the original grant of the licence. The fee is currently set by regulations. |
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|  | 40. Licence suspension for non-payment of annual fee | | | |
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|  | 40.1 | | | Amendments made to the Licensing Act 2003 by the Police Reform and Social Responsibility Act 2010 give councils the power to suspend premises licences and club premises certificates where the annual fee required by regulations is not paid. |
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|  | 40.2 | | | The council will suspend any licence or certificate where the required fee is not paid by the ‘due date’, which is annually on the anniversary of the date that the licence was first granted. The council will follow the below procedure:- |
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|  | 40.3 | | | Upon notification/discovery that an annual fee is not paid, the council will give notice to the licence/certificate holder, in writing,   * that the licence/certificate will be suspended 7 days from the date of the notice. * It will also state that the suspension will not become effective if the fee is paid prior to the suspension date. * If an administration error is claimed, the suspension date may be 21 days from the due date; or the date of suspension on the 7 day notice, whichever is later. * A copy of the notice will also be served on the designated premise supervisor/premises manager if they are not the premises licence holder. |
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|  | 40.4 | | | If the fee is not paid by the date specified on the notice the licence/certificate will be deemed suspended. The licence/certificate holder, DPS/Manager, the Police and any other appropriate responsible authority will be immediately notified of the suspension becoming effective, and informed that the premises may no longer offer any licensable activities until such time as the fee is paid and the suspension lifted. When the full payment is made the council will immediately lift the suspension, and confirm this in writing. |
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|  | 40.5 | | | Where a licence/certificate is suspended and licensable activities are provided the council will consider prosecuting the provider for offences under section 136 of the Licensing Act 2003. |
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|  | 41.Late night levies | | | |
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|  | 41.1 | | | A Late Night Levy (LNL) is an optional power, introduced by the Police Reform and Social Responsibility Act which allows Licensing Authorities (LAs) to raise a contribution towards the costs of policing the night time economy (NTE) by charging a levy to holders of Premises Licences and Club Premises Certificates authorised to sell alcohol. A LNL must apply across the whole borough and also applies to all on- and off-licences. TENs are not included. |
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|  | 41.2 | | | A LNL would require that a levy be paid by those persons who are authorised to sell alcohol between the periods specified in the LNL (the ‘late night supply period’) regardless of whether they are actually open during that period. This can be no earlier than 0000hrs and no later than 0600hrs, and must be the same period every day; |
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|  | 41.3 | | | At least 70% of the Levy must be paid to the Police and Crime Commissioner. There are no restrictions on what the police portion can be used for. The Local Authority portion can be used to tackle alcohol-related crime and disorder and to support management of the NTE in line with the: reduction of crime and disorder; promotion of public safety; prevention of public nuisance; street cleansing; |
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|  | 41.4 | | | The implementation of a LNL is subject to public consultation and, if it is to be introduced, must be adopted at a meeting of the Council. |
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|  | 41.5 | | | The council have not adopted this provision and before doing so will conduct a full consultation. |
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|  | 42. Further information | | | |
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|  |  | | | *Further information about the Licensing Act 2003 and the Council’s licensing policy can be obtained from:*  *The Licensing Team*  *Torfaen County Borough Council*  *Civic Centre*    *Pontypool,*  *NP4 6YB*  *Tel:* *01633 647286*  *E-mail* *:* *[licensing@torfaen.gov.uk](mailto:licensing@torfaen.gov.uk)*  *Website:* *[www.torfaen.gov.uk/licensing](http://www.torfaen.gov.uk/licensing)* |