



Report of the Cabinet Member for Delivery

Council – 26 July 2018

Review of the Statement of Policy for Licensing

Purpose:	To consider the response to the consultation on the review of the Council's Statement of Policy for Licensing.
Policy Framework:	Licensing Act 2003, Statement of Policy for Licensing 2013
Consultation:	Legal, Finance, Access to Services
Recommendation(s):	It is recommended that: 1) that the response to the consultation on the proposed amendments to the Policy is considered and the proposed amendments are approved and the revised policy attached at Appendix A is adopted.
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1.0 Background

- 1.1 Under the Licensing Act 2003 (The Act) a Licensing Authority must produce and publish a statement of its licensing policy (the Policy) at least once every 5 years and the Policy must be published before it carries out any of its licensing functions.
- 1.2 During the five year period the Policy must be kept under review and subject to the requirements of the legislation, the Council can make any appropriate revisions. Any revisions to the Policy must be issued for consultation before they can be introduced.
- 1.3 The last full review of the Policy was in 2013 and as permitted under the provisions of the statutory guidance issued by the Home Office under Section 182 of the Act (the Guidance) the Council resolved to

adopt a Cumulative Impact Policy/Special Policy (CIP) for the city centre to be included in the Policy. A further review of the CIP was completed in January 2017 and additional changes introduced.

- 1.4 The current policy review must be completed and the Policy adopted and published by the 30th July 2018 to comply with the statutory timescale.

2.0 Review of the Policy

- 2.1 Officers have undertaken a full review of the Policy, in accordance with the current Guidance issued in April 2018. Where changes are proposed they are identified in bold italic type and where it is proposed to remove information, this is shown by striking through the text. A draft of the proposed changes to the Policy is attached at Appendix A. A summary of the changes is detailed below and the reason for the change is also indicated in brackets e.g. changes in legislation, statutory guidance, updated wording:

- Table of Contents, number 14 has been updated. “Live Music, Dancing and Theatre” has been deleted and replaced with “Outdoor Events and Crowded Places Guidance”.
- Foreword Part (a) has been amended to replace “for 10 years” with “indefinitely” (changes in legislation).
- Foreword Part (b) paragraph (iii) wording has been added relating to combined fighting sports and where activity takes place in private (changes in legislation).
- Foreword Part (d) detail has been added regarding recent deregulation in relation to entertainment (changes in legislation).
- Foreword penultimate paragraph outdated information has been removed (updated wording).
- Paragraph 1.3 has been updated to reflect the date of issue of the current Guidance (changes to guidance).
- Paragraph 3.2, updated information has been added in relation to the purpose of the Policy (updated wording).
- Paragraph 4.2 reference to “Environmental Health” has been added (changes in legislation).
- Paragraph 4.3 reference to “vicinity” has been deleted (changes in legislation).
- Paragraph 6.3 additional wording has been added (updated wording).
- Paragraph 6.6 has been replaced and additional information included (updated wording).

- Paragraph 6.7 is the previous paragraph 6.6 (renumbered).
- Paragraph 6.8 is the previous paragraph 6.7 and the original 6.8 has been deleted (renumbered).
- Paragraph 6.9 is the previous paragraph 6.11 (renumbered).
- Paragraph 6.10 is the previous 6.9 and the wording has been amended to state that the policy will reviewed regularly and at a maximum period of three years instead of a maximum period of five years.
- Paragraph 6.11 is the previous 6.9 and the wording has been amended (updated wording)
- Paragraph 6.12 has been amended and wording deleted (updated wording).
- Paragraph 6.20 has been amended and additional wording added to clarify the types of negative cumulative impact that will be considered.
- Paragraph 6.21, a sentence has been added in relation to the current review of the CIP (updated wording).
- Paragraph 6.24, information has been added to clarify that the Licensing Authority expects applications in the cumulative impact area to be exceptional and what is not considered to be exceptional (updated wording).
- Paragraph 7.2 has been amended to replace “friction” with “potential for disorder” (changes to wording).
- Paragraph 9.5 has been deleted (changes in legislation).
- Paragraph 9.6 in now 9.5.
- Paragraph 9.7 is now 9.6.
- Paragraph 9.8 is now 9.7.
- Paragraph 9.9 is now 9.8.
- Paragraph 9.10 is now 9.9.
- Paragraph 10.2 has been updated to include “marriage and civil partnership and Welsh Language” (changes in legislation).
- Paragraph 11.3, reference to Building Control has been removed and reference to liaising with Planning has been added (changes to guidance).

- Paragraph 12.1 “necessary” has been changed to “appropriate” (changes in legislation).
- Paragraph 12.2 “necessary” has been changed to “appropriate” and “interested parties” to “other persons” (changes in legislation).
- Paragraph 12.6, mandatory conditions updated.(changes in legislation).
- Paragraphs 14.1 to 14.4 deleted (changes in legislation).
- Paragraph 14.5 deleted and the information added to 15.3.
- Paragraph 14.1 – 14.8 Information on Outdoor Events and Crowded Place Guidance added (changes to guidance).
- Paragraph 15.2, reference to “Licensing Authority” added (change of wording).
- Paragraph 15.3 Information added from paragraph 14.5.
- Paragraph 15.7 – 15.9, information added in relation to dispensing with hearings (updated wording).
- Paragraph 15.7 is now 15.10.
- Paragraph 15.8 is now 15.11.
- Paragraph 15.9 is now 15.12.
- Paragraph 15.10 is now 15.13 Information added in relation to number late TEN’s (changes in legislation).
- Paragraph 15.11 is now 15.14. Information updated in relation to number of TEN’s that can take place (changes in legislation).
- Paragraph 15.12 is now 15.15 wording updated in relation to Bank Holidays (updated wording).
- Paragraph 15.13 is now 15.16.
- Paragraph 15.14 is now 15.17 and wording (updated wording).
- Paragraph 16.1 wording updated (changes to committee name).
- Paragraph 16.2 wording updated (changes to committee name).
- Paragraph 16.4 wording updated (changes to committee name).
- Paragraph 16.6 wording updated (changes to committee name).
- Paragraph 16.7 wording updated.

- Paragraph 16.24 has been updated to clarify what the Licensing Authority expects in relation to applications for premises within the CIP area.
- Paragraph 18.2 wording updated to remove “major” and “leaflet” (updated wording).
- Paragraph 20, contact details updated.

3.0 Review of the CIP/Special Policy

- 3.1 The CIP/special policy was introduced in July 2013 based, in the main, on evidence provided by South Wales Police on the levels of crime and disorder in the areas. The special policy was subsequently reviewed and amended in January 2017 and introduced certain exemption from the CIP/special policy. This special policy is currently being reviewed in full as part of the review of the licensing policy.
- 3.2 Where a CIP has been adopted, for a licence to be granted, the onus is on the applicant to demonstrate that their application will not add to the existing cumulative impact in an area. Where a CIP has not been introduced/exemptions apply, a licence must be granted unless there is evidence provided by a responsible authority or other person that supports a decision to refuse the application.
- 3.3 There are currently 3 areas covered by the CIP, these are:
- Wind street and the surrounding area
 - Kingsway and surrounding area
 - High Street and College Street
- 3.4 As the initial introduction of the CIP was, in the main, based on evidence provided by South Wales Police (SWP), updated evidence on levels of crime and disorder has been submitted as part of the current review. A copy of the document submitted is attached at Appendix B.
- 3.5 In summary, the information submitted by SWP provides information on how the CIP is used operationally, trends in all aspects of crime, including violence offences, alcohol related offences and anti- social behaviour, together with professional observations from police officers responsible for interpreting and implementing the CIP on an operational level.
- 3.6 Based on the evidence provided, SWP confirm that they support the retention of the CIP, without amendment.
- 3.7 The view from SWP is that to relax or amend the CIP for Wind Street and the surrounding areas will lead to a significant increase in the saturation levels of licensed premises and increase levels of crime and disorder.

- 3.8 Recent analysis of statistics available for Wind Street and the surrounding area shows that between 2016 and 2017 there has been a 78% increase in recorded crime, the busiest period being between 11pm and 3am, a 63% increase in violent crime, the busiest period being between 8pm and 3am, a 37% increase in drunk and disorderly crimes, the busiest period being between 8pm and 7am, anti-social behaviour shows a 14% decrease between 8pm and 7am.
- 3.9 SWP has confirmed that the sudden increase in recorded crime and violent crime can be partly attributed to changes in procedures where incidents are now recorded as a crime at first contact. They also highlight that crimes form only a small part of demand on police resources within Wind Street as officers deal with numerous non-crime related incidents and a significant number of incidents relating to people's vulnerability within the night time economy.
- 3.10 The view from SWP is that the CIP should remain in place for the Kingsway and surrounding area until all development has been completed.
- 3.11 The Kingsway and the surrounding area still has licensed premises and is dominated by 2 premises in particular but has seen the closure of a number of large entertainment venues in recent years. Recent analysis of statistics between April 2015 and March 2018 shows a reduction of 9% in recorded crime, the busiest period for all recorded crime being between midnight and 4am. Figures also show a 23% reduction in anti-social behaviour but a 6% increase in violent crime, the busiest period for violent crime being between 1am and 4am. Recent visits to the area also witnessed a number of violent disturbances in the streets surrounding the Kingsway from 2am onwards.
- 3.12 In respect of High Street and College Street the view from SWP is that the CIP should remain in place, regeneration of the area in recent years has had a positive impact on the crime and disorder statistics for the area and continued implementation of the CIP should continue to have a positive effect.
- 3.13 The statistics for High Street and College Street between March 2015 and March 2018 show a 22% reduction in reported crime, the busiest period being between midnight and 4am, a 31% reduction in violent crime, the busiest period being between 9pm and 4am and a 62% reduction in anti-social behaviour, the busiest period being between 8pm and 2am.
- 3.14 Overall SWP support the retention of the existing CIP in its current form and state that it has assisted in the control of the number of licensed premises within the night time economy. SWP consider that if it is amended or relaxed in any way that allows an increase in the number of premises operating later hours, there will be a negative effect in terms of crime and disorder and the ability to effectively police the areas.

4.0 The Consultation

- 4.1 Extensive consultation on the proposed amendments to the Policy was undertaken, involving existing licence holders, representatives of persons carrying on licensed businesses, statutory bodies, representatives of other persons and City and County of Swansea Members.
- 4.2 The consultation period ended on the 8th June 2018. One response was received, this was from Abertawe Bro Morgannwg Public Health Team and a copy of the response is attached at Appendix C to the report

5.0 The Response

- 5.1 The response provides comments on a number of the points in the policy and these, together with the officer observations in respect of the comments are provided below.
- 5.2 The first comments made relate to paragraph 5.4 of the draft policy and suggests that the wording of this paragraph is amended in line with Appendix 1 of their response, to provide a clearer narrative regarding the roles of the responsible authorities including the Health Board. It is proposed that the wording in paragraph 5.4 is amended in line with the comments provided. The proposed changes to paragraph 5.4 are included in bold italics in the draft policy attached at Appendix A.
- 5.3 The comments made in relation to paragraph 6.21 of the draft policy are in support of the proposal to retain the existing Cumulative Impact Policy areas. Data is also provided on alcohol consumption, harm to health and hospital admissions. No additional changes to the policy are proposed.
- 5.4 The comments made in relation to Section 7 state that there is limited reference in the policy to the role the licensing process plays in regulating access and availability through the number, location and hours of outlets selling alcohol which is considered to be a key element of prevention strategies, known to reduce alcohol consumption, harm and costs. They would welcome this being made more specific in the report. It is considered that this matter is already detailed in Section 6 of the policy which addresses the cumulative impact of licensed premises. Although currently there is a special policy in place for certain areas in the city centre, paragraph 6.11 makes it clear that the absence of a special policy in a particular area will not prevent a responsible authority or other person making representations on a new application for the grant of a licence, on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. No additional changes to the policy are proposed.
- 5.5 The comments made in relation to Section 8 are supportive of the recognition of the need to consider limitations required to protect

children from harm but would welcome a strengthening of the rationale. It is proposed that paragraphs 8.1 and 8.8 of the draft policy are amended to address those points made which fall within the remit of the Act. The amendments are shown in bold italics in the draft policy attached at Appendix A.

- 5.6. The comments made in relation to paragraph 9.2 suggest that there should be recognition of the impact of alcohol use and misuse on the health and well-being of individuals and communities. Reference is made to the health impacts and social harms of alcohol and that recognition of these points within the policy would be welcomed. This comment has been addressed by the amendment to paragraph 5.4.
- 5.7 It is also suggested that reference is made within the policy to certain external policies that relate to alcohol use. Paragraph 9.1 has been amended to state that the Council will have regard to external policies and guidance where appropriate to ensure any relevant policy can be considered.
- 5.8 The comments relating to section 20 suggest that it should be noted that the Health Board is a responsible authority, that additional wording is provided to explain the nature of the role and that the contact details are updated. Section 20 already states that the bodies listed are responsible authorities and the amendments to paragraph 5.4 now explain the role of the Health Board. The contact details have been updated at paragraph 20.1, 2 H.

6.0 Equality and Engagement Implications

- 6.1 An Equality Impact Assessment screening form has been completed with the agreed outcome that a full Equalities Impact Assessment report is not required.

7.0 Legal Implications

- 7.1 The review of the policy is a statutory requirement.
- 7.2 Failure to undertake a review may result in decisions of the Council being challenged by Judicial Review and/or appeals to the Magistrates Court.
- 7.3 A special policy represents a restrictive approach to the granting of licences where relevant representations have been made. A special policy cannot be rigidly applied and each application must be dealt with on its own merits. The reasons and evidence for the special policy being introduced and the negative cumulative impact identified should be set out in the special policy.
- 7.4 Under a special policy the presumption is to refuse an application/variation unless an applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives. Any application should be

judged against the reasons and evidence for the special policy being introduced and the cumulative impact identified in the special policy.

- 7.5 It is not sufficient simply that there is a heavy concentration of licensed premises in the area, there needs to be an evidential basis demonstrating the cumulative impact of the concentration. An authority needs to consider the evidence and be satisfied that the inclusion of a special policy is both appropriate and necessary.
- 7.6 A special policy has to be reviewed regularly to assess whether it is needed any longer or there is a need to expand or reduce the CIP area.
- 7.7 Deficiencies in the consultation process and /or the adoption of a special policy can be challenged by way of Judicial Review. Any refusal of application pursuant to a special policy can be appealed to the Magistrates Court.

8.0 Financial Implications

- 8.1 There are no financial implications.

Background Papers:

Licensing Act 2003, Statement of Policy for Licensing 2013

Appendices:

Appendix A – Draft Statement of Licensing Policy 2018;

Appendix B – South Wales Police Evidence in respect of the CIP/special policy;

Appendix C – Consultation response, Abertawe Bro Morgannwg Public Health Team.