



THE VALE OF GLAMORGAN STATEMENT OF LICENSING POLICY
2016-2021

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FOREWORD BY CHAIR OF STATUTORY LICENSING COMMITTEE

[to be drafted following consultation process]

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INTRODUCTION

Residents, businesses and visitors to the Vale of Glamorgan Council area deserve to have a wide choice of high quality and well managed entertainment and cultural venues operating within a safe, orderly and attractive environment. The Council also wishes to support responsibly operated businesses and the local economy. This policy sets out the framework support the themes within the Vale of Glamorgan Council Corporate Plan for 2016-2020.

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

This Statement of Licensing Policy will be kept under review and published in line with Section 5 of the Licensing Act 2003. Further consideration and review may be required in response to changes in demographics and operating models they may develop in response to increasing financial pressures on local government.

To avoid duplication and to ensure that information is up to date, applicants, residents and other persons, members of the public and responsible authorities will be directed to www.homeoffice.gov.uk for information on the licensing processes.

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

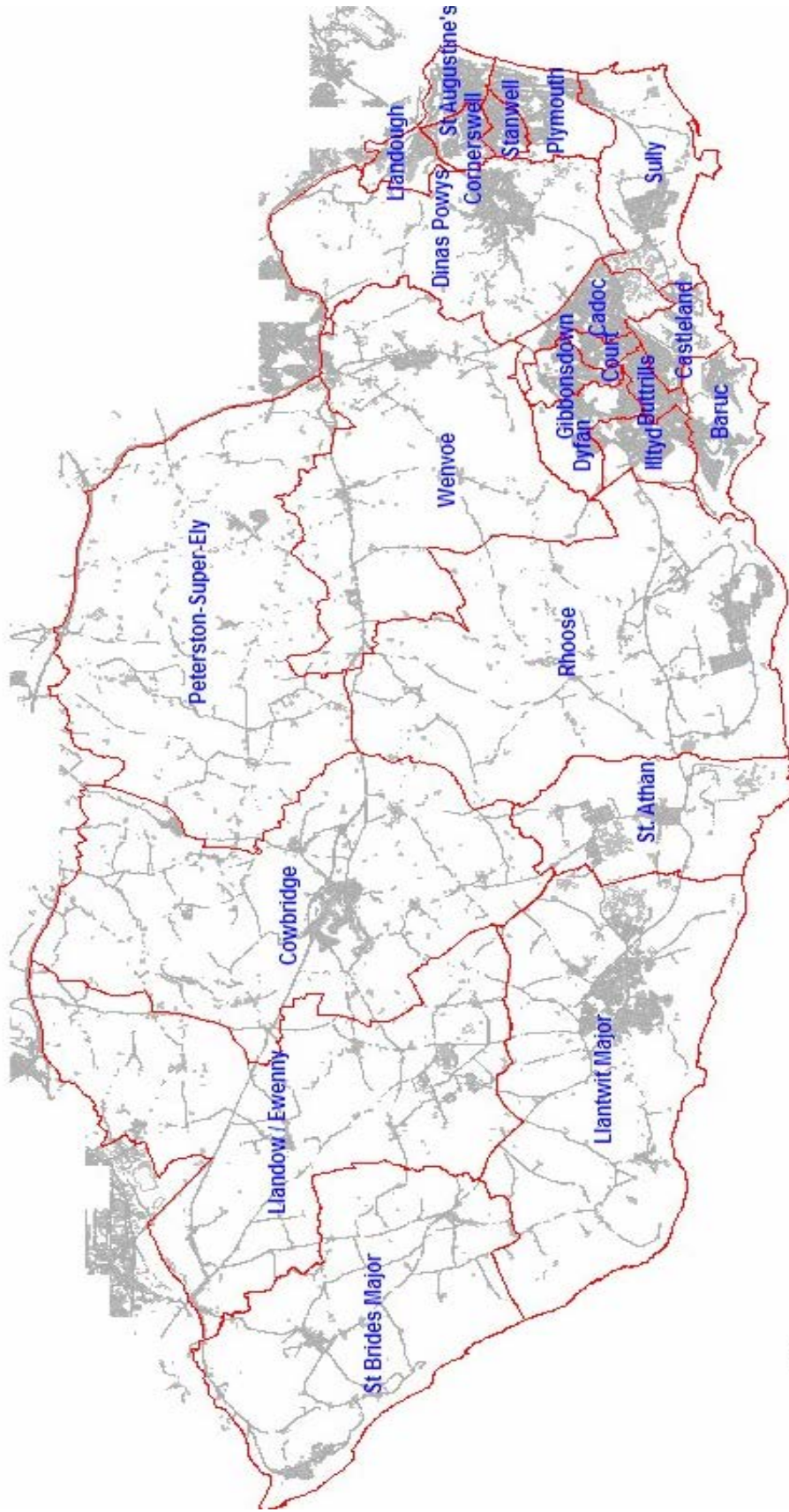
- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and,
- The protection of children from harm.

Each of the above objectives has equal importance.

AREA PROFILE

The Vale of Glamorgan is Wales' most southern Authority. There are four Town Councils and twenty two Community Councils in the area. It covers 33,097 hectares (331 square miles) with 53 kilometres of coastline. The council area has a population of 119,292. The main towns are Barry, Penarth, Llantwit Major, Dinas Powys and Cowbridge. Barry is the Vale's administrative centre, a seaside resort and a port. Cardiff Airport is located three miles west of Barry.

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The Council has published the Corporate Plan for the period 2016-2020 which sets out the Council Vision for the area: **Strong Communities with a bright future**". The key themes are:

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

The working ethos within the Corporate plan mirrors many of the licensing processes which are set out in more detail below:

- **Integration**
- **Collaboration**
- **Involvement**
- **Prevention**
- **Long Term**

PURPOSE AND SCOPE OF THE LICENSING POLICY

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

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

The policy covers the following licensable activities:

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

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

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

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

CONSULTATION

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

Chief Officer of Police for the area
 Fire Authority
 Responsible Authorities
 Representatives of local licence holders
 Representatives of clubs
 Representatives of Personal Licence Holders
 Representatives of businesses
 Town and community councils
 Vale councillors

DURATION AND REVIEW OF POLICY

This Policy takes effect on XXX and will remain in force for a period of not more than five years. During this time the Policy will be subject to regular review and updating as appropriate, for example to take into account of any changes in licensing legislation.

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

LICENSING PROCESS

Applications

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

Premises Licences

Club Premises Certificates
Temporary Event Notices
Personal Licences

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

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

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

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

PREMISES LICENCES AND CLUB PREMISES CERTIFICATES

It is recognised that licensed premises vary considerably in terms of character, size, occupancy, location, clientele etc. Venues may offer alcohol, regulated entertainment or late night refreshment or any combination of these activities. There is, therefore, no definitive list of control measures that should be introduced by all premises. Licensed premises will be assessed according to the activities they provide and the individual risks of each premises' activities.

Applicants are encouraged to seek advice from the Licensing authority and other Responsible Authorities, as appropriate, prior to submitting an application.

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

The operating schedule should focus on the direct impact of the activities taking place on the licensed premises, not only on patrons and staff, but also on members of the public living, working or engaged in normal activity in the area concerned.

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

REPRESENTATIONS

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

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

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

The licensing authority will not require a responsible authority or other person to produce a recorded history of problems at premises to support their representations.

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

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

DECISION MAKING

The licensing authority strives to provide an efficient and cost effective service to all parties involved in the licensing process. With the exception of the approval and review of this policy, decisions on Licensing Act 2003 matters will normally be taken in accordance with the approved scheme of delegation and the recommendations for delegation set out in the Section 182 guidance issued to licensing authorities.

GRANTING OF AUTHORISATIONS

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

DELEGATION OF FUNCTION TO COMMITTEES

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

Members will conduct meetings in accordance with the Licensing Act 2003 Procedures for Sub Committee Hearings.

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

Conditions

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

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

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

TEMPORARY EVENT NOTICES

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

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

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

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

TYPES OF PREMISES

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

Pubs, Bars and Clubs

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

Licence Holders and Designated Premises Supervisors will be required to demonstrate commitment to manage premises in a safe and responsible manner. Operators of premises of this type should consider measures to prevent crime and disorder on, or emanating from, their premises. The following are examples of control measures that may need to be addressed;

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

Hotels

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

Off Licences

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

Some shops and supermarkets selling alcohol have been a focus for anti-social behaviour, disorder and disturbance. This can be caused by street drinkers and underage drinkers who try to obtain, or have obtained, alcohol from such premises. Due to these concerns the licensing authority will consider seriously any

representations made by Responsible Authorities and other persons in relation to the effects of granting such licences on the immediate vicinity of the premises.

Community Premises

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

Whether the premises constitutes a community premises

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

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

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

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

Events on Council Land

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

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

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

Premises offering late night refreshment

It is recognised that takeaway premises open late at night and can be associated with disorder as persons under the influence of alcohol having left late night venues congregate there. Operators will be expected to identify steps they can take to

reduce nuisance and to include them in their Operating Schedule. **The authority has not adopted specific policies in relation to takeaways or the disapplication of the Licensing Act 2003 to such premises.**

Petrol and Service Stations

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

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

OPERATION OF PREMISES

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

Within all licensed premises, whether or not alcohol is to be sold, the licensing authority will expect there to be proper management arrangements in place which will ensure that there is an appropriate number of responsible, trained persons at the premises to enable compliance with all statutory duties and the terms and conditions of the Premises Licence.

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

External Areas

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

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

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

CHILDREN AND SAFEGUARDING

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

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

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

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

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

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

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

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

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

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

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

Proxy Sales

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

OTHER MATTERS

Enforcement and Compliance

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

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

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

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

Cumulative impact /Early Morning Restriction Orders

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

REVIEWS

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

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

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

In the interests of transparency and fairness, the licensing authority will normally make personal details of residents and other parties available as part of the hearing process unless the person withholds permission or there are exceptional and compelling reasons why this is necessary. Each case will be determined on its merits in consultation with the person concerned.

APPEALS

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

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

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

Should representations or objections be made against the issuing of a licence, equal weight should be accorded to those representations and objections. This will not include those that are frivolous, vexatious or repetitious. Officers of the Licensing Authority will make the decision as to whether a representation or objection is frivolous, vexatious or repetitious.

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

INTEGRATING STRATEGIES AND EQUALITY STATEMENT

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

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

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

- Article 6 that in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law
- Article 8 that everyone has the right to respect for his home and private life
- Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his or her possessions.

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

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

Further information on the Vale of Glamorgan Welsh Language standards can be accessed at www.valeofglamorgan.gov.uk

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

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

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

DISCLAIMER

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

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